

**Arkansas Pollution Control
And Ecology Commission
RULE 27**

**LICENSING OF OPERATORS OF SOLID
WASTE MANAGEMENT FACILITIES
AND TRAINING AND CERTIFICATION
REQUIREMENTS FOR
ENVIRONMENTAL OFFICERS**

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EXHIBIT A

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APPENDIX A AT WHAT TYPE OF FACILITY DO YOU WORK?

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APPENDIX B GUIDELINES FOR DETERMINING WHO NEEDS A SOLID WASTE OPERATOR LICENSE

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Chapter 1 : PRELIMINARY PROVISIONS

Rule 27.101 Purpose

The purpose of this Rule is ~~To~~ to establish the training, classification, qualifications, and licensing of operators of solid waste management facilities and Environmental Officers and for other purposes.

Rule 27.102 Authority

Arkansas Code Annotated § 8-6-905(a) of Act 750 of 1991, as amended by Act 193 of 1995, Act 1207 of 1997, Act 1254 of 1997, and Act 728 of 2005; and Arkansas Code Annotated § 8-6-2006 of Act 1067 of 2019 (“Acts”) authorizes the Arkansas Pollution Control and Ecology Commission (“Commission” or “APC&EC”) to adopt rules necessary for the Arkansas Department of Energy and Environment, Division of Environmental Quality (“Division”) to implement and effectuate the powers and duties of the Commission as established under the Acts.

Rule 27.103 Definitions

The following terms shall have the same meaning when used in this rule as established by the Acts unless the context otherwise requires:

Commission means the Arkansas Pollution Control and Ecology Commission;

Division means the Arkansas Department of Energy and Environment, Division of Environmental Quality, or its successor.

Director means the Director of the Arkansas Department of Energy and Environment, Division of Environmental Quality or the Director's delegated representative;

Environmental Laws, as used in this Rule, means laws codified at Chapter 6 of APC&EC Rule 18; laws codified at Ark. Code Ann. § 8-9-401 *et seq.*, and laws codified in Chapter 6 of Title 8, including but not limited to, Ark. Code Ann. § 8-6-201 *et seq.*, Ark. Code Ann. § 8-6-2004, Ark. Code Ann. § 8-6-2005 (1), Ark. Code Ann. § 8-6-2005 (2), ~~and~~ Ark Code Ann. § 8-6-2005 (3), and Ark Code Ann. § 8-6-2005 (4).

Environmental Officer means an employee of a city, county, municipality, regional solid waste management district created under Ark. Code Ann. § 8-6-701 *et seq.*, state agency, board, or commission who has:

- (A) Completed all applicable requirements under this Rule, including without limitation, completing required training and passing the required examination, obtaining certification, being sworn in, and maintaining certification through continuing education; and

- (B) By training and certification as provided herein has been authorized to write citations for violations of laws codified at Chapter 6 of APC&EC Rule 18; laws codified at ~~the Used Tire Recycling and Accountability Act~~, Ark. Code Ann. § 8-9-401 *et seq.*, ~~violations of illegal dumping prohibited under~~ and laws codified in Chapter 6 of Title 8, including but not limited to, Ark. Code Ann. § 8-6-201 *et seq.*, Ark. Code Ann. § 8-6-2004, Ark. Code Ann. § 8-6-2005 (1), ~~violations concerning an illegal dump site prohibited under~~ Ark. Code Ann. § 8-6-2005 (2), ~~or violations of solid waste disposal prohibited under~~ Ark. Code Ann. § 8-6-2005 (3), and Ark Code Ann. § 8-6-2005 (4); and
- (C) Limited authority to enter land to investigate and inspect as provided under Ark. Code Ann. § 8-1-1072001 *et seq.*; ~~to enforce applicable environmental laws as limited to those as defined above under the authority of the Arkansas Department of Energy and Environment, Division of Environmental Quality;~~

Environmental violations, as used in this Rule, means a violation of ~~the Used Tire Recycling and Accountability Act~~, laws codified at Chapter 6 of APC&EC Rule 18; laws codified at Ark. Code Ann. § 8-9-401 *et seq.*, and laws codified in Chapter 6 of Title 8, including but not limited to, ~~a violation of~~ Ark. Code Ann. § 8-6-201 *et seq.*, Ark. Code Ann. § 8-6-2004, Ark. Code Ann. § 8-6-2005 (1), ~~a violation of~~ Ark. Code Ann. § 8-6-2005 (2), ~~or a violation of~~ Ark. Code Ann. § 8-6-2005 (3), and Ark Code Ann. § 8-6-2005 (4).

Licensing Committee means the committee of solid waste management facility managers, operators, or technicians hereinafter established to assist and advise the Commission and the Division in the examining and licensing of operators of solid waste management facilities;

License means a certificate of competency issued by the Director to solid waste management facility operators and Environmental Officers who have met the requirements of their respective licensing program. Unless the Chapters or Sections of this Rule state otherwise, the terms “license” and “certificate” are used interchangeably in this Rule.

Operator means any person who performs any action at a solid waste management facility requiring individual judgment which may directly affect the proper operation of the solid waste management facility. “Operator” shall not be deemed to include an official solely exercising general administrative supervision;

Operator In Training means an employee of a solid waste management facility that has been issued an Apprenticeship (Level A) license by the Director;

Recovered Materials means metal, paper, glass, plastic, textile, yard trimmings not destined for composting, or rubber materials which are not waste tires or waste tire residuals, that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. For the purpose of this rule, recovered materials as described above are not solid waste;

Sanitary Landfill means any place for which a permit for disposal of solid waste on land is required under the provisions of this rule;

Solid Waste Disposal Facility means any place at which solid waste is dumped, abandoned, or accepted or disposed of for final disposition by incineration, landfilling, composting or other method. Wastewater treatment plants permitted under the National Pollutant Discharge Elimination System (NPDES) and units at hazardous waste management facilities permitted under the Arkansas Hazardous Waste Management Act and Code shall not be deemed to be disposal sites or facilities for the purpose of this rule; and

Solid Waste Management Facility means all contiguous land and structures, other appurtenances, and improvements on the land used for storage, collection, transportation, processing, treatment, and/or disposal of solid waste. For purposes of this rule, facilities solely engaged in the recycling of source separated recovered materials are excluded; also excluded are processes, operations and/or facilities that are regulated pursuant to hazardous waste rules which are not also regulated pursuant to solid waste rules.

Chapter 2 : POWERS, DUTIES AND RESPONSIBILITIES

Rule 27.201 The Division

The Division shall be charged with the responsibility of enforcing the Acts, the administration of the Solid Waste Management Facility operator licensing program, with the advice and assistance of the Licensing Committee, and the administration of the Environmental Compliance Resource Program.

(A) Licensing of Operators of Solid Waste Management Facilities.

The Division is given and charged with the following powers and duties for licensing of operators of Solid Waste Management facilities:

- (1) To establish and conduct examinations for licensing, at least annually, for applicants meeting the minimum qualifications for a license, and to conduct oral examinations for licensing upon request. This duty may be delegated by the Division to the administrator of any approved course;
- (2) To issue licenses to applicants after satisfactory completion of all licensing requirements as hereinafter established, to renew these licenses, to suspend or revoke licenses for cause, after due notice and opportunity for hearing, and to issue ~~one-year~~ apprenticeship licenses to operators in training;
- (3) To initiate enforcement actions and/or institute court proceedings to compel compliance with the Acts and the rules issued pursuant thereto. Any such actions or proceedings shall require facilities to license the personnel involved in lieu of discharging the unlicensed personnel in order to achieve compliance;
- (4) To collect and deposit such fees, as established by the Commission, to be assessed per classification of license, not to exceed fifty dollars (\$50.00) for the initial cost of ~~examination-a testing application~~ and license, fifty dollars (\$50.00) for the cost of reciprocity review and license, twenty-five dollars (\$25.00) ~~annually to be paid on a biennial basis at the time of for annual~~ license renewal, twenty-five dollars (\$25.00) for provisional certificates, and a ~~penalty of~~ ten dollars (\$10.00) ~~penalty~~ for late payment or renewal. Such fees shall be deposited into the Arkansas Department of Energy and Environment, Division of Environmental Quality Fee Fund;
- (5) To establish minimum criteria to define the areas of competence for each classification of operators. The minimum criteria may utilize education requirements, technical training, on-site training and experience, substitutional qualifications, or other beneficial factors as deemed appropriate;
- (6) To review, recognize, and approve a schedule of training and educational curriculum to be utilized to fulfill the purposes of this rule;

- (7) To approve sources of educational training to fulfill the purposes of this rule;
- (8) To establish and implement such administrative sanctions as necessary to promote the professional integrity of solid waste management facility operator licenses;
- (9) To conduct such inquiries and establish such facts as necessary to advise the Commission on the actions of licensees;
- (10) To establish such administrative policies as necessary to carry out the powers and duties of the Commission;
- (11) To issue provisional certificates as established in Rule 27.608;
- (12) To allow the Director to grant a written waiver from the solid waste management facility licensing requirements of this rule; and
- (13) To allow the Director to withdraw a written waiver from the solid waste management facility licensing requirements for just cause by written notice to the county, municipality, governmental subdivision, public or private corporation, or other persons to whom the written waiver is being granted;

~~The Division shall be charged with the responsibility of enforcing the Acts, the administration of the Solid Waste Management Facility operator licensing program, with the advice and assistance of the Licensing Committee, and the administration of the Environmental Compliance Resource Program.~~

(B) Training and Certification of Environmental Officers.

The Director or his or her designee shall develop, implement, and administer the Environmental Compliance Resource Program. The Division is given and charged with the following powers and duties associated with the Environmental Compliance Resource Program:

- (1) To designate at least one (1) Division employee as a program coordinator for the Environmental Compliance Resource Program;
- (2) To provide guidance and resources to all certified Environmental Officers;
- (3) To evaluate and determine the eligibility of all applicants for initial training as an Environmental Officer;
- (4) To coordinate training and examination of all potential Environmental Officers;
- (5) To certify individuals who have completed the required Environmental Officer training and successfully passed the examination;
- (6) To coordinate continuing education for all Environmental Officers;
- (7) To administer the annual renewal requirements of the Program and require proof of annual renewal compliance from previously certified Environmental Officers;

- (8) To review, recognize, and approve a schedule of training and educational curriculum to be utilized to fulfill the purposes of this rule;
- (9) To approve sources of educational training to fulfill the purposes of this rule;
- (10) To establish and implement such administrative sanctions as necessary to promote the professional integrity of Environmental Officer certificates;
- (11) To establish such administrative policies as necessary to carry out the powers and duties of the Commission; and
- (12) To collect and deposit such fees, as established by the Acts, to be assessed at fifty dollars (\$50.00) for the initial cost of ~~the examination and~~ certification ~~application~~ fee and twenty-five dollars (\$25.00) for annual certificate renewal. Such fees shall be deposited into the Arkansas Department of Energy and Environment, Division of Environmental Quality Fee Fund;

Rule 27.202 Solid Waste Licensing Committee

The Solid Waste Licensing Committee authorized by Arkansas Code Annotated § 8-6-904, as amended, is to advise and assist the Commission and the Division in the administration of the solid waste management facility operator licensing program. The members of the committee shall serve as specified in the Acts. The Solid Waste Licensing Committee shall have the power and duty to:

- (A) Conduct inquiries and establish findings necessary to advise the Commission and the Division on irregularities encountered in the management of the operator licensing program;
- (B) Conduct inquiries and establish facts necessary to advise the Commission and the Division on the actions of operator licensees; and
- (C) Recommend administrative sanctions, including, but not limited to, the suspension and revocation of solid waste management facility operator licenses as necessary to promote the professional integrity of solid waste management facility operator licensees.

Chapter 3 : SOLID WASTE MANAGEMENT FACILITY OPERATOR LICENSING CLASSIFICATIONS

The Division shall license persons according to their qualifications to successfully operate solid waste management facilities. This section establishes three (3) licensing classifications with levels created within each classification which are aimed at providing a professional career ladder. An operator only has to be concerned with the specific category under which they are licensed (See Appendix A). For purposes of this rule, licenses will be classified as follows:

Rule 27.301 Class 1 License-- Material Recycling Facility, Solid Waste Recovery Facility, Solid Waste Processing Facility, Composting Facility, Transfer Station, Municipal Solid Waste Incinerator, ~~Or~~ Municipal Solid Waste Disposal Facility

A Class 1 license is a license for the operation/management of a material recycling facility, solid waste recovery facility, solid waste processing facility, composting facility, transfer station, municipal solid waste incinerator, municipal solid waste disposal facility, or a sanitary landfill meeting the criteria of Title 40, Code of Federal Regulations, Part 258 (Subtitle D), and is eligible to receive various types of nonhazardous solid waste, including materials that require special handling or operating procedures. A Class 1 license shall be required for all operators of material recycling facilities, solid waste recovery facilities, solid waste processing facilities, composting facilities, transfer stations, municipal solid waste incinerators, and municipal solid waste disposal facilities, with at least one (1) Class 1C licensed manager or supervisor on-site at all times during periods of operation (see Appendix B). This requirement does not preclude brief periods of absence nor does it include the closure and post-closure care periods. (For certain exceptions allowable for transfer stations, see Rule 27.302.) The three (3) levels of a Class 1 license are as follows:

(A) **Class 1A License.** The Class 1A license is a ~~one-year nonrenewable~~ apprenticeship license. It shall encompass the operational knowledge needed for the waste screening, handling, and processing aspects of the solid waste management facility. Holders of a Class 1A license shall be operators in training working under the direct supervision of a Class 1C licensed operator. ~~Non-supervisory personnel may select to remain at this level of license as long as the requirement is met for having at least one (1) Class 1C licensed manager or supervisor on-site at all times during periods of operation. Any person applying making application~~ for a Class 1A apprentice license must:

- (1) Satisfactorily complete the twenty (20) hour course of approved training designated for a Class 1A license. This course shall provide a minimum of six (6) hours of safety and waste screening for the exclusion of hazardous and polychlorinated biphenyl (PCB) wastes; and
- (2) Satisfactorily complete a Level A examination.

(B) **Class 1B License.** A Class 1B license is the intermediate or journeyman level of Class 1 license. A Class 1B license shall encompass operational level technical, regulatory, administrative, and management information. This level of license elevates a licensee to a fully qualified level of operator. Non-supervisory personnel may select to remain at this level of license as long as the requirement is met for having at least one (1) ~~or~~ Class 1C licensed manager or supervisor on-site at all times during periods of operation. ~~The Division shall not issue a Any person making application for a Class 1B license must until the operator:~~

- (1) Holds a Level A license for a period of one (1) year;
- (2) Satisfactorily completes the twenty (20) hour course of approved training designated for a Class 1B license;
- (3) Satisfactorily completes a Class 1B examination;
- (4) Satisfactorily completes one (1) year of experience in solid waste management or operations; and
- (5) Satisfactorily carries out the responsibilities of an operator.

(C) **Class 1C License.** The Class 1C license is the supervisory or master level of non-specialty Class 1 license. A Class 1C license shall encompass complex level technical, regulatory, administrative, and management information. ~~Any person making application for The Division shall not issue-~~ a Class 1C license ~~must until the operator:~~

- (1) Holds a Level B license for a minimum of one (1) year;
- (2) Satisfactorily completes the ~~twenty-three~~ (230) hour course of approved training designated for a Class 1C license;
- (3) Satisfactorily completes a Class 1C examination;
- (4) Satisfactorily completes two (2) years of experience in solid waste management or operations; and
- (5) Satisfactorily carries out the responsibilities of an operator.

Rule 27.302 Special Provisions Allowed ~~F~~for Transfer Stations

(A) In instances of multiple transfer stations being owned and operated by a duly authorized solid waste management district within this state, county government within this state, municipality within this state, or other entity permitted by the Division, each site may be manned by Class 1, Level B operators as long as the oversight manager is a Class 1, Level C operator, and the oversight manager is available to provide assistance to the on-site Level B operators whenever needed. To qualify for this provision, the workplace of the oversight manager must not exceed a distance of over one-hundred (100) miles from the transfer station.

- (B) In instances of multiple transfer stations as established above in Rule 27.302 (A), Class 1, Level A operators may be supervised by Class 1, Level B operators.

Rule 27.303 Class 2 License--Class 3 ~~Or~~ Class 4 Landfills

- (A) **Class 2A License.** The Class 2A license is a ~~one-year non~~renewable apprenticeship license. It shall encompass operational knowledge needed for the waste screening, handling, and processing aspects of the solid waste management facility. Holders of a Class 2A license shall be operators in training working under the direct supervision of a Class 2C licensed operator. Non-supervisory personnel may select to remain at this level of license as long as the requirement is met for having at least one (1) Class 2C licensed manager or supervisor on-site at all times during periods of operation. ~~Any person making application for a~~ The Division shall not issue a Class 2A ~~apprentice~~ license ~~must~~until the operator:

- (1) Satisfactorily completes the twenty (20) hour course of approved training designated for a Class 2A license. This course shall provide a minimum of six (6) hours of safety and waste screening for the exclusion of hazardous and polychlorinated biphenyl (PCB) wastes; and
- (2) Satisfactorily completes a Level A examination.

- (B) **Class 2B License.** A Class 2B license is the intermediate or journeyman level Class 2 license. A Class 2B license shall encompass operational level technical, regulatory, administrative, and management information. This level of license elevates a licensee to a fully qualified level of operator. Non-supervisory personnel may select to remain at this level of license as long as the requirement is met for having at least one (1) Class 2C licensed manager or supervisor on-site at all times during periods of operation. ~~Any person making application for~~ The Division shall not issue a Class 2B license ~~must~~ until the operator:

- (1) Holds a Level A license for a period of one (1) year;
- (2) Satisfactorily completes the twenty (20) hour course of approved training designated for a Class 2B license;
- (3) Satisfactorily completes a Class 2B examination;
- (4) Satisfactorily completes one (1) year of experience in solid waste management or operation; and
- (5) Satisfactorily carries out the duties of an operator.

- (C) **Class 2C License.** The Class 2C license is the supervisory or master level of Class 2 license. The Class 2C license shall encompass complex level technical, regulatory, administrative, and management information. ~~Any person making application for~~ The Division shall not issue a Class 2C license ~~must~~ until the operator:

- (1) Holds a Level B license for a minimum of one (1) year;
- (2) Satisfactorily completes the ~~twenty~~-(230) hour course of approved training designated for a Class 2C license;
- (3) Satisfactorily completes a Class 2C examination;
- (4) Satisfactorily completes two (2) years of experience in solid waste management or operation; and
- (5) Satisfactorily carries out the responsibilities of an operator.

Rule 27.304 Class 3 License--Waste Tire Processing Facility ~~Or~~ Other Related Solid Waste Management Facility

A Class 3 license is a license for the operation/management of a waste tire processing facility or other related solid waste management facility. A Class 3 license shall be required for all operators of waste tire processing facilities and other related solid waste management facilities with at least one (1) Class 3C licensed manager or supervisor on-site at all times during periods of operation (see Appendix B). This requirement does not preclude brief periods of absence nor does it include the closure and post-closure care periods. The three (3) levels of Class 3 licenses are as follows:

- (A) **Class 3A License.** The Class 3A license is a ~~one-year nonrenewable~~ apprenticeship license. It shall encompass operational knowledge needed for the waste screening, handling, and processing aspects of the solid waste management facility. Holders of a Class 3A license shall be operators in training working under the direct supervision of a Class 3C licensed operator. ~~Non-supervisory personnel may select to remain at this level of license as long as the requirement is met for having at least one (1) Class 3 licensed manager or supervisor on-site at all times during periods of operation. Any person making application for~~ a Class 3A apprentice license must:
 - (1) Satisfactorily complete the twenty (20) hour course of approved training designated for a Class 3A license. This course shall provide a minimum of six (6) hours of safety and waste screening for the exclusion of hazardous and polychlorinated biphenyl (PCB) wastes; and
 - (2) Satisfactorily complete a Level A examination.
- (B) **Class 3B License.** The Class 3B license is the intermediate or journeyman level of Class 3 license. The Class 3B license shall encompass operational level technical, regulatory, administrative, and management information. This level of license elevates a licensee to a fully qualified level of operator. Non-supervisory personnel may select to remain at this level of license as long as the requirement is met for having at least one (1) Class 3C licensed manager or supervisor on-site at all times during periods of operation. ~~Any person making application for~~ The Division shall not issue a Class 3B license ~~must~~ until the operator:

- (1) Holds a Level A license for a period of one (1) year;
- (2) Satisfactorily completes the twenty (20) hour course of approved training designated for a Class 3B license;
- (3) Satisfactorily completes a Class 3B examination;
- (4) Satisfactorily completes one (1) year of experience in solid waste management or operation; and
- (5) Satisfactorily carries out the duties of an operator.

(C) **Class 3C License.** The Class 3C license is the supervisory or master level of Class 3 license. The Class 3C license shall encompass complex level technical, regulatory, administrative, and management information. ~~Any person making application for~~ The Division shall not issue a Class 3C license ~~must~~ until the operator:

- (1) Holds a Level B license for a minimum of one (1) year;
- (2) Satisfactorily completes the ~~twenty~~ thirty (30) hour course of approved training designated for a Class 3C license;
- (3) Satisfactorily completes a Class 3C examination;
- (4) Satisfactorily completes two (2) years of experience in solid waste management or operation; and
- (5) Satisfactorily carries out the responsibilities of an operator.

Chapter 4 : CERTIFICATION OF ENVIRONMENTAL OFFICERS

Rule 27.401 Certification of Environmental Officers

The Division shall certify persons according to their qualifications as specified in Ark. Code Ann. § 8-7-2001 *et seq.*, their qualifications to successfully perform the duties of Environmental Officers, and their completion of approved training and examination. The Director shall make final determinations on eligibility. For a certification application, the Division shall require a fee of fifty dollars (\$50.00). Any person submitting an application for an Environmental Officer certificate must:

- (A) Satisfactorily complete the approved training designated for Environmental Officers;
- (B) Satisfactorily complete and pass the examination designated for Environmental Officers;
- (C) Provide proof of current employment by a municipality, city, county, regional solid waste management district, state agency, board, or commission; and
- (D) Take an oath and be sworn in as an Environmental Officer by the Administrative Law Judge of the Arkansas Pollution Control and Ecology Commission.

Chapter 5 : TRAINING/EDUCATION

Rule 27.501 Sources of Training-Operators

For purposes of this rule, training requirements for operators may be, at a minimum, acquired from the following sources, provided that such training course, presentation, demonstration, workshop, seminar, or other agenda items receive prior approval of the Division.

- (A) Southern Arkansas University Tech - Arkansas Environmental Academy;
- (B) Arkansas Environmental Federation;
- (C) Solid Waste Association of North America (SWANA);
- (D) University of Arkansas at Fort Smith;
- (E) United States Environmental Protection Agency (EPA); and
- (F) Other sources approved by the Division.

Rule 27.502 Continuing Education-Operators

All ~~B and C level~~ licenses ~~issued~~ issued under Chapter 3 of this rule require a minimum of ~~six~~ ~~twelve~~ (612) hours of approved solid waste training ~~yearly~~ biennially for continuing education. This continuing education requirement must be met ~~yearly~~ for license renewal eligibility.

Rule 27.503 Sources of Training-Environmental Officers

For purposes of this rule, training requirements for Environmental Officers may be, at a minimum, acquired from the following sources, provided that such training course, presentation, demonstration, workshop, seminar, or other agenda items receive prior approval of the Division.

- (A) Southern Arkansas University Tech – Arkansas Environmental Academy; or
- (B) Other sources approved by the Division.

Rule 27.504 Continuing Education-Environmental Officers

All certificates issued under Chapter 4 of this rule require an annual minimum of six (6) hours of continuing environmental enforcement education from an approved Environmental Officer training program. The Division shall also require payment of a fee of twenty-five dollars (\$25.00) for the annual renewal of an Environmental Officer certificate.

Chapter 6 : ADMINISTRATION – OPERATOR LICENSING

Rule 27.601 Request ~~F~~or Examination

Any person desiring to take an examination for which they are otherwise eligible and are unable to attend a scheduled examination established by the Division under Rule 27.201 of this rule may schedule a date by filing a request with the Arkansas Department of Energy and Environment, Division of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72218-5317.

Rule 27.602 License Renewal

All ~~Level B operator licenses and Level C operator licenses~~ are subject to ~~annual~~-biennial renewal. ~~Annual-Biennial~~ licensing periods run from ~~July~~-January 1 through ~~June 30~~-December 31 ~~yearly~~. ~~Level A (apprenticeship) operator licenses are nonrenewable; a~~All other licenses shall be renewable upon application, if applicants meet the renewal requirements set forth by the Commission in Rule 27.502. All operators initially licensed during the last quarter of a renewal period shall have a valid license until December 31 of the next renewal period.

No later than ~~May~~-November of every year, all current licensees ~~who have not already renewed their licenses~~ will receive, through mail or a Division approved procedure using an electronic media format, a license renewal request form to complete and return to the Division with the appropriate fee. An administrative handling fee for late renewal will be assessed to any operator failing to renew their license by ~~July~~-January 1.

Rule 27.603 Lapsed License and Reinstatement

Pursuant to strict compliance with Ark. Code Ann. § 17-1-107, a person can seek reinstatement of a lapsed license. Any operator whose license has lapsed for a period of over ~~one~~-three (43) ~~year-months~~ will-shall be required to take a new examination, and otherwise comply with requirements set forth in Arkansas statutes. ~~before license consideration~~. For operator licenses, the classification at which the operator would be re-examined will be at the discretion of the Division.

Rule 27.604 Revocation ~~O~~of License

The Division, with the advice and the assistance of the Solid Waste Licensing Committee, may revoke or suspend licenses for cause, or impose sanctions against the license of an operator provided that (1) the Division finds that the licensee has practiced fraud or deception; (2) that reasonable care, judgment, or the application of knowledge or ability was not exercised in the performance of their responsibilities or (3) the licensee is incompetent, unable, or unwilling to perform their responsibilities.

The Division shall provide notice of such action to the licensee by certified mail. The licensee has a period not to exceed thirty (30) days in which to file an appeal pursuant to Pollution Control and Ecology Commission Rule 8, Administrative Procedures.

Rule 27.605 Reciprocity and Provisional Certificate

The Division ~~may~~ shall issue a comparable operator license, without additional course hours or examination, to any applicant who holds a current operator license in good standing in any state, territory, or possession of the United States, or any country, provided that the licensing requirements under which that person was certified are substantially equivalent- ~~do not conflict with the provisions of this rule and are of an equal or greater standard. For requests of reciprocity, said state, territory, or possession must extend reciprocity privileges to operators certified by the State of Arkansas in accordance with the provisions of this rule.~~

The Division shall issue a temporary and provisional certificate to an individual licensed in another state immediately upon receipt of the application, the required fee, and other documentation required for licensure. The temporary or provisional certificate shall be effective for at least ninety (90) days, or until the Division makes a decision on the application, unless the Division determines that the applicant does not meet the requirements for reciprocity under this section, in which case the provisional or temporary license shall immediately be revoked.

If the state, territory, or district from which the applicant has previously resided and worked does not issue the same or substantially similar license, the Division shall require testing to demonstrate competency in the field and at least three (3) letters of recommendation.

Rule 27.606 Apprenticeship License

~~Immediately upon~~ Within one-hundred and eighty days of employment of an unlicensed operator, the solid waste management facility ~~will~~ shall compel ~~notify the Division in writing requesting entry of the operator in training into the apprenticeship program. Within one hundred and eighty (180) days of the date of entrance into the program, operator-in-training will to~~ comply with the requirements of the desired Level A apprenticeship program as established in Chapter 3 of this rule and ~~make application to~~ with the Division for a Level A operator license.

Rule 27.607 Multiple Licenses

Operators may opt to hold more than one classification of license. The licensing requirements for each license must be met, although overlapping requirements do not have to be duplicated. One approved course consisting of a minimum of six (6) hours of solid waste training yearly will satisfy the continuing education requirement for operator licenses that are current.

Rule 27.608 Provisional Certificate

The Division may issue, at its discretion, a provisional license to any operator who can show just cause. Provisional certificates shall be for a one (1) year period but may be renewed or extended for just cause. A provisional certificate shall allow an operator to operate only the specific facility at which the operator is employed at the time of certification, and will allow a facility to remain in compliance regarding the issue of operator certification while said operator works toward fulfilling the requirements for the necessary category and level of license needed for the particular facility at which the operator is employed. Granting of provisional certification shall

be contingent upon Division determination that an emergency situation exists that could result in facility shut down for failure to meet the operator licensing requirement.

Chapter 7 : ADMINISTRATION – ENVIRONMENTAL OFFICER LICENSING

Rule 27.701 Environmental Compliance Resource Program

The Director or his or her designee shall develop, implement, and administer the Environmental Compliance Resource Program.

Rule 27.702 Program Coordinator

- (A) The Division shall designate at least one (1) employee as a program coordinator. A program coordinator shall obtain the equivalent academic training and pass the equivalent test as an Environmental Officer.
- (B) If an employee designated under this section has met the requirements for training and examination of an Environmental Officer, the Director shall issue a technical certificate that establishes that the employee holds the equivalent credentials as an individual who is certified as an Environmental Officer under Ark. Code Ann. § 8–6–2010.
- (C) An employee who is certified as an Environmental Officer and is a program coordinator may perform the duties of an Environmental Officer within the state as well as other duties assigned by the Director.

Rule 27.703 Request for Examination

Any person desiring to take an examination for which they are otherwise eligible and are unable to attend a scheduled examination established by the Division under Rule 27.201 of this rule may schedule a date by filing a request with the Arkansas Department of Energy and Environment, Division of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72218-5317 or by calling the Division of Environmental Quality or submitting an email to the Division of Environmental Quality.

Rule 27.704 License Renewal

All Environmental Officer licenses are subject to annual renewal. Annual licensing periods commence on January 1 and end on December 31 of that same year. Environmental officers who meet the renewal requirements set forth by the Commission in Rule 27.504 may apply for renewal. All Environmental Officers initially licensed during the last quarter of a calendar year shall have a valid Environmental Officer license until December 31 of the following year.

Every year, all current licensees will receive, through mail or a Division approved procedure using an electronic media format, a license renewal request form to complete and return to the Division with the appropriate fee. A ten (\$10) dollar administrative handling fee for late renewal will be assessed to any Environmental Officer failing to timely renew their license.

Rule 27.705 Lapsed License and Reinstatement

Pursuant to strict compliance with Ark. Code Ann. § 17-1-107, a person can seek reinstatement of a lapsed license. Any Environmental Officer whose license has lapsed for a period of over six (6) months will be required to take a new examination before license consideration by the Environmental Compliance Resource Program, and otherwise comply with requirements set forth in Arkansas statutes for reinstatement of a lapsed license.

Rule 27.706 Revocation of License

The Program Coordinator, as described in section 702, may revoke or suspend licenses for cause, or impose sanctions against the license of an Environmental Officer, provided that (1) the Division finds that the licensee has practiced fraud or deception; (2) that reasonable care, judgment, or the application of knowledge or ability was not exercised in the performance of their responsibilities or (3) the licensee is incompetent, unable, or unwilling to perform their responsibilities.

The Program Coordinator shall provide notice of such action to the licensee by certified mail. The licensee has a period not to exceed thirty (30) days in which to file an appeal pursuant to Arkansas Pollution Control and Ecology Commission Rule 8, Administrative Procedures.

Rule 27.707 Multiple Licenses

Environmental Officers may opt to hold both a solid waste management facility operator license and an Environmental Officer license. The licensing requirements for each of these respective licenses must be obtained annually. An approved course consisting of a minimum of six (6) hours of annual environmental enforcement education shall only satisfy the continuing education requirement for Environmental Officer licenses.

Rule 27.708 Reciprocity and Provisional Certificate

The Division shall issue a comparable license of an Environmental Officer, without additional course hours or examination, to any applicant who holds a current Environmental Officer license in good standing in any state, territory, or possession of the United States, or any country, provided that the licensing requirements under which that person was certified are substantially equivalent with the provisions of this rule and are of an equal or greater standard. The Division shall issue a temporary and provisional certificate to an individual licensed in another state immediately upon receipt of the application, the required fee, and other documentation required for licensure. The temporary or provisional certificate shall be effective for at least ninety (90) days, or until the Division makes a decision on the application, unless the Division determines that the applicant does not meet the requirements for reciprocity under this section, in which case the provisional or temporary license shall immediately be revoked.

If the state, territory, or district from which the applicant has previously resided and worked does not issue the same or substantially similar license, the Division shall require testing to demonstrate competency in the field and at least three (3) letters of recommendation.

Chapter 8 : UNIFORM CITATION AND AFFIDAVIT FORMS

Rule 27.801 Promulgation of Uniform Environmental Citation Form and Affidavit of Dismissal

(A) Uniform Environmental Citation Form

- (1) Pursuant to Ark. Code Ann. § 8-6-2009, the Division has submitted a universal environmental citation form.
- (2) The uniform environmental citation form shall be used exclusively by all Environmental Officers in this state in issuing citations for environmental violations.
- (3) The uniform environmental citation form is attached to this Rule and marked for identification purposes as “Appendix C”.
- (4) Subsection (A)(2) of this section does not prohibit a municipality, city, county, or regional solid waste management district from promulgating citation forms for use in enforcement of violations of their local ordinances or bylaws for violations other than environmental violations.

(B) Affidavit

Pursuant to Ark. Code Ann. § 8-6-2016, the Division has submitted a form affidavit that is to be used exclusively by Environmental Officers in circumstances where an environmental violation has been remediated and the environmental citation is withdrawn. The Affidavit is attached to this Rule and marked for identification purposes as “Appendix D.”

Chapter 9 : EFFECTIVE DATE

Rule 27.901 Description

This rule shall be effective ten (10) days after filing with the Secretary of State, the State Library, and the Bureau of Legislative Research following adoption by the Commission.

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION



RULE NO. 27

APPENDICES

APPENDIX A AT WHAT TYPE OF FACILITY DO YOU WORK?

| CLASS 1 | CLASS 2 | CLASS 3 |
|--|--|--|
| Transfer Station, Material Recycling Facility (MRF), Solid Waste Recovery Facility (WRF), Solid Waste Processing Facility, Municipal Solid Waste Incinerator, Composting Facility, or Municipal Solid Waste Disposal Facility | Non-Subtitle D Disposal Facility (Class 3 or Class 4 Landfill) | Waste Tire Processing Facility or Related Solid Waste Management Facility |
| <p>Class - Level A Apprentice or Operator in Training</p> <p>Class 1 - Level B Intermediate or Journeyman</p> <p>Class 1 -Level C Supervisory or Master</p> | <p>Class 2 - Level A Apprentice or Operator in Training</p> <p>Class 2 - Level B Intermediate or Journeyman</p> <p>Class 2 - Level C Supervisory or Master</p> | <p>Class 3 - Level A Apprentice or Operator in Training</p> <p>Class 3 - Level B Intermediate or Journeyman</p> <p>Class 3 - Level C Supervisory or Master</p> |

APPENDIX B GUIDELINES FOR DETERMINING WHO NEEDS A SOLID WASTE OPERATOR LICENSE

WHO DOES:

1. A person who performs any operation at a solid waste management facility requiring individual judgment which may directly affect the proper operation of the solid waste management facility. An Operator shall not be deemed to include an official solely exercising general administrative supervision.
2. Any person performing waste screening for the exclusion of hazardous and polychlorinated biphenyl (PCB) wastes, except as excluded below in WHO DOES NOT, No. 18.
3. Any employee of a solid waste management facility who makes decisions as to where or how to dispose of waste.
4. Any employee of a solid waste management facility which physically and/or directly handles household garbage or operates associated equipment and meets the definition of an operator as defined above.
5. Operators of any solid waste management facility required to be permitted by the Division.
6. Persons who operate grinding, shredding, compacting, or baling equipment.
7. Any of the persons listed in the WHO DOES NOT section below which for some reason occasionally or temporarily fills in for someone or performs any duty as listed in the WHO DOES section of this Guideline.

WHO DOES NOT:

1. A person who does not perform any operation at a solid waste management facility requiring individual judgment which may directly affect the proper operation of the solid waste management facility. Exclusions under this provision apply to personnel who perform repetitive tasks, who do not exercise any decision making authority and who work in a confined area which allows for direct supervision by an appropriately licensed individual. Examples of personnel who may meet this provision are: (a) municipal solid waste incinerator floor workers who are engaged in the loading of solid waste into an incinerator unit and/or municipal solid waste incinerator floor workers who engage in the cleaning up of spilled waste debris from the floor of the building. These workers shall receive direct supervision from a licensed operator who is present and who is responsible for checking all gauges, monitoring the operations, and performing all pertinent responsibilities which directly affect the proper operation of the facility; (b) waste tire processing facility workers whose sole duty is the loading of waste tires and waste tire residuals on a conveyor belt and who are directly supervised by a licensed operator who makes all decisions and performs all duties which directly affect the proper operation of the facility; and (c) waste tire processing facility workers or other individuals who engage

in loading of waste tires and/or waste tire residuals onto a truck or trailer at an abatement site for the purpose of transporting said waste to a permitted site.

2. Commercial collectors and haulers. They are licensed by the Regional Solid Waste Management Districts.
3. Persons picking up blown litter.
4. Persons engaged in cell construction at a landfill.
5. Shop mechanics whose sole duties are to repair or perform service on landfill equipment.
6. Office personnel who have no duties or responsibilities which affect the management of the waste at a facility such as waste screening or making decisions regarding waste handling or disposal, except as excluded below in WHO DOES NOT, No. 18.
7. Clerks or other persons who weigh trucks and make out tickets but who do not screen the waste or decide where the waste is to be disposed or how, except as excluded below in WHO DOES NOT, No. 18.
8. Persons whose sole duty is to perform dirt work away from the working face/active cell of a landfill.
9. Persons who haul dirt and dump it where an operator instructs and leave it for an operator to manage.
10. Persons who haul and deposit yard waste at a composting facility but who do not perform duties such as operation of the facility or the grinding up or turning of the waste.
11. Transfer station truck drivers who do not operate the transfer facility or perform any other operational duties such as compacting of the waste.
12. Persons who are employed by a Waste Tire Processing Facility for the sole purpose of making a new product from the recycled rubber.
13. Persons employed by a tire dealership who operate a tire splitter for the sole benefit of that dealership.
14. Secretarial or clerical personnel employed by a Waste Tire Processing Facility who have no duties or responsibilities which affect the management of the waste.
15. Truck drivers or other individuals (whether facility employees or contract workers) who transport waste to private Class III industrial landfills where an operator screens and takes over the disposal decisions, duties, and responsibilities.
16. Persons who haul their own generated waste to a solid waste management facility.
17. Persons overseeing closure and post-closure care.

18. Landfill gate keepers, office personnel, or clerks whose sole operational duty is limited to waste screening, as long as said personnel maintain a minimum of six (6) hours of training yearly in waste screening for the exclusion of hazardous and polychlorinated biphenyl (PCB) wastes with record of training hours to be maintained at the facility.
19. Persons engaged in the abatement of unpermitted solid waste disposal sites.

NOTE: This Guideline is provided as an aid in determining which solid waste management facility personnel meet the statutory definition of "operator" and may not directly address all duties areas and responsibilities of solid waste management facility personnel. However, additional information may be secured by contacting the Solid Waste Management Division, Licensing Program.

APPENDIX C UNIFORM ENVIRONMENTAL CITATION FORM

ENVIRONMENTAL CITATION

State of Arkansas

Ticket Number _____

Court Appearance:

You are directed to appear on the ____ of _____, 20____, in

District Court of _____ County, located at _____

_____ at _____ a.m./p.m.

I PROMISE TO APPEAR IN SAID COURT AT SAID TIME AND PLACE.

I UNDERSTAND THE ABOVE AND THAT MY SIGNATURE IS NOT AN ADMISSION OF GUILT.

THE UNDERSIGNED issuing officer, duly authorized to issue environmental violation citations, on the ____ day of _____ 20____, has identified evidence or has reason to believe the violation(s) set forth below were committed by or were found to be on the property of:

NAME: _____

DL#/ DOB _____

ADDRESS: _____

PHONE: _____

SITE LOCATION: _____

The above listed person is accused of violating provisions of the following State environmental law(s):

{ } violation of the Used Tire Recycling and Accountability Act, A.C.A. § 8-9-401 et seq.

{ } violation of Chapter 6 of Arkansas Pollution Control and Ecology Commission Rule 18;

{ } violation of A.C.A. § 8-6-2005 (1), illegal dumping of solid waste or illegal disposal of solid waste on public or private property.

{ } violation of A.C.A. § 8-6-2005 (2), the creation or participation in the creation or furtherance of an illegal dump site;

{ } violation of A.C.A. § 8-6-2005 (3), the illegal disposal of solid waste or illegal dumping of solid waste has resulted from a property owner's own household activities on his or her own land that:

- (A) Creates a public or private nuisance;
- (B) Is a hazard to health; or
- (C) Involves the open dumping of garbage

{ } other violation of Chapter 6 of Title 8.

Remediation must be completed by the ____ day of _____, 20____.

DEQ permitted facility disposal/processing receipts are required to be submitted to the issuing officer by the remediation completion date listed above.

Failure to appear in court as directed is grounds for issuance of an Arrest Warrant.

SIGNATURE: _____

The undersigned further states that he/she has just and reasonable grounds to believe that the accused committed the offense as stated herein either by causing or permitting the indicated violation contrary to law on said property within _____ County.

ISSUING OFFICER: _____ License # _____

For further information regarding this notice, contact _____

_____ at _____

AFFIDAVIT OF DISMISSAL

Affidavit of Dismissal

State of Arkansas)
)
County of _____)

Before me, the undersigned authority, personally appeared _____, who,
being by me duly sworn, stated as follows:

1. My name is _____. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.
2. I am currently licensed as an Environmental Officer by the Environmental Compliance Resource Program of the Arkansas Department of Energy and Environment, Division of Environmental Quality.
3. Pursuant to Ark. Code Ann. § 8-6-2001 *et seq.*, on _____, I issued a citation, specifically citation no. _____, to _____ (alleged violator) for prohibited conduct concerning the following physical address and location:
_____.
4. Pursuant to Ark. Code Ann. § 8-6-2016(a), I notified the alleged violator that they had until _____ to remediate the environmental violation.
5. Upon reviewing the attached cost statement, issuing the attached inspection report of the site property, and verifying that the environmental violations have been remediated, the environmental citation is withdrawn, and any hearing concerning this matter is unnecessary.

Further Affiant Sayeth Not.

Name

SWORN AND SUBSCRIBED before me on the ____ day of _____ 20__.

My commission expires:

Notary Public, State of Arkansas

State of Arkansas

As Engrossed: H3/29/21

93rd General Assembly

A Bill

Regular Session, 2021

HOUSE BILL 1664

By: Representative Vaught

By: Senator B. Johnson

For An Act To Be Entitled

AN ACT TO AMEND THE ENVIRONMENTAL COMPLIANCE RESOURCE
ACT; TO CLARIFY THE AUTHORITY OF AN ENVIRONMENTAL
COMPLIANCE OFFICER AND THE ENVIRONMENTAL VIOLATIONS
CITED BY ENVIRONMENTAL OFFICERS; TO CLARIFY THE
JUDICIAL VENUE WHERE CITATIONS ARE REQUIRED TO BE
FILED; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ENVIRONMENTAL COMPLIANCE
RESOURCE ACT; AND TO CLARIFY THE
AUTHORITY OF AN ENVIRONMENTAL COMPLIANCE
OFFICER, ENVIRONMENTAL VIOLATIONS CITED,
AND THE JUDICIAL VENUE WHERE CITATIONS
ARE FILED.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 8-6-2002 is amended to read as follows:
8-6-2002. Purpose.

The purpose of this subchapter is to protect the public health, safety,
and welfare of the state by:

(1) Improving the operational efficiency of the Division of
Environmental Quality concerning the resources provided to local governments
and other state agencies, boards, and commissions;

(2) Creating the Environmental Compliance Resource Program ~~as a~~
~~consolidated program~~ to be administered by the division to provide resources



1 to local governments and other state agencies, boards, and commissions;

2 (3) Ensuring that cities, municipalities, counties, regional
3 solid waste management districts, and state agencies, boards, and commissions
4 have sufficient resources;

5 (4) Authorizing the division to develop, implement, and
6 administer an Environmental Compliance Resource Program; and

7 (5) Modernizing, simplifying, and clarifying the law related to
8 illegal dumping of solid waste and other similar issues that affect the
9 public health, safety, and welfare.

10
11 SECTION 2. Arkansas Code § 8-6-2003 is amended to read as follows:
12 8-6-2003. Definitions.

13 (a) To the extent that there is no conflict with the definitions in
14 subsection (b) of this section, this subchapter incorporates and adopts the
15 definitions of terms defined in Title 8, Chapter 6.

16 (b) As used in this subchapter:

17 (1) "Alleged violator" means a person that has been issued an
18 environmental citation under this subchapter by an environmental officer;

19 (2) "Cost statement" means a verified written statement that
20 accounts for the cost of solid waste removal or other remediation, including
21 without limitation receipts, and establishes that:

22 (A) The solid waste was removed from the location or the
23 environmental violation at the location was otherwise remediated; and

24 (B) The solid waste was properly disposed of at one (1) or
25 more of the following facilities:

26 (i) A permitted solid waste disposal facility;

27 (ii) A permitted solid waste processing facility;

28 (iii) A recycling center;

29 (iv) A scrap yard that purchases iron, steel,
30 aluminum, or other metals; or

31 (v) Any other facility that ~~an environmental officer~~
32 the Division of Environmental Quality finds to be a proper disposal facility
33 for the solid waste;

34 (3) "Environmental officer" means an employee of a city, county,
35 municipality, regional solid waste management district created under § 8-6-
36 701 et seq., or state agency, board, or commission who has+

1 ~~(A) Completed~~ completed all requirements under this
2 subchapter, including without limitation completing required training and
3 passing the required examination, obtaining certification, being sworn in,
4 and maintaining certification through continuing education; and

5 ~~(B) Authority to enter land to investigate and inspect as~~
6 ~~provided under § 8-1-107 to enforce environmental laws under the authority of~~
7 ~~the Division of Environmental Quality;~~

8 (4) "Environmental violation" means an act or omission that:

9 (A) Is prohibited under § 8-6-2005; or

10 (B) Causes or results in the violation of a state law,
11 rule, or order that is:

12 (i) Designed to protect the public health, safety,
13 or welfare; and

14 (ii) Applicable to this subchapter under § 8-6-2004;

15 (5) ~~"Illegal dumping of solid waste"~~ "Illegal disposal of solid
16 waste" or "illegal dumping of solid waste" means:

17 (A) The illegal placing abandoning, depositing, releasing,
18 dumping, spilling, leaking, or causing to be placed, deposited, or dumped by
19 a person placing of any solid waste into or on any land or water so that the
20 solid waste or any constituent of the solid waste may enter the environment
21 or be emitted into the air or discharged into any waters of the state; or

22 (B) Causing any solid waste to be abandoned, deposited,
23 released, dumped, spilled, leaked, or placed into or on any land or water so
24 that the solid waste or any constituent part of the solid waste may enter the
25 environment or be emitted into the air or discharged into any waters of the
26 state that is prohibited by this chapter:

27 ~~(A) In or upon a public or private highway, road, or street,~~
28 ~~including a portion of the right-of-way in or upon a public or private~~
29 ~~highway, road, or street;~~

30 ~~(B) In or upon private property into or upon which the public is~~
31 ~~admitted by easement or license of the private property;~~

32 ~~(C) In or upon a public park or other public property; or~~

33 ~~(D) Upon property for which a permit has not been issued by the~~
34 ~~division;~~

35 (6)(A) "Illegal dump site" means a place where solid waste is
36 disposed of in a manner that is prohibited by this chapter.

(B) "Illegal dump site" includes a place where one (1) or more of the following exists:

- (i) An attractive nuisance;
- (ii) A fire, health, or safety hazard;
- (iii) A potential source of surface or groundwater contamination;
- (iv) A waste tire site as defined in § 8-9-402; or
- (v) Other contamination that is hazardous to the public health or endangers the environment; and

(7) "Person" means an individual, municipality, other governmental entity, or other entity that is recognized by law with rights and duties.

SECTION 3. Arkansas Code § 8-6-2004 is amended to read as follows:
8-6-2004. Applicability.

This subchapter applies to ~~the enforcement of illegal dumping of solid waste in violation of this subchapter~~ violations of this chapter, violations of Chapter 6 of Arkansas Pollution Control and Ecology Commission Rule 18, and violations of the Used Tire Recycling and Accountability Act, § 8-9-401 et seq.

SECTION 4. Arkansas Code § 8-6-2005 is amended to read as follows:
8-6-2005. Prohibited conduct.

An act or omission that results in one (1) or more of the following in this state is prohibited by this subchapter:

(1) The illegal dumping of solid waste ~~on public or private property or illegal disposal of solid waste;~~

(2) The creation or participation in the creation or furtherance of an illegal dump site;

(3) The illegal disposal of solid waste or illegal dumping of solid waste that has resulted from a property owner's own household activities on his or her own land if the disposal:

- (A) Creates a public or private nuisance;
 - (B) Is a hazard to health; or
 - (C) Involves the open dumping of garbage; or
- (4) Any other environmental violation applicable to this

1 subchapter under § 8-6-2004.

2
3 SECTION 5. Arkansas Code § 8-6-2009(b), concerning promulgation of an
4 environmental citation form, is amended to read as follows:

5 (b) Subsection (a) of this section does not prohibit a municipality,
6 city, county, or regional solid waste management district from promulgating
7 citation forms for use in enforcement of violations of their local ordinances
8 or bylaws ~~for violations other than environmental violations.~~

9
10 SECTION 6. Arkansas Code § 8-6-2011 is amended to read as follows:

11 8-6-2011. Environmental officer authority.

12 (a) An environmental officer under this subchapter may perform one (1)
13 or more of the following duties to ensure compliance with and enforcement of
14 this subchapter:

15 (1) ~~Enter Upon a showing of probable cause regarding~~
16 ~~environmental violations, and subject to the administrative warrant~~
17 ~~requirements in subsection (c) of this section, enter upon any public or~~
18 ~~private property within the state to inspect suspected illegal dump sites,~~
19 ~~littering, or related complaints for the purpose of obtaining information or~~
20 ~~conducting investigations or inspections;~~

21 (2) ~~Enter public or private property to collect~~ Collect evidence
22 of illegal dumping of solid waste and littering and present the evidence to
23 the prosecuting attorney or a court of competent jurisdiction where the
24 offense was committed; and

25 (3) Perform all other duties specified in this subchapter
26 necessary for the administration and enforcement of this subchapter.

27 (b) An environmental officer, acting solely under his or her authority
28 as granted in this subchapter, shall not have the power of arrest.

29 (c)(1) When an environmental officer obtains information that supports
30 probable cause to believe that a violation of a law within his or her
31 regulatory authority is being or has been violated, the environmental officer
32 may demand entry onto any property, public or private, to conduct
33 inspections.

34 (2) If consent to inspect is denied, the environmental officer
35 may obtain an administrative warrant from a judicial officer.

36 (3) The issuance and execution of an administrative warrant

1 under subdivision (c)(2) of this section shall be as follows:

2 (A) A judge or magistrate otherwise authorized to issue
3 search warrants within his or her jurisdiction may, upon proper oath or
4 affirmation showing probable cause, issue an administrative warrant for the
5 purpose of conducting inspections authorized by this subchapter;

6 (B)(i) A judge or magistrate shall issue an administrative
7 warrant only upon an affidavit of an environmental officer having knowledge
8 of the facts alleged, sworn to before the judge or magistrate and
9 establishing the grounds for issuing the administrative warrant.

10 (ii) If the judge or magistrate is satisfied that
11 grounds for the application for an administrative warrant exist or that there
12 is probable cause to believe the grounds exist, he or she shall issue an
13 administrative warrant identifying the site to be inspected, and the purpose
14 of the inspection.

15 (iii) The administrative warrant shall:

16 (a) State the grounds for its issuance and the
17 name of each person whose affidavit has been taken in support of the
18 inspection;

19 (b) Be directed to an environmental officer;

20 (c) Command the person to whom it is directed
21 to inspect the area, premises, building, or conveyance identified for the
22 purpose specified;

23 (d) Specifically identify any documents or
24 samples to be gathered during the inspection;

25 (e) Direct that it be served during normal
26 business hours unless emergency or extraordinary circumstances compel
27 otherwise; and

28 (f) Designate the judge or magistrate to whom
29 it shall be returned;

30 (C)(i) If appropriate, the administrative warrant may
31 authorize the review and copying of documents that may be relevant to the
32 purpose of the inspection.

33 (ii)(a) If documents must be seized for the purpose
34 of copying, the person serving the administrative warrant shall prepare an
35 inventory of documents taken.

36 (b) The inventory shall be made in the

1 presence of the person executing the administrative warrant and of the person
2 from whose possession or facility the documents were taken, if present, or in
3 the presence of at least one (1) credible person other than the person
4 executing the administrative warrant.

5 (c) A copy of the inventory shall be delivered
6 to the person from whom or from whose site the documents were taken.

7 (iii) The seized documents shall be copied as soon
8 as feasible under circumstances preserving their authenticity, then returned
9 to the person from whom the documents were taken;

10 (D)(i) The administrative warrant may authorize the taking
11 of samples of materials generated, stored, or treated at the site.

12 (ii) The person executing the administrative warrant
13 shall prepare an inventory of all samples taken.

14 (iii) In any inspection conducted pursuant to an
15 administrative warrant in which samples are taken, the environmental officer
16 shall make split samples available to the person whose site is being
17 inspected;

18 (E)(i) An administrative warrant issued pursuant to this
19 section is required to be executed and returned within ten (10) days of its
20 date unless, upon a showing of a need for additional time, the judge or
21 magistrate orders otherwise.

22 (ii) The return of the administrative warrant shall
23 be made promptly, accompanied by a written inventory of any documents or
24 samples taken;

25 (F) The judge or magistrate who has issued an
26 administrative warrant shall attach to the administrative warrant a copy of
27 the return and all papers returnable in connection with the administrative
28 warrant and file them with the clerk of the circuit court or district court
29 for the judicial district in which the inspection was made; and

30 (G) A copy of the administrative warrant and all
31 supporting affidavits shall be provided to the person served or left at the
32 entry of the site inspected.

33 (d) Notwithstanding subsection (c) of this section, an administrative
34 warrant is not required for any inspection under the following circumstances:

35 (1) If the owner, operator, or agent in charge of the site
36 consents;

1 (2) In situations presenting imminent danger to public health
2 and safety or the environment;

3 (3) In situations involving inspection of conveyances, if there
4 is reasonable cause to believe that the mobility of the conveyance makes it
5 impracticable to obtain an administrative warrant;

6 (4) In any other exception or emergency circumstance when time
7 or opportunity to apply for an administrative warrant is lacking;

8 (5) In situations involving conditions that may be observed in
9 an open field, from an area practically open to public access, or in plain
10 view; or

11 (6) In all other situations in which an administrative warrant
12 is not constitutionally required.

13
14 SECTION 7. Arkansas Code § 8-6-2012 is amended to read as follows:
15 8-6-2012. Issuing an environmental citation.

16 (a) An environmental officer shall use the uniform environmental
17 citation form ~~under~~ referenced in § 8-6-2009 to issue a citation for an
18 alleged environmental violation under this ~~subchapter~~ chapter.

19 (b) An environmental officer may issue a citation for an alleged
20 environmental violation ~~of this subchapter to an alleged violator~~ committed
21 within the territorial jurisdiction of the environmental officer's employer.

22
23 SECTION 8. Arkansas Code § 8-6-2013 is amended to read as follows:
24 8-6-2013. Filing an environmental citation.

25 A citation for an alleged environmental violation issued by an
26 environmental officer shall be filed in a ~~district~~ court of competent
27 jurisdiction in the county where the alleged environmental violation was
28 committed.

29
30 SECTION 9. Arkansas Code § 8-6-2014 is amended to read as follows:
31 8-6-2014. Serving an environmental citation.

32 A citation for an alleged environmental violation issued under this
33 ~~subchapter~~ chapter shall be served in person or by mailing a copy of the
34 citation by certified mail, ~~restricted delivery~~, to either the address
35 obtained from evidence collected from the environmental violation location or
36 to the last known address of the alleged violator.

1
2 SECTION 10. Arkansas Code § 8-6-2015 is amended to read as follows:
3 8-6-2015. Hearing on an environmental citation – Penalties.

4 (a)(1)(A) Except as provided under subdivision (a)(2) of this section,
5 the alleged violator shall appear before the ~~district~~ court named within the
6 citation at the location and time designated in the citation.

7 (B) The initial hearing shall occur no later than thirty
8 (30) days after the time period expires for remediation of the alleged
9 environmental violation.

10 (2) If, as verified by the environmental officer, the alleged
11 environmental violation is remediated by the alleged violator within the time
12 period established under § 8-6-2016 using the procedure under this
13 subchapter, the ~~district~~ court shall dismiss the matter from the docket
14 without hearing.

15 (3) If the environmental officer extends the time period for
16 remediation under § 8-6-2016(c), the ~~district~~ court shall reschedule the
17 hearing for not more than thirty (30) days after the extension for
18 remediation.

19 (b) A ~~district~~ court having of competent jurisdiction over a citation
20 issued by an environmental officer may issue penalties under § 8-6-204 and
21 ~~may grant an available remedy referenced in this subchapter unless the remedy~~
22 ~~is not available to the district court.~~

23 (c)(1) A judgment entered under this subchapter:

24 (A) May be enforced in the same manner as any other
25 judgment; and

26 (B) Is a final decision for purposes of appellate review.

27 (2) A person against which the judgment is entered by a district
28 court may appeal the decision to circuit court.

29 (d) A judgment entered under this subchapter does not preclude claims
30 under § 8-6-206 by another person.

31
32 SECTION 11. Arkansas Code § 8-6-2016(c)(2), concerning an extension of
33 the time period for remediation procedures of an environmental citation, is
34 amended to read as follows:

35 (2) If the environmental officer extends the time period under
36 subdivision (c)(1) of this section, the environmental officer shall notify

1 the ~~district~~ court with jurisdiction over the environmental citation hearing
2 under § 8-6-2015 and request rescheduling of the hearing.

3
4 SECTION 12. Arkansas Code § 8-6-2016(e) and (f), concerning
5 remediation procedures for environmental violations under the Environmental
6 Compliance Resource Act, are amended to read as follows:

7 (e)(1) If the alleged violator has removed the solid waste ~~or~~₁
8 remediated the environmental violation, and presented a cost statement to the
9 environmental officer, the environmental officer shall file an affidavit with
10 the ~~district~~ court that establishes that the environmental violation has been
11 remediated and the environmental citation is withdrawn.

12 (2) The affidavit shall include the cost statement and the
13 results of an investigation that the environmental officer has completed at
14 the location of the environmental violation.

15 (f) After filing the affidavit under subsection (e) of this section,
16 the environmental officer shall notify the ~~district~~ court that the hearing
17 required under § 8-6-2015 is unnecessary and the environmental citation has
18 been withdrawn.

19
20 SECTION 13. Arkansas Code § 8-6-2017(a), concerning fines and costs
21 for violations of the Environmental Compliance Resource Act, is amended to
22 read as follows:

23 (a) If fines and costs are not paid for judgments for violations of
24 this ~~subchapter~~ chapter, the party that has not paid the fines and costs is
25 subject to an administrative or civil enforcement action under law or rule,
26 or both.

27
28 SECTION 14. Arkansas Code § 8-6-2019(a), concerning an exemption in
29 the Environmental Compliance Resource Act for agriculture, is amended to read
30 as follows:

31 (a) Except as provided under subsection (b) of this section, ~~the~~
32 ~~Arkansas Solid Waste Management Act, § 8-6-201 et seq., this subchapter, and~~
33 ~~§ 8-6-901 et seq. do~~ does not apply to:

34 (1) The disposal of solid waste if the disposal:
35 (A) Results from operations of farms, grain elevators,
36 cotton gins, and similar industries;

1 (B) Is at a place where agricultural gleanings and crop
2 residue that result from operations of farms, grain elevators, cotton gins,
3 and similar industries are being land applied in accordance with current
4 management practices of the industries or the agricultural community; and

5 (C) Has been authorized and consented to by the landowner;
6 or

7 (2) A landowner who disposes of solid waste on the property
8 where the solid waste results from agricultural or farming operations or
9 household operations.

10
11 /s/Vaught
12

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14 **APPROVED: 4/19/21**
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State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 262

By: Senator Hester
By: Representative Eaves

For An Act To Be Entitled

AN ACT TO AMEND THE LICENSING OF OPERATORS OF SOLID
WASTE MANAGEMENT FACILITIES; TO CLARIFY THE NUMBER,
QUALIFICATIONS, AND TERMS OF LICENSING COMMITTEE
MEMBERS; TO ALLOW FOR BIENNIAL LICENSE RENEWAL; TO
ADDRESS RECIPROCITY FOR LICENSED OUT-OF-STATE SOLID
WASTE MANAGEMENT FACILITY OPERATORS WHO MOVE TO
ARKANSAS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LICENSING OF OPERATORS OF
SOLID WASTE MANAGEMENT FACILITIES; TO
AMEND THE LICENSING COMMITTEE; TO ALLOW
FOR BIENNIAL LICENSE RENEWAL; AND TO
ADDRESS RECIPROCITY IN ARKANSAS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 8-6-904(a)(2), concerning the membership of
the licensing committee that advises and assists in the administration of the
licensing of operators of solid waste management facilities, is amended to
read as follows:

(2) The committee shall be composed of ~~ten (10)~~ seven (7) voting
members as follows:

(A) Three (3) members, to be appointed by the commission,
shall be solid waste management facility operators licensed by the division;

(B) One (1) member, to be appointed by the commission,



1 shall be an employee of a county operating a solid waste management facility
2 who holds the position of solid waste management facility on-site operator or
3 supervisor;

4 (C) One (1) member, to be appointed by the commission,
5 shall be an employee of a municipality operating a sanitary landfill who
6 holds the position of landfill on-site operator or supervisor;

7 (D) One (1) member, to be appointed by the commission,
8 shall be a representative of one (1) of the duly constituted regional solid
9 waste management boards;

10 ~~(E) One (1) member, to be appointed by the commission,~~
11 ~~shall be an on-site operator or supervisor of a waste tire processing~~
12 ~~facility;~~

13 ~~(F)~~ One (1) member, to be appointed by the commission,
14 shall be an on-site operator or supervisor of a nonsegregated materials
15 recovery, transfer, or composting facility;

16 ~~(G)~~(F) One (1) member, to be appointed by the commission,
17 shall be a ~~faculty member of or other qualified person associated with an~~
18 ~~accredited college, university, or professional school in this state whose~~
19 ~~major field is related to environmental education~~ representative of a
20 designated Solid Waste Operator training academy and shall serve ex officio
21 with no vote; and

22 ~~(H)~~(G) One (1) member, to be appointed by the Director of
23 the Division of Environmental Quality, shall be a qualified member of his or
24 her staff who shall serve ex officio with no vote as executive secretary of
25 the committee.

26
27 SECTION 2. Arkansas Code § 8-6-904(b)(2)(A), concerning the term of a
28 nonstate agency member, is amended to read as follows:

29 (2)(A) ~~As of August 12, 2006, no A~~ nonstate agency member shall
30 not serve more than two (2) consecutive three-year terms.

31
32 SECTION 3. Arkansas Code § 8-6-908(a)(3), concerning the term that an
33 operator license is valid, is amended to read as follows:

34 (3) Licenses shall be valid for a period of ~~one (1) year~~ two (2)
35 years and, ~~with the exception of the apprenticeship license,~~ shall be
36 renewable upon application if the applicant meets the renewal requirements

1 established by commission rule. Provisional certificates shall be for a
2 period of one (1) year, but may be extended if the director determines there
3 is sufficient justification.

4
5 SECTION 4. Arkansas Code § 8-6-908(c), concerning waiver of the
6 license requirements by the Director of the Division of the Environmental
7 Quality, is amended to read as follows:

8 (c) The director may, at his or her discretion, waive the requirements
9 or any part of the requirements for formal examination of an applicant for a
10 license if the applicant holds a ~~valid license or certificate from another~~
11 ~~state in which the requirements for a license in the appropriate~~
12 ~~classification are at least equal to the requirements set forth in this~~
13 ~~subchapter and the rules issued pursuant thereto~~ substantially equivalent
14 solid waste management facility operator's license issued by another state,
15 territory, or district of the United States in accordance with § 17-1-106.

16
17 SECTION 5. Arkansas Code § 8-6-909(a), concerning the fees for
18 administrative costs of the licensing of operators of solid waste management
19 facilities, is amended to read as follows:

20 (a) The Arkansas Pollution Control and Ecology Commission shall have
21 the authority to set fees in an amount to cover the cost of the
22 administration of this subchapter. These fees to be assessed per
23 classification of certification shall not exceed fifty dollars (\$50.00) for
24 the initial cost of ~~examination~~ a testing application and license, fifty
25 dollars (\$50.00) for the cost of reciprocity review and license, twenty-five
26 dollars (\$25.00) annually to be paid on a biennial basis at the time of ~~for~~
27 ~~annual~~ license renewal, twenty-five dollars (\$25.00) for provisional
28 certificates, and a ~~ten-dollar~~ penalty of ten dollars (\$10.00) for late
29 renewal.

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32 **APPROVED: 4/20/21**
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