

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

SENATE BILL 823

4
5 By: Senator Madison
6 By: Representative Judy

For An Act To Be Entitled

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10 AN ACT TO AMEND THE APPROVAL AND APPEAL PROCESS
11 FOR PERMITS FOR LANDFILLS OR SOLID WASTE TRANSFER
12 STATIONS; TO PRESCRIBE STANDARDS WHERE CERTAIN
13 CLASS I LANDFILLS OR LANDFILL EXPANSIONS ARE NOT
14 ALLOWED; AND FOR OTHER PURPOSES.

Subtitle

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17 AN ACT TO AMEND THE APPROVAL AND APPEAL
18 PROCESS FOR PERMITS FOR LANDFILLS OR
19 SOLID WASTE TRANSFER STATIONS; TO
20 PRESCRIBE STANDARDS WHERE CERTAIN CLASS
21 I LANDFILLS OR LANDFILL EXPANSIONS ARE
22 NOT ALLOWED.

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

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27 SECTION 1. Arkansas Code § 8-6-706 is amended to read as follows:
28 8-6-706. Solid waste landfill and transfer station permits.

29 (a)(1) Any applicant for a solid waste landfill or transfer station
30 permit, with the exception of:

31 (A) Permits for landfills when a private industry bears
32 the expense of operating and maintaining the landfill solely for the disposal
33 of waste generated by the industry or wastes of a similar kind or character
34 under the Arkansas Solid Waste Management Act, § 8-6-201 et seq.; or

35 (B) Transfer station permits issued prior to January 1,
36 1999, must obtain a certificate of need from the regional solid waste



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1 management board with jurisdiction over the proposed site prior to submitting
2 the application to the Arkansas Department of Environmental Quality.

3 (2) The department ~~may~~ shall deny any permit based upon the
4 denial of a certificate of need by any regional board.

5 (b)(1) Applicants for a solid waste landfill permit or transfer
6 station permit must petition the regional board with jurisdiction over the
7 proposed site for a certificate of need in accordance with procedures adopted
8 by the regional board.

9 (2) The applicant’s petition must establish, at a minimum, that
10 the proposed disposal facility:

11 (A) Is consistent with the regional planning strategy
12 adopted by the regional board in the regional needs assessment or the
13 regional solid waste management plan;

14 (B) Does not conflict with existing comprehensive land use
15 plans of any local governmental entities;

16 (C) Does not disturb an archaeological site as recognized
17 by the Arkansas Archaeological Survey or a rare and endangered species
18 habitat as recognized by the Arkansas State Game and Fish Commission or the
19 United States Fish and Wildlife Service;

20 (D) Will not adversely affect the public use of any local,
21 state, or federal facility, including, but not limited to, parks and wildlife
22 management areas;

23 (E) Does not conflict with the requirements of state or
24 federal laws and regulations on the location of disposal facilities;

25 (F) If located in the 100-year floodplain, does not
26 restrict the flow of the 100-year flood, reduce the temporary water storage
27 capacity of the floodplain, or result in washout of solid waste so as to pose
28 a hazard to human health or the environment; and

29 (G) If the transfer station proposes to transfer waste
30 outside of the district in which it is located, the petition shall also
31 contain documentation that the district to which the waste will be
32 transferred has been notified and that the regional board of that district
33 has approved the receipt of such waste. This provision shall not apply if the
34 waste is being transported for disposal outside the geographical limits of
35 this state.

36 ~~(c) Any interested party to a certificate of need determination by a~~

1 ~~regional board may appeal the decision to the Director of the Arkansas~~
 2 ~~Department of Environmental Quality pursuant to procedures adopted by the~~
 3 ~~Arkansas Pollution Control and Ecology Commission. The director may issue a~~
 4 ~~permit despite the denial of a certificate of need if the director finds upon~~
 5 ~~appeal that the decision of the regional board was not supported by~~
 6 ~~substantial evidence.~~

7 ~~(d)~~(c) After notice and a public hearing to be held by the regional
 8 board in the county where the proposed landfill or transfer station is to be
 9 located, a certificate of need shall be issued or denied by the regional
 10 board based upon an evaluation of:

11 (1) The information provided by the applicant in the petition
 12 for a certificate of need;

13 (2) The requirements and considerations of any needs assessments
 14 prepared pursuant to this section;

15 (3) The location of the applicant's proposed landfill or
 16 transfer station based on the district's needs and its highway and road
 17 system;

18 (4) For landfill permits, the regional board shall consider the
 19 need for the landfill based upon the district's excess projected capacity
 20 which is currently permitted for operation, but in no event shall the
 21 district's excess permitted projected capacity exceed thirty (30) years;

22 (5) Any solid waste management system plans promulgated and
 23 approved pursuant to §§ 8-6-211 and 8-6-212 to the extent these plans conform
 24 to an overall regional planning strategy;

25 (6) A detailed history of the applicant's record and that of the
 26 stockholders and officers with respect to violations of environmental laws
 27 and regulations of the United States or any state or any political
 28 subdivision of any state; and

29 (7) Any procedures adopted by the regional board for issuance of
 30 a certificate of need.

31 ~~(e)~~(d) All landfill permit applications shall specify the service
 32 areas which the landfill will serve under the permit.

33 ~~(f)~~(e) All transfer station permit applications shall specify the
 34 service areas which the transfer station shall serve under the permit and
 35 shall also specify the facility to which waste from the transfer station will
 36 be transferred.

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SECTION 2. Arkansas Code § is amended to read as follows:
8-6-724. Regional standards.

(a) Regional solid waste management boards may adopt more restrictive standards for the location, design, construction, and maintenance of solid waste disposal sites and facilities than the state or federal governments, provided such standards are based upon generally accepted scientific knowledge or engineering practices and are consistent with the purposes of this subchapter.

(b) No Class I solid waste landfills or expansions of landfills shall be allowed if the landfill site is:

(1) Located on a geological site defined as karst terrain or a geologically similar condition and is located within the outcrop area of the Boone and St. Joe formations; and

(2) Within two (2) miles of a natural spring being used or which could be used for human or domestic farm animal consumption; and

(3) Within two (2) miles of a major creek, stream, or waterway of the Illinois River or White River watersheds, including those of size and average capacity equal to or greater than Spring Creek, Clear Creek, and the East, Middle, and West Forks of the White River; and

(4) Within two (2) miles of a water well being used or that could be used for human or domestic farm consumption.