

Exhibit B:

**Draft version
of the regulation**

Arkansas Pollution Control And Ecology Commission

RULE 27



INITIAL DRAFT

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

Submitted to the Arkansas Pollution Control and Ecology Commission: January 2020

Table of Contents

Chapter 1 : PRELIMINARY PROVISIONS.....	1-1
Rule 27.101 Purpose	1-1
Rule 27.102 Authority.....	1-1
Rule 27.103 Definitions	1-1
Chapter 2 : POWERS, DUTIES AND RESPONSIBILITIES	2-1
Rule 27.201 The Division	2-1
Rule 27.202 Solid Waste Licensing Committee	2-3
Chapter 3 : SOLID WASTE MANAGEMENT FACILITY OPERATOR LICENSING CLASSIFICATIONS.....	3-1
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	3-1
Rule 27.302 Special Provisions Allowed For Transfer Stations.....	3-2
Rule 27.303 Class 2 License--Class 3 Or Class 4 Landfills	3-3
Rule 27.304 Class 3 License--Waste Tire Processing Facility Or Other Related Solid Waste Management Facility	3-4
Chapter 4 : CERTIFICATION OF ENVIRONMENTAL OFFICERS	4-1
Rule 27.401 Certification of Environmental Officers	4-1
Chapter 5 : TRAINING/EDUCATION	5-1
Rule 27.501 Sources Of Training-Operators	5-1
Rule 27.502 Continuing Education-Operators	5-1
Rule 27.503 Sources of Training-Environmental Officers	5-1
Rule 27.504 Continuing Education-Environmental Officers.....	5-1
Chapter 6 : ADMINISTRATION – OPERATOR LICENSING.....	6-1
Rule 27.601 Request For Examination	6-1
Rule 27.602 License Renewal.....	6-1
Rule 27.603 Lapsed License	6-1
Rule 27.604 Revocation Of License	6-1
Rule 27.605 Reciprocity.....	6-1
Rule 27.606 Apprenticeship License	6-2
Rule 27.607 Multiple Licenses	6-2
Rule 27.608 Provisional Certificate	6-2
Chapter 7 : ADMINISTRATION – ENVIRONMENTAL OFFICER LICENSING.....	7-1

Rule 27.701	Environmental Compliance Resource Program	7-1
Rule 27.702	Program Coordinator	7-1
Rule 27.703	Request for Examination	7-1
Rule 27.704	License Renewal.....	7-1
Rule 27.705	Lapsed License	7-2
Rule 27.706	Revocation of License	7-2
Rule 27.707	Multiple Licenses	7-2
Chapter 8	: UNIFORM CITATION AND AFFIDAVIT FORMS.....	8-1
Rule 27.801	Promulgation of Uniform Environmental Citation Form and Affidavit of Dismissal	8-1
Chapter 9	: EFFECTIVE DATE.....	9-1
Rule 27.901	Description.....	9-1
APPENDIX A	AT WHAT TYPE OF FACILITY DO YOU WORK?	A-1
APPENDIX B	GUIDELINES FOR DETERMINING WHO NEEDS A SOLID WASTE OPERATOR LICENSE.....	B-1
APPENDIX C	UNIFORM ENVIRONMENTAL CITATION FORM.....	C-1
APPENDIX D	AFFIDAVIT OF DISMISSAL.....	D-1

Chapter 1 : PRELIMINARY PROVISIONS

Rule 27.101 Purpose

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”) to adopt rules and regulations 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 Ark. Code Ann. § 8-9-401 *et seq.*, Ark. Code Ann. § 8-6-2005 (1), Ark. Code Ann. § 8-6-2005 (2), and Ark Code Ann. § 8-6-2005 (3).

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 the Used Tire Recycling and Accountability Act, Ark. Code Ann. § 8-9-401 *et seq.*, violations of illegal dumping prohibited under Ark.

Code Ann. § 8-6-2005, 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

- (C) Limited authority to enter land to investigate and inspect as provided under Ark. Code Ann. § 8-1-107 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, Ark. Code Ann. § 8-9-401 *et seq*, a violation of Ark. Code Ann. § 8-6-2005, a violation of Ark. Code Ann. § 8-6-2005 (2); or a violation of Ark. Code Ann. § 8-6-2005 (3).

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 and regulations which are not also regulated pursuant to solid waste rules and regulations.

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 and regulations 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 and license, fifty dollars (\$50.00) for the cost of reciprocity review and license, twenty-five dollars (\$25.00) for annual license renewal, twenty-five dollars (\$25.00) for provisional certificates, and a ten dollar (\$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 examination and certification 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. Any person 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. Any person making application for a Class 1B license must:

- (1) Hold a Level A license for a period of one (1) year;
 - (2) Satisfactorily complete the twenty (20) hour course of approved training designated for a Class 1B license;
 - (3) Satisfactorily complete a Class 1B examination;
 - (4) Satisfactorily complete one (1) year of experience in solid waste management or operations; and
 - (5) Satisfactorily carry 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 a Class 1C license must:
- (1) Hold a Level B license for a minimum of one (1) year;
 - (2) Satisfactorily complete the twenty (20) hour course of approved training designated for a Class 1C license;
 - (3) Satisfactorily complete a Class 1C examination;
 - (4) Satisfactorily complete two (2) years of experience in solid waste management or operations; and
 - (5) Satisfactorily carry out the responsibilities of an operator.

Rule 27.302 Special Provisions Allowed 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 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 2A license shall be operators in training working under the direct supervision of a Class 2C licensed operator. Any person making application for a Class 2A apprentice license must:
- (1) Satisfactorily complete 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 complete 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 a Class 2B license must:
- (1) Hold a Level A license for a period of one (1) year;
 - (2) Satisfactorily complete the twenty (20) hour course of approved training designated for a Class 2B license;
 - (3) Satisfactorily complete a Class 2B examination;
 - (4) Satisfactorily complete one (1) year of experience in solid waste management or operation; and
 - (5) Satisfactorily carry 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 a Class 2C license must:
- (1) Hold a Level B license for a minimum of one (1) year;
 - (2) Satisfactorily complete the twenty (20) hour course of approved training designated for a Class 2C license;
 - (3) Satisfactorily complete a Class 2C examination;

- (4) Satisfactorily complete two (2) years of experience in solid waste management or operation; and
- (5) Satisfactorily carry 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. 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 a Class 3B license must:
 - (1) Hold a Level A license for a period of one (1) year;
 - (2) Satisfactorily complete the twenty (20) hour course of approved training designated for a Class 3B license;
 - (3) Satisfactorily complete a Class 3B examination;
 - (4) Satisfactorily complete one (1) year of experience in solid waste management or operation; and

- (5) Satisfactorily carry 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 a Class 3C license must:
- (1) Hold a Level B license for a minimum of one (1) year;
 - (2) Satisfactorily complete the twenty (20) hour course of approved training designated for a Class 3C license;
 - (3) Satisfactorily complete a Class 3C examination;
 - (4) Satisfactorily complete two (2) years of experience in solid waste management or operation; and
 - (5) Satisfactorily carry 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) Southern Environmental Enforcement Network (SEEN);
- (F) United States Environmental Protection Agency (EPA); and
- (G) Other sources approved by the Division.

Rule 27.502 Continuing Education-Operators

All B and C level licenses issued under Chapter 3 of this rule require a minimum of six (6) hours of approved solid waste training yearly 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 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.

Rule 27.602 License Renewal

All Level B operator licenses and Level C operator licenses are subject to annual renewal. Annual licensing periods run from July 1 through June 30 yearly. Level A (apprenticeship) operator licenses are nonrenewable; all other licenses shall be renewable upon application, if applicants meet the renewal requirements set forth by the Commission in Rule 27.502. No later than May of 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. An administrative handling fee for late renewal will be assessed to any operator failing to renew their license by July 1.

Rule 27.603 Lapsed License

Any operator whose license has lapsed for a period of over one (1) year will be required to take a new examination 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 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

The Division may issue a comparable operator license, without additional course hours or examination, to any applicant who holds a current operator license in any state, territory, or possession of the United States, or any country, provided that the licensing requirements under which that person was certified 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.

Rule 27.606 Apprenticeship License

Immediately upon employment of an unlicensed operator, solid waste management facility will 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 comply with the requirements of the desired Level A apprenticeship program as established in Chapter 3 of this rule and make application to 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

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.

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.

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
<p>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</p>	<p>Non-Subtitle D Disposal Facility (Class 3 or Class 4 Landfill)</p>	<p>Waste Tire Processing Facility or Related Solid Waste Management Facility</p>
<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 A.C.A. § 8-6-2005 (1), illegal dumping 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 disposal 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

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 _____

APPENDIX D 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