

Arkansas Association of Regional Solid Waste Management Districts; December 5 Presentation/ Benton, Arkansas



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I undertook a presentation at the Arkansas Association of Regional Solid Waste Management Districts, December 5 meeting addressing:

- Initial creation/rationale for Arkansas Regional Solid Waste Management Districts/Boards
- Amendments/Changes
- Various Relevant Programs/Case Law

The Meeting was held at the office of Recycled Saline in Benton, Arkansas.

Individual topics addressed included:

- Relevant federal/Arkansas legislation (1976-1989)
- Reference to solid waste authorities in Arkansas that were in place for many years prior to 1976.
- Enactment of the Resource Conservation and Recovery Act ("RCRA") in 1976.
- Title D of RCRA addresses non-hazardous solid waste issues and banned dumping of solid waste along with setting minimum design standards for operation of municipal and industrial land fills.
- Arkansas Solid Waste Management Regulations (Arkansas Rule 22)
- Noting that the Arkansas Authorities did not address the issues such as
- Recycling
- Infrastructure
- Needs assessment.
- Financing
- Solid Waste Capacity/Needs
- Arkansas General Assembly Legislation Act 870 (1989) resulted from Arkansas legislative committee study referencing
- Interstate movement of solid waste
- Arkansas Landfill capacity
- Stimulation Recycling
- Act 870 addressed a variety of issues:
- Stimulate recycling.
- Encourage regional solid waste planning/facilities
- Consolidate solid waste infrastructure.
- Conduct solid waste needs assessments.

- Created 8 regional solid waste planning districts (now 19)
- Requires Evaluation of Solid Waste Management Needs of the District.
- Temporary Moratorium on the expansion of out of state waste accepted at landfills.
- Provided certain powers to the board.
- Added requirements prior to siting a landfill that it obtains a certificate of need.
- Act 319 (1991)
- Determined that landfill life for the 63 existing landfills was approximately 4.3 years deemed inadequate.
- Moratorium was continued until 1992.
- Act 752 (1991)
- Changed name of the Solid Waste Planning Districts to Regional Solid Waste Management Districts
- Provided additional powers to the board.
- Southeast Arkansas Landfill, Inc.
- Challenge to the Moratoriums Act 870 and Act 319
- Federal 8th Circuit Court of Appeals held at the moratoriums were discriminatory on their face and were therefore in violation of the commerce clause.
- House Bill 1986 (Arkansas High impact Solid Waste Management Facility Legislation) (1993)
- Created a rebuttable presumption against siting a new high impact solid waste facility within a 12-mile radius of another one.
- Adoption of more restrictive standards (legislative authority)(1995)
- Regional Solid Waste management boards could adopt more restrictive standards for the location, design, construction, and maintenance of solid waste disposal sites and facilities provided such standards are based upon generally accepted scientific knowledge or engineering practice are consistent with purposes of subchapter. See Ark Code Annotated 8-6-724
- Four County Regional Solid Waste Management District Board Vs Sunray Services
- Sunray Services challenged six regulations imposed by 4 county regional Solid Waste Management District
- Arkansas Supreme Court Held that because the regulations are based upon generally accepted scientific knowledge or engineering practices that Four County had the authority to impose them.
- 2007 Additional Legislative Amendments to Boards powers
- Enter into agreements with another Solid Waste Management District to allow a district or any person within that district to transfer solid waste into another district.
- Notification requirements
- Allows employment of environmental officers
- Arkansas Attorney General Opinion 2007 – 015
- Act 752 clearly envisions that district/board will completely take over waste management services or cooperate with cities and counties in providing waste management services.
- Act 752 affords a district as much control over collections as it wishes to shoulder.
- Discussion of franchise/zone collection system
- 2011 Amendment to Rents, Fees, and Charges
- Acts 749/748
- Create a five person State Marketing Board of Recyclables
- 30% Tax Credit to facilities that invest in waste reduction, reuse or recycling equipment designed to separate, process, modify, convert, or treat solid waste that the resulting product may be used as a raw material for productive use.
- Benton County Solid Waste Management District v. Waste Management of Arkansas. Inc. (addressing fee charges)
- Boston Mountain Regional Solid Waste Management District v. Benton County Solid Waste Management District (disagreement regarding allocation of fees)
- Role of the Arkansas Department of Energy and Environment

- Continuing/ Future Challenges
- Sitting new facilities
- Lithium batteries
- Solar Panels
- Tires
- Funding
- Lanfill Closure/post closure
- Emissions
- PFAS (passive liability/CERCLA exemption)
- Servicing/Incorporating Rural Areas

You can download the slides [here](#).