



November 22, 2024

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# Flow Control and Regional Approval Options

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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# Flow Control and Regional Approval Options

Reference Number: CTAS-531

State law appears to grant regions and solid waste authorities powers under certain conditions to direct the flow of solid waste generated within the region and to restrict the flow of solid waste into the region for disposal. However, federal court decisions, including U.S. Supreme Court rulings, make the validity of Tennessee statutes on flow control very questionable since the case law strongly indicates they may violate the commerce clause of the U.S. Constitution where regulatory power is exercised to control the flow of waste between private parties. *Fort Gratiot Sanitary Landfill Inc. v. Michigan Dept. of Natural Resources*, 112 S.Ct. 2019 (1992); *C & A Carbone, Inc. v. Town of Clarkstown, N.Y.*, 114 S.Ct. 1677 (1994).

State law also provides that any construction or expansion of solid waste facilities or incinerators within the region must be approved by the board of the region or the (Part 9) solid waste authority if one has been formed before a permit is issued. The region or solid waste authority is to hold a public hearing after proper notice and may reject the proposal if it is inconsistent with the regional plan. T.C.A. § 68-211-814.

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