

Title 8. Environmental Law

Chapter IX. Faulkner County Regional Solid Waste Management District

Subchapter A. Generally

Part 190. Rules of the Faulkner County Regional Solid Waste Management District

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"§ 1.01 Authority

Ark. Code Ann. §8-6-704(6) authorizes Regional Solid Waste Management boards to adopt such rules pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., as are reasonably necessary to assure public notice and participation in any findings or rulings of the board and to administer the duties of the board."

Subpart 1. Practices and Procedures

8 CAR § 190-101. Definitions.

For the purposes of this part, the following definitions shall apply:

- (1) "Arkansas Administrative Procedure Act" means the Arkansas Administrative Procedure Act codified at Arkansas Code § 25-15-201 et seq., as amended from time to time;
- (2) "ADEQ" or "division" means the Division of Environmental Quality;
- (3) "Adjudicatory action" means an action taken by the Faulkner County Regional Solid Waste Management District to assess a penalty, suspend, revoke or deny a license or permit, or other punitive action against another person, with the exception of the denial of a certificate of need;
- (4) "Board" means the Board of Directors of the Faulkner County Regional Solid Waste Management District;

(5) "Bylaws" mean laws of local application passed under the authority of a higher law specifying what things may be regulated by the bylaw;

(6) "Class S composting facility" means a facility defined as requiring a Class S composting permit under the Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60;

(7) "Commission" means the Arkansas Pollution Control and Ecology Commission;

(8) "Directors" means the members of the Board of Directors of the Faulkner County Regional Solid Waste Management District;

(9) "District" means the Faulkner County Regional Solid Waste Management District which includes all of Faulkner County and the municipalities within the county;

(10) "Director" means the Director of the Faulkner County Regional Solid Waste Management District;

(11) "Person" means any individual, partnership, corporation, association, public organization, or private organization of any character;

(12) "Rule" means any Faulkner County Regional Solid Waste Management District rule of statement of general applicability and future effect that implements, interprets, or prescribes law or mandatory policy, or describes the organization, procedure, or practice of the Faulkner County Regional Solid Waste Management District;

(13) "Rulemaking action" shall include any action by the Faulkner County Regional Solid Waste Management District to adopt, amend, or repeal a Faulkner County Regional Solid Waste Management District rule;

(14) "Solid waste" means any garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342, or source, special

nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq.;

(15) "Solid waste disposal facility" means any Class I or Class IV landfill as defined by the Division of Environmental Quality;

(16) "Solid waste facility" means any facility which holds or should hold a facility permit issued by the Solid Waste Division of the Division of Environmental Quality;

(17) "Solid waste material recovery facility" means a facility defined as requiring a solid waste material recovery facility permit by the Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60; and

(18) "Transfer station" means a facility defined as requiring a transfer station permit by the Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-102. Rulemaking — Proposed action.

At any Board of Directors of the Faulkner County Regional Solid Waste Management District meeting, the board may adopt:

- (1) Proposed new rules;
- (2) Modifications to existing rules; or
- (3) Repeal of any existing rules.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-103. Rulemaking — Notice of proposed action.

(a) Notice of the proposed new rule, modification to an existing rule, or repeal of an existing rule shall be given to the public via publication in the following publication: Log Cabin Democrat.

(b)(1) Notice will normally be published on Wednesdays.

(2) The notice shall:

(A) State the substance of the proposed new rule, modification to an existing rule, or rescission of an existing rule; and

(B) Provide information on obtaining a copy of the proposal from the Faulkner County Regional Solid Waste Management District.

(3) The notice shall inform the public of the time, place, and manner in which they may present their comments.

(c)(1) Notice shall also be mailed via first-class mail to all persons who request advance notice, in writing, of any rulemaking by the district in advance of the Board of Directors of the Faulkner County Regional Solid Waste Management District meeting designated for consideration of the:

(A) Proposed new rule;

(B) Modification to an existing rule; or

(C) Repeal of an existing rule.

(2) Notice shall also be mailed via first-class mail to the Division of Environmental Quality.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-104. Rulemaking — Public comment.

(a) The notice in 8 CAR § 130-103 shall solicit written comments from the public for a period of not less than thirty (30) days.

(b) The notice shall also provide the address where all comments should be sent.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-105. Rulemaking — Public hearing.

(a) The Faulkner County Regional Solid Waste Management District may, at its sole discretion, hold a public hearing to take oral comments from the public concerning any proposed action.

(b) Should a public hearing be held, notice of the hearing shall be made in the manner provided in 8 CAR § 190-103 no less than ten (10) days in advance of the hearing.

(c) Where rules are required by law to be made on the record after an opportunity for a hearing, the provisions of that law shall apply in place of these requirements.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-106. Rulemaking — Final action.

(a) At any Board of Directors of the Faulkner County Regional Solid Waste Management District meeting following the close of the public comment period or any public hearing, the board may act on the proposal by:

- (1) Adopting it as originally written;
- (2) Adopting a modified version; or
- (3) Denying the proposal.

(b) The board reserves the right to reissue any proposal for public comment following significant modifications.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-107. Rulemaking — Emergency proceedings.

(a) Should the Faulkner County Regional Solid Waste Management District find that imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than thirty (30) days' notice, and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that it may choose, to adopt an emergency rule.

(b) Any emergency rule so adopted may be effective for no longer than one hundred twenty (120) days.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-108. Rulemaking — Filing.

The Faulkner County Regional Solid Waste Management District shall file with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research a:

- (1) Certified copy of each rule adopted by it; and
- (2) Statement of financial impact for the rule.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-109. Rulemaking — Effective date.

(a) Each rule adopted by the Faulkner County Regional Solid Waste Management District shall be effective ten (10) days after filing unless a later date is specified by law or in the rule itself.

(b)(1) However, an emergency rule may become effective immediately upon filing, or at a stated time less than ten (10) days thereafter, if the district finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare.

(2) The district's finding and a brief statement of the reasons therefore shall be filed with the rule.

(3) The district shall take appropriate measures to make emergency rules known to the persons who may be affected by them.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-110. Rulemaking — Certification of rules.

A copy of any rule adopted by the Board of Directors of the Faulkner County Regional Solid Waste Management District may be certified by:

- (1) Signature of the chair and secretary/treasurer of the board; and

(2) Affixing the official seal of the Faulkner County Regional Solid Waste Management District thereon.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-111. Rulemaking — Official records.

(a)(1) The Faulkner County Regional Solid Waste Management District shall maintain a certified copy of every rule adopted by the district.

(2) This copy shall be kept at the principal office of the district.

(b) A copy of each notice of rulemaking shall also be kept on file at the district.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-112. Rulemaking — Substantial compliance.

Every rulemaking action by the Faulkner County Regional Solid Waste Management District after the effective date of this subpart shall be effective if the rulemaking action substantially complies with this subpart.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-113. Rulemaking — Preemption by state or federal law.

(a) If any law of the State of Arkansas or the United States shall require a different method for rulemaking action in a particular situation, the provisions of this subpart shall be preempted to the extent necessary to comply with state or federal law.

(b) Whenever possible, the provisions of this subpart shall be interpreted to be consistent with requirements of state and federal law.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-114. Rulemaking — Severability.

If any provision of any Faulkner County Regional Solid Waste Management District rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of district rules, which can be given effect without the invalid provision or application, and to this end the provisions of all district rules shall be considered severable.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-115. Rulemaking — Petition for rulemaking.

(a) Any person residing or doing business within the Faulkner County Regional Solid Waste Management District may petition the Board of Directors of the Faulkner County Regional Solid Waste Management District for a rulemaking action.

(b) Within thirty (30) days after submission of a petition, the board shall either:

- (1) Deny the petition, stating in writing its reasons for the denial; or
- (2) Initiate rulemaking proceedings.

(c) If no action is taken by the board within thirty (30) days, the petition shall be deemed to be denied, and the board shall not be required to take any further action, except to state its reasons for denial in writing.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-116. Adjudications — Assessment of penalty.

(a)(1) The Board of Directors of the Faulkner County Regional Solid Waste Management District shall keep a log of all complaints or violations and is granted the discretion and authority to assess monetary penalties for violations of Faulkner County Regional Solid Waste Management District rules as well as to revoke, suspend, or deny a license or permit to any person for cause after an attempt to resolve any violation of complaint informally.

- (2) Penalties are defined in 8 CAR § 190-406.

(b) Twenty-four (24) hours shall be granted to correct or remediate any complaint or violation, unless more time is deemed appropriate by the board.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

8 CAR § 190-117. Adjudications — Form.

(a) Penalties shall be assessed by a written administrative order, signed by a member of the Board of Directors of the Faulkner County Regional Solid Waste Management District, and delivered to the person against whom the penalty is assessed with the right to appeal and have a hearing as set out below.

(b) Administrative orders shall be delivered in person or by certified mail, return receipt requested, to the address of record at the Faulkner County Regional Solid Waste Management District.

(c) The Director of the Faulkner County Regional Solid Waste Management District has the discretion to attach a consent agreement to an administrative order and to enter into consent agreements to settle any administrative order.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

8 CAR § 190-118. Adjudications — Request for appeal.

(a) Within thirty (30) days of the receipt of any administrative order, the person against whom the order was issued can request an appeal before the Board of Directors of the Faulkner County Regional Solid Waste Management District, who may waive any penalty for a first offense based on the person's prior record.

(b)(1) The request for appeal must be in writing and received by the Faulkner County Regional Solid Waste Management District office no later than close of business thirty (30) days after the date of the administrative order.

(2) If the thirtieth day falls on a Saturday, Sunday, or district holiday, the request is due by the close of business the following business day.

(c) Requests for appeal may be delivered to the district in person or by certified mail, return receipt requested.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-119. Adjudications — Appeal to board.

(a) Persons who timely file a request for appeal shall be entitled to be heard at the first regularly scheduled Board of Directors of the Faulkner County Regional Solid Waste Management District meeting following their request for appeal.

(b)(1) If a request for appeal is received within fourteen (14) days prior to a scheduled board meeting, the appeal will be heard at the next regularly scheduled board meeting.

(2) Both sides may appear in person or by counsel.

(3) The Faulkner County Regional Solid Waste Management District shall present their case first, followed by the appellant.

(4) Both sides may offer testimony and present evidence to be considered by the board.

(5) Cross-examination shall be allowed as well as questions by the board.

(c) The hearing shall be conducted by the presiding chair of the board.

(d)(1) Conduct of the hearing shall be informal.

(2) The chair shall be entitled to use their discretion to allow, disallow, or strike any evidence or testimony that they feel is irrelevant, unreliable, or duplicative.

(e)(1) A transcript of the hearing shall be developed.

(2) This transcript, along with all evidence presented to and accepted by the chair, shall make up the administrative record in that matter.

(f)(1) At the close of the hearing, the board shall enter a written order.

(2)(A) Each party shall be responsible for drafting a written order to be submitted to the board.

(B) Alternatively, the board may draft an order at the close of the hearing.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-120. Adjudications — Final agency action.

The written order adopted by the Board of Directors of the Faulkner County Regional Solid Waste Management District shall be the final agency action for the purpose of appeal to circuit court.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-121. Adjudications — Appeals to circuit court.

The appellant may appeal the final action of the Board of Directors of the Faulkner County Regional Solid Waste Management District to circuit court in Faulkner County, Arkansas.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-122. Board of directors.

(a) The Faulkner County Regional Solid Waste Management District shall be governed by a regional solid waste management board of directors (board).

(b) The Board of Directors of the Faulkner County Regional Solid Waste Management District shall:

(1) Plan for and oversee the operations, finances, and policies of the district;
and

(2) Have all powers and duties as provided and authorized by state law.

(c) Requirements regarding who can be a member of the board are followed from Arkansas Code § 8-6-703.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-123. Officers.

(a) The general officers of the Board of Directors of the Faulkner County Regional Solid Waste Management District shall consist of no less than five (5) members including a chair, vice chair, secretary, and treasurer.

(b) Election of officers shall occur at the annual meeting and terms of office shall commence on that date and continue until the next annual meeting.

(c) In the discretion of the board, any two (2) or more offices may be held by the same person, except that the chair may not hold any other office concurrently.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-124. Executive committee.

(a)(1) The Board of Directors of the Faulkner County Regional Solid Waste Management District may delegate to an executive committee any of its duties and powers, unless otherwise prohibited by law.

(2) The chair, vice chair, secretary, and treasurer shall:

(A) Be members of the executive committee; and

(B) Represent their respective jurisdictions on the executive committee.

(3) Executive committee members shall be elected at the annual meeting, and their terms shall commence on that date and continue until the next annual meeting.

(b)(1) Consistent with the policies and procedures set forth by the board, the executive committee shall:

(A) Be responsible for budget, operations, and management of the Faulkner County Regional Solid Waste Management District; and

(B) Provide directions to the administrative staff.

(2) The executive committee is authorized to act on all district activities and affairs, except for electing officers and amending the bylaws.

(c)(1)(A) Members of the executive committee present in person or represented by proxy shall constitute a quorum.

(B) All proxies shall be:

(i) In writing; and

(ii) Filed with the chair prior to or at the time of the meeting.

(2) A majority vote of those members present in person or represented by proxy shall be required for any action of the executive committee.

(d)(1)(A) Regular meetings of the executive committee shall be held as needed.

(B) The meeting date, time, and place:

(i) Shall be determined by the chair; and

(ii) Will be at a place and time reasonably accessible to all executive committee members.

(2) Written notice of the executive committee meetings shall be given personally or by mail to each member of record not less than two (2) days, or more than sixty (60) days, before the meeting.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-125. Appointed committees.

The chair shall have the authority to appoint committees as the need arises.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-126. Meetings.

(a)(1) Regular meetings of the Board of Directors of the Faulkner County Regional Solid Waste Management District will be held as needed.

(2) The meeting date, place, and time shall be:

(A) Determined by the chair; and

(B) Held at a place and time reasonably accessible to all board members.

(b) Special meetings of the board may be called at any time by:

(1) The chair;

(2) Resolution of the board; or

(3) Not less than five (5) members of the board.

(c) The annual meeting of the board shall be held during the month of December at a place and time reasonably accessible to all board members, as determined by the chair.

(d)(1) Written notice of the board meetings shall be given personally or by mail to each member of record not less than two (2) days, or more than sixty (60) days, prior to the meeting.

(2) In case of special meetings, this notice shall also include a statement of the purpose or purposes for which the special meeting is called and no other business may be transacted or considered at any such special meeting.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-127. Quorum.

(a)(1) A majority of the membership of the Board of Directors of the Faulkner County Regional Solid Waste Management District, present in person or represented by proxy, shall constitute a quorum.

(2) All proxies shall be:

(A) In writing; and

(B) Filed with the chair prior to or at the time of the meeting.

(b) A majority vote of those members present in person or represented by proxy shall be required for any action of the board.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-128. Amendment of bylaws.

(a) The Board of Directors of the Faulkner County Regional Solid Waste Management District's bylaws may be adopted, amended, or repealed at any meeting of the board by a majority vote of at least two-thirds (2/3) of all board members.

(b) Written notice of proposed changes to the bylaws must be sent to board members not less than ten (10) days or more than sixty (60) days prior to the meeting at which the action is to be voted upon.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-129. Parliamentary procedure.

Robert's Rules of Order shall govern all meetings of the Board of Directors of the Faulkner County Regional Solid Waste Management District and executive committee.

Authority. Arkansas Code § 8-6-704.

Subpart 2. Certificates of Need

Codification Notes. This subpart as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"§ 6.01 Authority

Ark. Code Ann. § 8-6-704(6) authorizes regional solid waste management boards to adopt such rules pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., as are reasonably necessary to assure public notice and participation in any findings or rulings of the board and to administer the duties of the board. Further, Ark. Code Ann. § 8-6-706(d) (7) authorizes the district to adopt procedures for the issuance of Certificates of Need."

8 CAR § 190-201. Definitions.

As used in this subpart:

(1) "Certificate of need" means a certificate issued by the Board of Directors of the Faulkner County Regional Solid Waste Management District to any person proposing to obtain a permit for a solid waste facility;

(2) "Certificate of need review" means review of the application for a certificate of need;

(3) "Interested persons" means the applicant and any persons who submit public comments during the review period either in writing or verbally at the public hearing;

(4)(A) "Landfill" means a permitted landfill under the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 et seq.

(B) As used herein, the term does not include permitted landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes:

(i) Generated by the industry; or

(ii) Of a similar kind or character;

(5) "Solid waste" means any garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq.;

(6) "Solid waste facility" means a landfill or transfer station as defined in this section; and

(7) "Transfer station" means any facility used to manage the removal, compaction, and transfer of solid waste from collection vehicles and containers, and from other private and commercial vehicles to greater capacity transport vehicles.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-202. Applicability.

(a)(1) This subpart shall apply to:

(A) Every solid waste facility proposed to be located either wholly or partially within the jurisdiction of the Faulkner County Regional Solid Waste Management District; or

(B) The expansion of any existing landfill within the jurisdiction of the district.

(2) This subpart shall apply to facilities that do not have a preapplication pending with the Division of Environmental Quality for a new permit or modification of an existing permit as of the effective date of this part.

(b) A certificate of need is not required for landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry or wastes of similar kind or character.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-203. Criteria for review.

When reviewing an application for a certificate of need, the Faulkner County Regional Solid Waste Management District will consider the following criteria:

(1) Whether the proposed facility is consistent with the regional planning strategy adopted by the Board of Directors of the Faulkner County Regional Solid Waste Management District in the:

(A) Regional needs assessment; or

(B) Regional solid waste management plan;

(2) Whether the proposed facility conflicts with existing comprehensive land plans of any local governmental entities;

(3) Whether the proposed facility disturbs:

(A) An archeological site as recognized by the Arkansas Archeological Survey; or

(B) A rare and endangered species habitat as recognized by either the Arkansas State Game and Fish Commission or the United States Fish and Wildlife Service;

(4) Whether the proposed facility will adversely affect the public use of any local, state, or federal facility, including, but not limited to, parks and wildlife management areas;

(5) Whether the proposed facility conflicts with the requirements of state or federal laws and regulations on the location of disposal facilities;

(6) If the proposed facility is located within the hundred-year floodplain, whether it restricts the flow of the hundred-year flood, reduces the temporary water storage capacity of the floodplain, or could result in washout of solid waste so as to pose a hazard to human health or the environment;

(7) Whether the proposed facility is appropriately located given the district's needs and taking into consideration its road system;

(8)(A) For landfills, whether the proposed facility provides landfill disposal capacity needed within the district.

(B) In no event shall the district's excess projected capacity for any class of landfill exceed thirty (30) years unless the city or county government within whose jurisdiction the proposed landfill is located authorizes through adoption of a resolution approval of the excess capacity;

(9) For transfer stations, whether:

(A) A public transfer station is located within a twelve-mile radius of the proposed facility; and

(B) Sufficient transfer station capacity exists within the proposed service area;

(10) The detailed history of the applicant's record and that of the stockholders and officers with respect to violations of environmental laws and regulations of the United States or any state or political subdivision of any state; and

(11) The service area to be served by the proposed facility and whether the applicant followed the procedures for obtaining a certificate of need in 8 CAR §§ 190-205 – 190-211.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-204. Continuing effect.

(a)(1) Upon receipt of a final certificate of need from the Faulkner County Regional Solid Waste Management District, the applicant has one hundred twenty (120) days in which to file a preapplication for a solid waste landfill permit with the Division of Environmental Quality.

(2) If a preapplication is not filed within one hundred twenty (120) days, the certificate of need shall expire.

(b)(1) Upon receipt of a certificate of need, the applicant has one (1) year in which to file a permit application for a solid waste landfill permit with the division.

(2) If a permit application is not filed within one (1) year, the certificate of need shall expire.

(c)(1) Certificates of need are issued to specific persons or organizations.

(2) Under no conditions or circumstances shall a certificate of need be transferred, assigned, or otherwise provided to any individual or organization other than as originally specified on the certificate of need.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-205. Notice of intent.

(a) At least fifteen (15) days prior to submitting an application for a certificate of need, the applicant must notify the Faulkner County Regional Solid Waste Management District, in writing, of its intent to submit such an application.

(b) The notice of intent shall include the following information:

(1) The name of the applicant;

- (2) The applicant's address and telephone number;
- (3) Whether the applicant is seeking a new or modified solid waste facility permit and the classification of the permit sought;
- (4) The site of the proposed facility;
- (5) A description of the geopolitical area to be served by the proposed facility, including population estimates by jurisdiction; and
- (6) For landfills, confirmation from the Division of Environmental Quality that the applicant has requested a statement concerning the current and proposed solid waste landfill disposal capacity respective to the area and landfill class being proposed.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-206. Application.

(a) Persons requesting a certificate of need from the Faulkner County Regional Solid Waste Management District must submit an application to the district.

(b) All applications for a certificate of need shall include, at a minimum, the following information:

- (1) The applicant's name, address, and telephone number;
- (2) The name of the person having legal ownership of the land where the proposed facility will be located and documentation of a right to develop such property as a solid waste facility from the legal owner;
- (3) The location of the proposed facility as shown on the applicable 7.5-minute United States Geological Survey topographic map or maps;
- (4) The size of the proposed facility and capacity proposed;
- (5) A description of the geopolitical jurisdictions to be served, including population estimates by jurisdiction;
- (6) Documentation that the proposed solid waste facility or modification complies with all of the criteria for evaluation listed in 8 CAR § 190-203;
- (7) For landfills, the:

- (A) Current permitted capacity for the appropriate landfill within the district; and
 - (B) Estimated increase in permitted capacity for the proposed facility or modification;
- (8) For transfer stations, a map showing the location of the proposed facility and all existing transfer stations with a twelve-mile radius around each; and
- (9) Any other information deemed necessary to make a determination of need.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-207. Completeness determination.

(a) Within fourteen (14) days of receipt of the initial application, the Faulkner County Regional Solid Waste Management District will make a completeness determination of the application.

(b)(1) Any additional information the district determines is necessary to make a decision on the need of the proposed facility will be requested within this time.

(2) If additional information is requested by the district, it will again make a completeness determination within fourteen (14) days of the receipt of the additional information.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-208. Review period.

(a) Once the Faulkner County Regional Solid Waste Management District has determined that an application for a certificate of need is complete, it will so notify the applicant and publish notice of the review period in papers as described in 8 CAR § 190-103.

(b)(1) The review period will begin on the date the completeness determination is made to the applicant to the date of publication of notice of the review period, whichever is later.

- (2) The review period will run for thirty (30) days.
- (c) During the review period, public comment will be taken.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-209. Public hearing.

During the review period, the Faulkner County Regional Solid Waste Management District will conduct a public hearing within the county where the proposed facility or modification is to be located.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-210. Determination.

(a)(1) At the first scheduled Board of Directors of the Faulkner County Regional Solid Waste Management District's meeting following the close of the review period, the board will consider the application for a certificate of need.

(2) The Director of the Faulkner County Regional Solid Waste Management District shall present a recommendation to the board.

(3) Those supporting the issuance of the certificate of need and those opposing the issuance of the certificate of need will be provided an opportunity to address the director's recommendation.

(b) Unless the board has affirmatively issued or denied a certificate of need within one hundred twenty (120) days of the beginning of the review period, the certificate of need will be deemed to have been denied.

(c)(1) The board shall issue written findings when making a determination.

(2) The findings will be sent to the following:

(A) The applicant;

(B) The Division of Environmental Quality; and

(C) Any interested persons who request such findings in writing from the Faulkner County Regional Solid Waste Management District.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-211. Appeal of decision.

(a) Any interested person in a certificate of need determination shall have the right to appeal the issuance or denial of a certificate of need to the Director of the Division of Environmental Quality in accordance with Division of Environmental Quality rules governing such appeals.

(b)(1) Only interested persons shall have a right of appeal.

(2) An interested person is considered only a person that has submitted comments within the review period specified in 8 CAR § 190-208.

Authority. Arkansas Code § 8-6-704.

Subpart 3. Waste Tire Program

8 CAR § 190-301. Notice of intent.

Faulkner County Regional Solid Waste Management District is part of the inter-district waste tire program and follows the Division of Environmental Quality's Regulation 14 [repealed] for recycling waste tires.

Authority. Arkansas Code § 8-6-704.

Subpart 4. Waste Hauler Licenses

8 CAR § 190-401. Definitions.

As used in this subpart:

(1)(A) "Solid waste" means any garbage, or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material

resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq.

(B) Recovered materials as defined by the Division of Environmental Quality, 8 CAR § 60-201, are not considered solid waste; and

(2)(A) "Solid waste hauler" means any person or business engaged in the collection and/or transportation for disposal or storage of solid wastes.

(B) "Solid waste hauler" does not include a person:

(i) Transporting their personal household wastes to a permitted facility;

(ii) Hauling only waste tires; or

(iii) Transporting solid waste from an industrial facility to its own Class 3 landfill.

(C) There are two (2) types of solid waste haulers:

(i) Type I haulers are those that haul all categories of nonhazardous solid waste as identified in Division of Environmental Quality, 8 CAR § 60-203; and

(ii) Type II haulers are those that haul only Class IV wastes as identified in Division of Environmental Quality, 8 CAR § 60-203.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-402. Hauler's license required.

(a)(1) Effective January 1, 2007, no person shall engage in the business of collection and/or transportation of solid wastes in the Faulkner County Regional Solid Waste Management District without first securing a solid waste hauler's license from the Board of Directors of the Faulkner County Regional Solid Waste Management District.

(2) This does not apply to private individuals who transport their personal household solid waste to a permitted facility.

(b) A solid waste hauler's license shall only be issued to:

- (1) A person;
- (2) A partnership,;
- (3) A corporation,;
- (4) An association,;
- (5) The State of Arkansas;
- (6) A political subdivision of the state;
- (7) An improvement district;
- (8) A sanitation authority; or
- (9) Another regional solid waste management district.

(c) A solid waste hauler's license is required under the following circumstances:

- (1) By any person whose primary source of income is derived from the collection and transportation of solid or process wastes;
- (2) By any person who collects, for a fee, more than ten cubic yards (10 yds³) of solid or process wastes each week on a scheduled basis;
- (3) By any person who provides solid waste collection or transportation services, for a fee, to six (6) or more households or businesses on a regular basis; or
- (4) By any business hauling solid waste to or from the district.

(d) The district may engage in the hauling of solid waste within the district without a license but shall comply with all applicable standards required in 8 CAR § 190-403.

(e)(1)(A) All solid waste hauler's licenses shall be issued for a period not to exceed one (1) year.

(B) Licenses shall run from January 1 through December 31 of each year.

(2)(A) Applications for a license shall be mailed out by the district to each hauler and postmarked no later than November 1.

(B) If said applications are not mailed out by November 1, then the deadline to submit such shall be extended accordingly.

(3) Application packets shall be returned to the district no later than December 15 of each year except as stated above.

(f) A solid waste hauler's license issued by the district does not supersede any local government's issuance of an exclusive franchise for hauling within its boundaries.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-403. Standards.

(a)(1) All collection and transportation systems shall meet the conditions outlined below.

(2) Failure to comply with these conditions may result in a revocation of the hauler license.

(b) All persons driving collection and/or transportation vehicles shall hold the appropriate driver's license as required by state law.

(c) Solid wastes shall be:

(1) Collected and transported so as to prevent:

- (A) Public health hazards;
- (B) Environmental hazards;
- (C) Safety hazards; and
- (D) Nuisances; and

(2) Kept in a sanitary condition.

(d)(1) Collection and transportation equipment shall be designed and constructed so as to be leak-proof.

(2) The waste shall be suitably enclosed or covered so as to prevent roadside littering, attraction of vectors, or creation of other nuisances, in accordance with the Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60.

(3) This means that vehicles must have either:

- (A) Enclosed waste storage areas; or

(B) For vehicles with open waste storage areas, such as caged pickups, they must be tarped when traveling in excess of thirty-five miles per hour (35 m.p.h.).

(4) Haulers should require customers to utilize animal-resistant containers and bags of suitable strength to reduce tearing and spilling of litter.

(e) Collection and transportation of chemicals, medical wastes, poisons, explosives, radiological wastes, and other hazardous materials shall be in accordance with the requirements of state and federal regulatory controls.

(f) All solid wastes collected shall be transported to a permitted facility in accordance with the commission, Solid Waste Management Rules, 8 CAR pt. 60.

(g)(1) All vehicles hauling solid waste within the Faulkner County Regional Solid Waste Management District shall display the registration sticker issued by the district near the driver's side door and in plain sight.

(2) In addition, beginning January 1, 2007, all licensed vehicles must display both the business name and phone number in letters no less than two inches (2") high on both sides of the vehicle.

(h)(1) Service shall be provided at a minimum of once a week (commercial haulers).

(2) Haulers may skip hauling on major holidays, provided they provide service to those customers affected during that week.

(3) Customers should be provided a minimum of two (2) weeks' notice of any change in collection schedule.

(4) Inclement weather may excuse haulers from this provision.

(i)(1) Haulers are responsible for cleaning up any spills and/or loose trash caused by the hauler.

(2)(A) Haulers may provide service in any zone they wish.

(B) When licensing, haulers will be required to indicate in which zones they wish to provide service.

(C)(i) A hauler who indicates that they provide service in a zone must provide service to any customer within that zone that requests it, unless that hauler can show good cause why they will not.

(ii) Good cause may be a history of failing to pay bills or other dispute between the customer and hauler.

(iii) The location of the customer will not be considered good cause.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-404. Licensing procedures.

(a) Any person or business subject to 8 CAR § 190-403 shall register annually with the Faulkner County Regional Solid Waste Management District on a form prescribed by the district.

(b) All persons engaged in the business of collection or transportation of solid wastes within the district must register such business with the district by December 15 of each year and provide the following information: Business or commercial haulers:

- (1) Name of company;
- (2) Business address;
- (3) Mailing address;
- (4) Contact person;
- (5) Phone number;
- (6) Email address;
- (7) Fax number;
- (8) Make, model, and year of each vehicle being licensed;
- (9) License plate number;
- (10) Insurance provider; and
- (11) Area serviced (zone).

(c)(1) Any person applying for a license must establish financial responsibility to the district.

(2) Proof of liability insurance will be required and may be considered adequate financial responsibility.

(d)(1) Licenses are nontransferable and nonreusable.

(2) If a licensed hauler replaces a registered vehicle with another vehicle during the year, the district shall be notified and the information in subsection (b) of this section, above, shall be provided for both vehicles.

(3)(A) A new registration sticker shall be provided for the new vehicle.

(B) The hauler shall remove the registration sticker from the disposed vehicle, and if the hauler brings in the old sticker to the district, a new one will be issued at one-half (1/2) the original cost for the new vehicle.

(e) Any person who begins business or any licensed person who adds additional collection vehicles during a calendar year shall register with the district and obtain a license for their vehicles before conducting business or using their vehicles.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-405. Fees.

Fees shall be assessed as follows:

(1) A minimum fee of one hundred dollars (\$100) is required and will license up to the first two (2) vehicles annually;

(2) An additional fee of fifty dollars (\$50.00) per vehicle will be assessed for the third and all subsequent vehicles annually;

(3) Fees for new licenses or additional units will be prorated based on the number of full months remaining in the calendar year; and

(4) Hauler's licensing after the deadline imposed herein shall be assessed a penalty measured from fourteen (14) days after the due date as follows:

(A) One (1) to sixty (60) days late – twenty-five percent (25%) of the license fee;

(B) Sixty-one (61) to ninety (90) days late – fifty percent (50%) of the license fee; and

(C) Ninety-one (91) days and later – one hundred percent (100%) of the license fee.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

8 CAR § 190-406. Penalties.

(a) Registration.

(1) Failure to register under this subpart constitutes a misdemeanor under Arkansas Code § 8-6-722.

(2) Upon conviction, the person shall be subject to imprisonment for not more than thirty (30) days or a fine of not more than one thousand dollars (\$1,000), or both imprisonment and fine.

(3) Additionally, failure to register may subject the hauler to administrative penalties of:

(A) Not more than five hundred dollars (\$500) and two (2) points for the first offense; and

(B) Not more than one thousand dollars (\$1,000) and four (4) points for subsequent offenses.

(4) Each day or part of any day during which a violation is continued or repeated shall constitute a separate offense.

(b) Compliance.

(1) Failure to comply with any other part of this subpart constitutes a misdemeanor under Arkansas Code § 8-6-722.

(2) Upon conviction, the person shall be subject to imprisonment for not more than thirty (30) days or a fine of not more than two hundred fifty dollars (\$250) for the first offense, five hundred dollars (\$500) for a second offense, and one thousand dollars (\$1,000) for subsequent offenses, or both imprisonment and fine.

(3) Each day or part of any day during which a violation is continued or repeated shall constitute a separate offense.

(c) **Collection.** Failure to collect trash in a sanitary manner, failure to provide services paid for without good cause, failure to provide service when requested without good cause, failure to submit adequate trust fund fees under 8 CAR § 190-408, or

failing to properly dispose of wastes collected may subject the hauler to administrative penalties of not more than:

(1) Two hundred fifty dollars (\$250) and one (1) point for the first offense;

and

(2) Five hundred dollars (\$500) and two (2) points for subsequent offenses.

(d) Registration sticker.

(1) Failure to display the registration sticker, failure to notify the Faulkner County Regional Solid Waste Management District of additional trucks, failure to display the hauler's name and telephone number on the sides of vehicles, or other administrative violations may subject the hauler to administrative penalties of not more than:

(A) One hundred dollars (\$100) and one (1) point for the first offense;

and

(B) Two hundred fifty dollars (\$250) and two (2) points for subsequent offenses.

(2) To be considered a subsequent offense, the repeat offense must occur within thirty-six (36) months of the earlier offense.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

8 CAR § 190-407. Revocation and suspension.

The Faulkner County Regional Solid Waste Management District may revoke or suspend a hauler's license under the following conditions:

(1) The district may suspend a hauler's license for six (6) months if they are assessed penalties totaling five (5) points within a twelve-month period;

(2) The district may suspend a hauler's license for twelve (12) months if they are assessed penalties totaling ten (10) points within a twelve-month period;

(3) The district may permanently revoke a hauler's license if they are assessed penalties totaling fifteen (15) points within a twelve-month period; and

(4) The district may permanently revoke a hauler's license if they are suspended for more than twelve (12) months in any thirty-six-month period.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-408. Waste Hauler Trust Fund.

(a)(1) There shall be established on the books of the Faulkner County Regional Solid Waste Management District a fund to be known as the Waste Hauler Trust Fund.

(2) Moneys deposited into this Waste Hauler Trust Fund shall be kept in a separate depository account.

(b) Fifty percent (50%) of fees collected by the district as waste hauler's licensing fees shall be deposited into the Waste Hauler Trust Fund.

(c)(1) Deposits shall be made until the Waste Hauler Trust Fund reaches twenty-five thousand dollars (\$25,000).

(2) After that, all waste hauler's licensing fees shall be deposited into the district's general funds.

(3) If the Waste Hauler Trust Fund balance drops below twenty-five thousand dollars (\$25,000), deposits will resume until the Waste Hauler Trust Fund reaches twenty-five thousand dollars (\$25,000) again.

(d)(1) Money deposited into the Waste Hauler Trust Fund shall be used exclusively to provide service by another hauler, for a period of thirty (30) days, to any area in which a hauler has abandoned such area of service in which customers have prepaid said hauler.

(2) The balance, if any, is to be refunded to the customer.

(3) Accumulated interest may be used to promote awareness of rural trash hauling services.

(4) In the event it is determined that said Waste Hauler Trust Fund is no longer needed, in whole or in part, then said Waste Hauler Trust Fund shall, with interest (unless expended as authorized herein) be returned to the district's general funds.

(e)(1) In order to qualify for service using Waste Hauler Trust Fund proceeds, the customer must demonstrate proof of payment.

(2) Service will only be provided for the length of time paid for but not received.

(f) Any hauler who fails to provide service to a customer who then qualifies for reimbursement under these provisions shall be permanently barred from further waste hauling within the district.

Authority. Arkansas Code § 8-6-704.

Subpart 5. Solid Waste Facilities

8 CAR § 190-501. General.

All landfills located within Faulkner County must conform to the requirements set forth in the Solid Waste Management Rules, 8 CAR pt. 60, of the Arkansas Pollution Control and Ecology Commission.

Authority. Arkansas Code § 8-6-704.

Subpart 6. Solid Waste Assessment

8 CAR § 190-601. Applicable waste.

(a) Starting January 1, 2007, there shall be assessed a fee to be paid to the Faulkner County Regional Solid Waste Management District on all solid waste generated within the district, or generated outside the district and brought to a processing or disposal facility within the district.

(b) This fee will be applicable to all solid waste that is collected and delivered to a processing, transfer, or disposal facility.

(c) This fee will not be applied to:

(1) Permitted landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of solid wastes generated by the industry;

(2) Any recyclable materials which are processed and marketed for recycling;

(3) Any organic materials which are delivered to a Class Y or Class O composting facility;

(4) Any materials which are removed from solid waste and processed for recycling;

(5) Waste tires processed through the district's waste tire program; or

(6) Household wastes collected through the district's HHW program that is handled as Subtitle C waste.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

Codification Notes. "C" means Subtitle C of the Resource Conservation and Recovery Act of 1976, Pub. L. No. 94-580, which is codified at 42 U.S.C. § 6921 et seq.

"HHW" means household hazardous waste.

8 CAR § 190-602. Fee amount.

(a) The amount of the fee assessed shall be one dollar and fifty cents (\$1.50) per ton.

(b) Each landfill located within the Faulkner County Regional Solid Waste Management District shall have scales and shall weigh all solid waste received at the facility and fees shall be paid on a per-ton basis.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-603. Landfills.

(a) Any landfill located within the Faulkner County Regional Solid Waste Management District shall pay an amount equal to the per-ton fee in 8 CAR § 190-602 times the number of tons of solid waste handled.

(b) Such fee will be paid according to the schedule listed in 8 CAR § 190-609.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

8 CAR § 190-604. Solid waste material recovery facility.

(a)(1) Any solid waste material recovery facility located within the Faulkner County Regional Solid Waste Management District shall pay to the district an amount equal to the per-ton fee amount in 8 CAR § 190-602 times the number of tons of solid waste handled.

(2) Such fee will be paid according to the schedule listed in 8 CAR § 190-609.

(b) Any waste handled by a solid waste material recovery facility that is delivered to a landfill within the district shall be exempt from the fees imposed by this section.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

8 CAR § 190-605. Class S composting facilities.

(a)(1) Any Class S composting facility located within the Faulkner County Regional Solid Waste Management District shall pay to the district an amount equal to the per-ton fee amount in 8 CAR § 190-602 times the number of tons of solid waste handled.

(2) Such fee will be paid according to the schedule listed in 8 CAR § 190-609.

(b) Any waste handled by a Class S composting facility that is delivered to a landfill within the district shall be exempt from the fees imposed by this section.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

8 CAR § 190-606. Transfer stations.

(a) Any transfer station located within the Faulkner County Regional Solid Waste Management District shall pay to the district an amount equal to the per-ton or yard fee amount in 8 CAR § 190-602 times the number of tons or yards of solid waste handled.

(b) Any waste handled by a transfer station that is delivered to a landfill, solid waste material recovery facility, or Class S composting facility within the district shall be exempt from the fees imposed by this section.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

8 CAR § 190-607. Sludge or other material.

Any hauler who collects and/or transports sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, generated within the Faulkner County Regional Solid Waste Management District shall be required to submit the applicable fee in 8 CAR § 190-602 times the number of tons waste transported to the district according to the schedule in 8 CAR § 190-609.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

8 CAR § 190-608. Out-of-district haulers.

(a) Any hauler who collects solid waste generated within the Faulkner County Regional Solid Waste Management District but transports it out of district for processing or disposal shall be required to submit the applicable fee in 8 CAR § 190-602 times the number of tons or yards of waste transported to the district according to the schedule in 8 CAR § 190-609.

(b) Additionally, the Division of Environmental Quality requires out-of-state disposal fees to be paid as per Rules for Solid Waste Disposal Fees — Landfill Post-Closure Trust

Fund — Solid Waste Management and Recycling Fund Distribution — Recycling Grant Programs, 8 CAR pt. 61.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules contained the following language immediately following subsection (b):

"Arkansas Code § 8-6-606(b):

(1)for all solid waste generated and transported within the state but to be disposed of outside the state, there is imposed on each such solid waste transporter a solid waste transportation fee of twenty-five cents (25¢) for each uncompacted cubic yard of solid waste and forty-five cents (45¢) for each compacted cubic yard of solid waste transported.

(2) If a solid waste transporter chooses to operate on a weight basis, the solid waste transporter fee shall be one dollar and fifty cents (\$1.50) for each ton of solid waste transported in the state."

8 CAR § 190-609. Schedule.

Fees shall be collected as follows:

(1) On or before January 15, April 15, July 15, and October 15 of each year, each landfill facility permittee shall pay to the Faulkner County Regional Solid Waste Management District the full fee amount owed for the preceding quarter; and

(2) Fees must be submitted along with a form, provided by the district.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

8 CAR § 190-610. Recycling credits.

(a) Any facility required to pay fees under this subpart may be entitled to credits for fees paid on waste handled at their facility that was later recycled or composted.

(b) **Solid waste material recovery facility.** A solid waste material recovery facility may take credit for any materials they have previously paid a fee on if they can demonstrate that those materials were later shipped for recycling or converted to compost.

(c) **Class S composting facility.** A Class S composting facility may take credit for any materials they have previously paid a fee on if they can demonstrate that those materials were later shipped for recycling or converted to compost.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

8 CAR § 190-611. Violations.

It shall be a violation for any owner or operator of a solid waste facility or solid waste hauler to fail to comply fully with any provision of this subpart.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-612. Penalties.

A penalty of up to one thousand dollars (\$1,000) per violation per day of violation may be assessed against any person violating the provisions of this subpart.

Authority. Arkansas Code §§ 8-6-704, 8-6-714.

8 CAR § 190-613. Enforcement.

The Director of the Faulkner County Regional Solid Waste Management District is authorized to seek approval of the Board of Directors of the Faulkner County Regional Solid Waste Management District to institute legal and/or equitable action in the appropriate courts to enforce any violations of this subpart.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-614. Inspections and information gathering.

(a) Any solid waste facility or solid waste hauler shall, upon the request of any Faulkner County Regional Solid Waste Management District-designated person:

- (1) Furnish information relating to any activity at the facility or business; and
- (2) Permit such person at all times to have access to and to copy all records relating to such activity.

(b) Any district-designated person shall be allowed access to all requested records during normal business hours.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-615. Severability.

If any provision of this subpart or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this subpart which can be given effect without the invalid provision or application, and to this end the provisions of this subpart are declared to be severable.

Authority. Arkansas Code § 8-6-704.

Subpart 7. Recycling Grants Program

Codification Notes. This subpart as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"FSWMD Resolution O-13-01

In reference to the administration and oversight of the ADEQ Recycling Grants Program

A resolution of the Arkansas Association of Regional Solid Waste Management Districts as adopted by the Faulkner County Solid Waste Management District to set standard rules governing the distribution and administration of the Recycling Grants Program.

This is a resolution in support of Act1333 of 2013 with the intent to use recycling grant funds for the purpose of recycling activities as described herein."

8 CAR § 190-701. Findings.

(a) The Arkansas Association of Regional Solid Waste Management Districts finds that recycling glass, plastic, cans, paper, and other materials will reduce the state's reliance upon landfills.

(b)(1) Additionally, other solid waste reduction activities will help reduce the state's dependence on landfills by:

- (A) Using waste items as raw materials in a production process;
- (B) Using waste items to produce an end product without recycling;
- (C) Using waste items as fuel; and/or
- (D) Other activities as approved by individual regional solid waste

management district boards.

(2) "Solid waste reduction activities" means other activities that divert materials from landfills for reuse, including all of the above without limitation.

(c) The Faulkner County Regional Solid Waste Management District is in agreement with the association's findings.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-702. Grant funding.

(a) Projects eligible for grant assistance include, without limitation, costs for:

- (1) Solid waste management planning that integrates recycling;
- (2) Public information and education programs that:
 - (A) Encourage waste reduction; and
 - (B) Stimulate demand for products produced from recycled materials;
- (3) Waste transfer facilities and equipment that integrate recycling in their

operation;

(4) Recycling, recycling activities, and waste reduction activities associated with illegal dump abatement programs;

(5) Other waste stream reduction activities that divert the flow of materials away from landfills to be put to beneficial use;

(6) Activities that support a recycling system (MRF) including, without limitation:

(A) Operation;

(B) Construction;

(C) Logistical systems; and

(D) Equipment; and

(7) Administrative cost for operation of the district recycling activities, not to exceed twenty-five percent (25%) of the Faulkner County Regional Solid Waste Management District total allocation.

(b) The Board of Directors of the Faulkner County Regional Solid Waste Management District shall be responsible for the prioritization and selection of grant recipients from within their district boundaries.

Authority. Arkansas Code § 8-6-704.

Codification Notes. "MRF" means materials recovery facility.

8 CAR § 190-703. Procedures.

(a)(1) Each grant recipient shall, until all grant funds are expended on a project, provide the Faulkner County Regional Solid Waste Management District with an annual report summarizing the activity of the project for that year.

(2) The annual report shall include the following:

(A) Progress in the project;

(B) An expense itemization for each grant award that lists each expenditure;

(C) The date, item purchased, price, and name of vendor; and

(D) Equipment purchases shall also include copies of:

- (i) Invoices;
- (ii) Purchase orders;
- (iii) Checks; and
- (iv) Other supporting documentation.

(3) Supporting documentation for all other purchases should be kept on file by each grant recipient for a period of five (5) years.

(b)(1) Each grantee shall provide Recycling Activity Surveys for a period of five (5) years after a grant award to the Board of Directors of the Faulkner County Regional Solid Waste Management District due August 1 of each year.

(2) The annual Recycling Activity Survey shall include the following information:

- (A) Tonnage and type of materials collected;
- (B) Revenues produced from the sale of materials collected; and
- (C) Total diversion savings calculated using total tons recycled multiplied by the local landfill tipping fee.

Authority. Arkansas Code § 8-6-704.

8 CAR § 190-704. Public participation.

(a) The Board of Directors of the Faulkner County Regional Solid Waste Management District shall ensure public participation and notice prior to any grant award.

(b) The board shall adopt policies that are based on their own rules in keeping with the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(c)(1) The board shall publish a notice describing each grant request and soliciting comments in a newspaper of general circulation prior to grant award.

(2) The notice shall be published one (1) time, but the comment period shall not be less than thirty (30) days from the date of publication.

Authority. Arkansas Code § 8-6-704.