

Title 8. Environmental Law

Chapter X. Northeast Arkansas Regional Solid Waste Management District

Subchapter A. Generally

Part 210. Northeast Arkansas Regional Solid Waste Management District Rules

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."

"§ 2.03 Severability

If any provision of any 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."

Subpart 1. Practices and Procedures

8 CAR § 210-101. 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) "Board" means the Board of Directors of the Northeast Arkansas Regional

Solid Waste Management District;

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

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

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

(6) "Class S composting facility" means a facility defined as requiring a Class S composting permit under 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) "Director" means the Director of the Northeast Arkansas Regional Solid Waste Management District;

(9) "Directors" means the members of the Board of Directors of the Northeast Arkansas Regional Solid Waste Management District;

(10) "District" means the Northeast Arkansas Regional Solid Waste Management District, which includes Clay County, Greene County, Lawrence County, Randolph County, and the municipalities within those counties;

(11) "Division" means the Division of Environmental Quality;

(12) "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;

(13)(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 generated by the industry or wastes of a similar kind or character;

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

(15) "Rule" means any Northeast Arkansas Regional Solid Waste Management District rule or 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 Northeast Arkansas Regional Solid Waste Management District;

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

(17) "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, as amended (68 Stat. 923);

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

(19) "Solid waste facility" means a landfill or transfer station, as defined in this section, and/or any facility which holds or should hold a facility permit issued by the Division of Environmental Quality's Solid Waste Division;

(20)(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; or

(ii) Hauling only waste tires.

(C) There are two (2) classifications of haulers:

(i) Type I haulers are those that haul all categories of nonhazardous solid waste as identified in 8 CAR § 60-202; and

(ii) Type II haulers are those that haul only Class IV wastes as identified in 8 CAR § 60-202;

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

(22) "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, and/or a facility defined as requiring a transfer station permit by Arkansas Pollution Control and Ecology Commission, Rule Establishing Water Quality Standards for Surface Waters of the State of Arkansas, 8 CAR pt. 21.

Authority. Arkansas Code § 8-6-704.

Codification Notes. The Atomic Energy Act of 1954 is codified generally at 42 U.S.C. § 2011 et seq.

8 CAR § 210-102. Rulemaking authority.

The Board of Directors of the Northeast Arkansas Regional Solid Waste Management District may adopt rules to the full extent provided by Arkansas Code § 8-6-704.

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-103. 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 § 210-104. Board of directors.

(a) The Northeast Arkansas Regional Solid Waste Management District shall be governed by the Board of Directors of the Northeast Arkansas Regional Solid Waste Management District.

(b) The board 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) Membership of the board is governed by Arkansas Code § 8-6-703.

(d) The board shall consist of the following members:

- (1) Clay County Judge;
- (2) Greene County Judge;
- (3) Lawrence County Judge;
- (4) Randolph County Judge;
- (5) Mayor of Corning, Arkansas;
- (6) Mayor of Hoxie, Arkansas;
- (7) Mayor of Paragould, Arkansas;
- (8) Mayor of Piggott, Arkansas;
- (9) Mayor of Pocahontas, Arkansas;
- (10) Mayor of Rector, Arkansas; and
- (11) Mayor of Walnut Ridge, Arkansas.

(e) Pursuant to Arkansas Code § 8-6-703, the elected mayor of any city within the district with a population of more than two thousand (2,000) people shall also serve as a board member.

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-105. Officers.

(a) The general officers of the Board of Directors of the Northeast Arkansas Regional Solid Waste Management District shall consist of a:

- (1) Chair;
- (2) Vice chair;
- (3) Secretary; and
- (4) Treasurer.

(b) Election of officers shall occur at the regular meeting in January of each year, and terms of office shall commence on that date and continue until the next January 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 § 210-106. Appointed committees.

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-107. Meetings.

(a)(1)(A) Regular meetings of the Board of Directors of the Northeast Arkansas Regional Solid Waste Management District will be held monthly.

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

- (i) Determined by the chair; and
- (ii) Held at a place and time reasonably accessible to all board

members.

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

- (A) The chair;
- (B) Resolution of the board; or
- (C) Not less than six (6) members of the board.

(b)(1) Written notice of the board meetings shall be given personally, by mail, facsimile, or by electronic mail, to each member of record not less than two (2) days nor 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 § 210-108. Quorum.

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

(b) All proxies shall be in writing and filed with the chair prior to or at the time of the meeting.

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-109. Parliamentary procedure.

Robert's Rules of Order shall govern all meetings of the Board of Directors of the Northeast Arkansas Regional Solid Waste Management District and any committee of board members.

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:

"§ 4.01 Authority

Ark. Code Ann. § 8-6-706(d)(7) authorizes the Districts to adopt procedures for the issuance of Certificates of Need."

8 CAR § 210-201. Applicability.

(a) This subpart shall apply to:

(1) Every solid waste facility proposed to be located either wholly or partially within the jurisdiction of the Northeast Arkansas Regional Solid Waste Management District or the expansion of any existing landfill within the jurisdiction of the district; and

(2) 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 § 210-202. Criteria for review.

When reviewing an application for a certificate of need, the Northeast Arkansas 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 Northeast Arkansas Regional Solid Waste Management District in the regional needs assessment or the 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 an archeological site as recognized by the Arkansas Archeological Survey, or 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 floodplain, 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) For landfills, whether the proposed facility provides landfill disposal capacity needed within the district;

(9) For transfer stations, whether a public transfer station is located within a twelve-mile radius of the proposed facility and whether 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 §§ 210-204 – 210-210.

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-203. Continuing effect.

(a)(1) Upon receipt of a final certificate of need from the Northeast Arkansas 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 § 210-204. Notice of intent.

(a) At least fifteen (15) days prior to submitting an application for a certificate of need, the applicant must notify the Northeast Arkansas 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 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 § 210-205. Application.

(a) Persons requesting a certificate of need from the Northeast Arkansas 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 § 210-202;

(7) For landfills, the current permitted capacity for the appropriate landfill within the district and the 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 within 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 § 210-206. Completeness determination.

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

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

(c) 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 § 210-207. Review period.

(a) Once the Northeast Arkansas 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 a newspaper having general circulation in the district.

(b) 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.

(c) The review period will run for thirty (30) days.

(d) During the review period, public comment will be taken.

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-208. Public hearing.

During the review period, the Northeast Arkansas 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 § 210-209. Determination.

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

(2) The Director of the Northeast Arkansas 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 Northeast Arkansas Regional Solid Waste Management District.

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-210. 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 § 210-207.

Authority. Arkansas Code § 8-6-704.

Subpart 3. Waste Tire Program

8 CAR § 210-301. Notice of intent.

The Northeast Arkansas Regional Solid Waste Management District is part of the District 2 Waste Tire Management Program and follows Division of Environmental Quality Used Tire Recycling and Accountability Program, 8 CAR pt. 64, for disposal, transfer, and recycling of waste tires.

Authority. Arkansas Code § 8-6-704.

Subpart 4. Waste Hauler Program

8 CAR § 210-401. Hauler's license required.

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

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

(2) The Northeast Arkansas Regional Solid Waste Management District may engage in hauling solid waste within the Northeast Arkansas Regional Solid Waste Management District without a license but shall comply with all applicable standards

under this part.

(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) Any person or business engaged in the collection of solid waste within the Northeast Arkansas Regional Solid Waste Management District;

(2) Any person or business engaged in the transportation of solid waste for disposal or storage in the Northeast Arkansas Regional Solid Waste Management District; or

(3) Any person or business engaged in hauling solid waste to or from the Northeast Arkansas Regional Solid Waste Management District.

(d)(1) All solid waste haulers' licenses shall be issued for a period not to exceed one (1) year.

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

(3)(A) Applications for a license will be mailed out by the Northeast Arkansas Regional Solid Waste Management District to each hauler no later than November 1 of the year before the license is issued by the Northeast Arkansas Regional Solid Waste Management District.

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

(4) Application packets shall be returned to the Northeast Arkansas Regional Solid Waste Management District no later than December 15 of each year except as

stated above.

(e) Any person with a solid waste hauler's license must pay for the license at the time of issuance.

(f) A solid waste hauler's license issued by the Northeast Arkansas Regional Solid Waste Management District does not supersede any local government's issuance of an exclusive franchise for hauling within its boundaries.

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

8 CAR § 210-402. 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 collected and transported to prevent public health hazards, environmental hazards, safety hazards, nuisances, and shall be 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 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.

(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 8 CAR pt. 60.

(g)(1) All vehicles hauling solid waste within the Northeast Arkansas 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) 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 once a week.

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

(B) This is not applicable to contractors, rental property owners, or any others that are not hauling for household trash service per week.

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

(4) Inclement weather may excuse haulers from this provision, but collection of the missed scheduled day should be made up within a week.

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

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

(3) When licensing, haulers are required to indicate in which counties they wish to provide service.

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

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

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-403. Licensing procedures.

(a)(1) Any person/business subject to 8 CAR § 210-401 shall register annually with the Northeast Arkansas Regional Solid Waste Management District on a form prescribed by the district under procedures described above.

(2) All persons engaged in the business of collection or transportation of solid wastes within the district, when applying for a license, shall be required to submit the following information:

(A) Business/commercial haulers:

- (i) Name of company;
- (ii) Business address;
- (iii) Mailing address;
- (iv) Contact person;
- (v) Phone number;
- (vi) Email address;
- (vii) Make, model, and year of each vehicle being licensed;
- (viii) Vehicle identification number (VIN);
- (ix) License plate number;
- (x) Name of vehicle owner;
- (xi) Copy of driver's license for all drivers listed;
- (xii) Copy of current insurance for each vehicle listed;
- (xiii) Types of waste and sizes; and
- (xiv) Area serviced (county).

(b)(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.

(c)(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 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.

(d) Any person who begins business or any licensed person who adds additional collection vehicles during a calendar year shall:

(1) Register with the district; and

(2) Obtain a license for their vehicles before conducting business or using their vehicles.

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-404. Fees.

(a) Any solid waste hauler shall be required to pay a fee of twenty dollars (\$20.00) per vehicle.

(b) Missing or illegible licensing stickers will result in purchasing another license as well as subjecting the person to penalties described in 8 CAR § 210-405.

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

8 CAR § 210-405. Penalties.

(a) Registration.

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

(2) Upon conviction, the person shall be subject to:

(A) Imprisonment for not more than thirty (30) days;

(B) A fine of not more than one thousand dollars (\$1,000); or

(C) 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.

(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:

(A) Imprisonment for not more than thirty (30) days;

(B) A fine of not more one thousand dollars (\$1,000); or

(C) 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 and registration sticker. 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 display the registration sticker, failure to notify the Northeast Arkansas Regional Solid Waste Management District of additional trucks, or failure to display the hauler's name and telephone number on the sides of vehicles shall prevent the person with a solid waste hauler's license from obtaining a license the subsequent year.

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-406. Revocation and suspension.

The Northeast Arkansas Regional Solid Waste Management District may revoke or suspend a hauler's license for failure to comply with this part.

Authority. Arkansas Code § 8-6-704.

Subpart 5. Solid Waste Facilities

8 CAR § 210-501. General.

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

Authority. Arkansas Code § 8-6-704.

Subpart 6. Solid Waste Assessment

8 CAR § 210-601. Applicable waste.

(a) Effective immediately, there shall be assessed a fee to be paid to the Northeast Arkansas 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) Any recyclable materials which are processed and marketed for recycling;
- (2) Any organic materials which are delivered to a Class Y or Class O composting facility;
- (3) Any materials which are removed from solid waste and processed for recycling; or
- (4) Waste tires processed through the district's waste tire program.

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

8 CAR § 210-602. Fee amount.

(a) A fee of two dollars (\$2.00) per ton of solid waste related to the movement or disposal of solid waste within the Northeast Arkansas Regional Solid Waste Management District (Arkansas Code § 8-6-714(a)(1)(A)).

(b) However, if weight tickets are not available, the fee shall be calculated on a volume basis at twenty-five cents (25¢) per uncompacted cubic yard or forty-five cents (45¢) per compacted cubic yard (Arkansas Code § 8-6-714(c)(2)).

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

8 CAR § 210-603. Landfills.

(a) Any landfill located within the Northeast Arkansas Regional Solid Waste Management District shall pay an amount equal to the fee in 8 CAR § 210-602 times the number of tons/cubic yards of solid waste handled.

(b) Such fee will be paid according to the schedule listed in 8 CAR § 210-607.

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

8 CAR § 210-604. Solid waste material recovery facility.

(a)(1) Any solid waste material recovery facility located within the Northeast Arkansas Regional Solid Waste Management District shall pay to the district an amount equal to the per ton/cubic yard fee amount in 8 CAR § 210-602 times the number of tons/cubic yards of solid waste handled.

(2) Such fee will be paid according to the schedule listed in 8 CAR § 210-607.

(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 § 210-605. Class S composting facilities.

(a) Any Class S composting facility located within the Northeast Arkansas Regional Solid Waste Management District shall pay to the district an amount equal to the per-ton fee amount in 8 CAR § 210-602 times the number of tons/cubic yards of solid waste handled.

(b) Such fee will be paid according to the schedule listed in 8 CAR § 210-607.

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

8 CAR § 210-606. Transfer stations.

Any transfer station located within the Northeast Arkansas Regional Solid Waste Management District shall pay to the district an amount equal to the per-yard fee amount in 8 CAR § 210-602 times the number of tons/cubic yards of solid waste handled.

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

8 CAR § 210-607. Schedule.

Fees shall be collected no less often than each month from any hauler, transfer station, or any other person bringing solid waste to any disposal facility within the Northeast Arkansas Regional Solid Waste Management District.

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

8 CAR § 210-608. Violations, penalties, and enforcement.

(a)(1) It shall be a violation of this part 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.

(2) Failure to comply with any other part of this subpart constitutes a misdemeanor, and upon conviction the person shall be subject to:

- (A) Imprisonment for not more than thirty (30) days;
- (B) A fine of not more one thousand dollars (\$1,000); or
- (C) 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.

(b) The Director of the Northeast Arkansas Regional Solid Waste Management

District is further authorized to seek approval of the Board of Directors of the Northeast Arkansas 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 § 210-609. Inspections and information gathering.

(a) Any solid waste facility or solid waste hauler shall, upon the request of any Northeast Arkansas Regional Solid Waste Management District-designated person, furnish information relating to any activity at the facility or business and permit such person access to and copies of records relating to such activity, whether licensed or not.

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

Authority. Arkansas Code § 8-6-704.

Subpart 7. Waste Transfer

8 CAR § 210-701. Purpose and authority.

(a)(1) The purpose of this subpart is to allow the Board of Directors of the Northeast Arkansas Regional Solid Waste Management District, as the duly elected representative of the citizens of the Northeast Arkansas Regional Solid Waste Management District, to have input and decision-making authority regarding the transfer of solid waste either into or out of the boundaries of the district.

(2)(A) It is recognized that elected public officials exercising authority over such transfers protect the interest of the citizens of the district and the permitted disposal facilities within the boundaries of the district.

(B) Such activities can serve to maintain and secure disposal capacity for both the short and long term.

(3) It is further recognized that utilization of local disposal facilities is a priority of the board and a major component in maintaining a fair and equitable price structure for the citizens of the district.

(b) The authority for such activities is authorized by Arkansas Code § 8-6-712(a)(1), (3), and (4).

(c) This subpart does not affect the movement of recyclable material destined for processing or marketing or the transfer of waste outside the district to another state.

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-702. Procedure.

The following procedures shall be observed when considering a solid waste transfer across Northeast Arkansas Regional Solid Waste Management District boundaries for the purpose of disposal and/or storage:

(1) The person or persons must submit in writing to the Board of Directors of the Northeast Arkansas Regional Solid Waste Management District via the Director of the Northeast Arkansas Regional Solid Waste Management District a formal request:

(A) To seek a disposal site outside the district for solid waste which has been collected, stored, and/or disposed of within the district prior to the request; or

(B) To seek a storage and/or disposal site within the district for solid waste which has been collected outside the district;

(2)(A) The director will furnish to the person or persons the proper form or forms to obtain the information necessary to decide, which the person or persons must complete and provide to the board via the director.

(B) The information requested will include but not be limited to the criteria listed under the appropriate subsection of 8 CAR § 210-703;

(3) The board shall consider the request at their next regularly scheduled meeting, and said request shall be listed as an agenda item, provided the completed application is presented to the district at least three (3) weeks prior to the scheduled meeting;

(4)(A) Prior to the meeting and with sufficient notice to allow a proper response, the district shall notify the affected parties of the waste transfer request.

(B) The notice to citizens may include a legal notice in a newspaper having general circulation in the district;

(5) The board:

(A) Will review all written information provided by the person or persons and by affected parties; and

(B) Shall use this information in determining compliance with the criteria listed herein; and

(6)(A) All decisions of the board are final.

(B) However, an appeal may be made within thirty (30) days of the board's decision if additional information becomes available or an error in procedure has occurred.

(C) The board may consider the appeal at its next meeting.

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-703. Criteria.

(a)(1) The Board of Directors of the Northeast Arkansas Regional Solid Waste Management District will consider but will not be limited to the following criteria when deciding upon a request for a solid waste transfer.

(2) Information relative to the criteria shall be provided to the Director of the Northeast Arkansas Regional Solid Waste Management District by the person or persons making the request and any response to the request by other interested parties.

(b)(1) Transfer of solid waste collected within the Northeast Arkansas Regional Solid Waste Management District to a disposal site outside the district.

(2) The board may allow the transfer:

(A) If said transfer does not adversely affect the operation of disposal systems presently operating within the district;

(B) If said transfer does not adversely affect or have the potential to

adversely affect citizens within the district or the customers of the waste hauler;

(C) If the owners/operators of the currently utilized facility are using unequal pricing and discriminatory access procedures and structures that adversely affect the person or persons' business;

(D) If the person or persons requesting the transfer can demonstrate that business will be significantly improved through disposal of solid waste out of the district;

(E) If the current disposal facility is closed or otherwise rendered inoperable by:

(i) An emergency due to an act of God;

(ii) Failure or inability to comply with state and federal standards;

(iii) Financial failure; or

(iv) Other factors out of the control of the person or persons requesting the transfer;

(F) If the out-of-district transfer:

(i) Is consistent with the intent of the district's solid waste management plan; and

(ii) Does not adversely affect the plan or any commitment of waste by the district; or

(G) If the company provides documentation from a permitted disposal facility that shows the tonnage/cubic yards leaving the district and pays the fees in 8 CAR § 210-602.

(c)(1) To transfer solid waste into the district, the person or persons requesting the transfer must provide the district with the following information.

(2) Although numerous criteria and circumstances will be considered, the director may allow the transfer if:

(A) The added solid waste disposal does not contribute to environmental degradation by adversely affecting water or air quality;

(B) The solid waste contains no toxic or hazardous waste as defined by Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8

CAR pt. 60;

(C) The person or persons requesting the transfer has no outstanding violations with:

(i) The United States Environmental Protection Agency;

(ii) The Division of Environmental Quality; or

(iii) Any environmental agency within the state or region in which the person or persons requesting the transfer are currently doing business;

(D) The person or persons requesting the transfer meets all appropriate rules of the division, all laws of the State of Arkansas, and all state regulations and laws from the state in which the person or persons requesting the transfer is currently doing business;

(E) The person or persons requesting the transfer has:

(i) Secured all appropriate federal and state permits; and

(ii) Presents evidence of such to the director;

(F) The landfill or other disposal facility or transfer station within the district is closer than other disposal or transfer facilities;

(G) The disposal of said solid waste within the district improves the economic viability of the person or persons requesting the transfer without causing harm to waste haulers and disposal companies within the district;

(H) The company is not a "bad actor" as defined by the division as evidenced by the district's inquiry into the history of compliance from other areas where the company had done business;

(I) If additional disposal within the district does not burden, stress, or jeopardize the disposal capacity within the district;

(J) If the disposal facilities are willing to accept the waste material; or

(K) If the disposal of additional solid waste within the district is not inconsistent with the intent of the district's solid waste management plan.

Authority. Arkansas Code § 8-6-704.

Subpart 8. Illegal Dumps Program

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

"The Board of Directors is given authority to address illegal dumping through the following:

1. Arkansas Division of Environmental Quality's Rule 22; and
2. Arkansas Code Annotated § 8-6-508 Enforcement Generally, which empowers solid waste management districts to employ illegal dump control officers and establishes their powers and duties; and
3. Arkansas Code Annotated § 8-6-901 Licensing of Operators of Solid Waste Management Facilities which provides for the certification of the illegal dumps control officers."

8 CAR § 210-801. Purpose.

(a)(1) The primary purpose of the Northeast Arkansas Regional Solid Waste Management District's illegal dumps program is to remediate illegal dumps using the resources of the perpetrator or perpetrators responsible for the illegal dumping.

(2) The secondary purpose, though not a lesser purpose, is to eliminate a health problem by the remediation of illegal dumps.

(b) Improper and illegal waste disposal places the public health at risk.

(c)(1) Carelessly disposed solid waste allows for the contamination of surface and groundwater due to uncontrolled leachate entering the surface and/or groundwater systems.

(2) Additionally, this waste is a breeding ground for vectors that are known to carry disease.

(d) Both conditions create an unhealthy environment with the potential for serious health risk.

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-802. Complaints.

The Board of Directors of the Northeast Arkansas Regional Solid Waste Management District and the Director of the Northeast Arkansas Regional Solid Waste Management District will endeavor to keep the name of any person making complaints to the Northeast Arkansas Regional Solid Waste Management District regarding illegal dumping confidential, and the board and director will not divulge the identity of any complainant during the investigation or upon disposition of the case, unless required to do so by statute, court rule, or court order.

Authority. Arkansas Code § 8-6-704.

8 CAR § 210-803. Assessment and evaluation.

The Board of Directors of the Northeast Arkansas Regional Solid Waste Management District may develop and implement a document that may include but not be limited to:

- (1) The procedures for receiving complaints;
- (2) The mechanism or mechanisms used to assess and evaluate illegal dumps;
- (3) The methods utilized to investigate complaints;
- (4) When it is appropriate to issue citations; and
- (5) The provisions utilized in special enforcement actions.

Authority. Arkansas Code § 8-6-704.