

Title 8. Environmental Law

Chapter XI. Pulaski County Regional Solid Waste Management District

Subchapter A. Generally

Part 230. Rules of the Pulaski County Regional Solid Waste Management District, Regional Recycling and Waste Reduction District

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

"RULE 1

DESCRIPTION OF THE DISTRICT, ITS GENERAL COURSE AND METHOD OF OPERATION

Authority: Ark. Code Ann. 25 15 203(a)(l)

During the 1991 Regular Session, the Arkansas General Assembly enacted twelve laws pertaining to solid waste. Act 752 established the solid waste districts and mandates regional solutions for solid waste management, and Act 749 set a state recycling goal of 40% of the 1991 waste stream by the year 2000.

The Regional Recycling & Waste Reduction District began as the Pulaski County Regional Solid Waste Management District in 1992 one of eighteen Arkansas regional solid waste management districts authorized under Act 752 of 1991. The District includes all of Pulaski County. The District's Board of Directors consists of the mayors of Jacksonville, Little Rock, Maumelle, North Little Rock, Wrightsville and Sherwood. (As cities in Pulaski County reach a population of 2000, per the most recent Decennial Census, the mayors of said cities will be added to the District's Board of Directors.) The mayors of the smaller communities of Alexander and Cammack Village are ex officio members of the Board.

While the Board of Directors establishes policy and governs the District, a Partnership Taskforce Committee made up of the Public Works Directors or Sanitation Managers of the member local governments meets regularly to analyze solid waste issues and make recommendations to the Board.

In Arkansas, solid waste management districts assist local governments in planning and overseeing municipal solid waste management programs and services. Municipal solid waste (MSW) refers to all residential and commercial solid wastes including garbage, trash, electronics, waste tires, batteries, motor oil and household chemical wastes. Districts also administer recycling grants and waste tire management programs funded by the State of Arkansas through the Department of Environmental Quality (DEQ).

The District operates with revenues from the Solid Waste Management and Recycling Fund established in Ark. Code Ann. ' 8-6-605, from grant programs, and from a tipping fee of 60 cents per ton of solid waste deposited in the landfills in Pulaski County, and a fee of \$2.00 per ton applied to solid waste generated within the District and delivered outside the District, and vice versa, as authorized by Ark. Code Ann. ' 8-6-714. Also, the District receives income from hauler permits, waste tire processing fees, and interest on investments.

The Regional Recycling and Waste Reduction District works with Pulaski County jurisdictions in the areas of garbage and yard waste collection, composting, e waste, recycling, tires, and household chemicals.

The cities and the County provide their own services but use a regional approach to achieve system efficiencies through contract negotiation and administration.

In early 2008, the name of the Pulaski County Solid Waste Management District was changed to the Regional Recycling and Waste Reduction District to highlight its highest priorities recycling and waste reduction.

For more information about the solid waste operations or laws, contact the District at (501) 340-8787. Submissions and requests, including Freedom of Information Act requests, may be addressed to the District at 300 Spring Street, Suite 200, Little Rock, Arkansas 72201."

Subpart 1. District Organization, Purpose, and Governance

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

"Authority: Ark. Code Ann. 8-6-703, 8-6-704."

8 CAR § 230-101. Organization.

(a) **Authorization.** Formation of the Pulaski County Regional Solid Waste Management District was authorized by Arkansas Pollution Control and Ecology Commission Minute Order 92-25, dated April 24, 1992, pursuant to Acts 1991, No. 752.

(b) **Jurisdiction boundaries.** The district shall encompass Pulaski County.

(c) **Period of duration.** The district shall continue to exist until dissolved or abolished:

- (1) By unanimous agreement of the member jurisdictions; or
- (2) Pursuant to a procedure established by law.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-102. Purpose.

(a) The purpose of the Pulaski County Regional Solid Waste Management District is the protection of the public health and the state's environmental quality through the development and maintenance of a solid waste management district for Pulaski County and the municipalities of:

- (1) Alexander;

- (2) Cammack Village;
- (3) Jacksonville;
- (4) Little Rock;
- (5) Maumelle;
- (6) North Little Rock;
- (7) Sherwood; and
- (8) Wrightsville.

(b) Further, the district shall serve to address the local exigencies, needs, and other requirements as are more clearly defined in Acts 1991, No. 752.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-103. Board of directors.

(a) **Governance.** The Pulaski County Regional Solid Waste Management District shall be governed by a regional solid waste management district board.

(b) **Members.** The Pulaski County Regional Solid Waste Management District Board of Directors shall be composed of the persons who serve as local elected officials:

- (1) The Pulaski County Judge; and
- (2) The mayors of Jacksonville, Little Rock, Maumelle, North Little Rock, Sherwood, and Wrightsville, who shall be succeeded on the board by their respective successors in office.

(c) **Regular meeting.** Regular meetings of the board shall be held quarterly, pursuant to written notice thereof, on the date as set by the chair of the board.

(d)(1) **Special meetings.** Special meetings of the board may be called by or at the request of the chair or by any two (2) directors.

(2) The person or persons authorized to call special meetings of the board may fix the place for holding any special meeting of the board called by them so long as said meetings are conducted in Pulaski County, Arkansas.

(e) **Notice of waiver.**

- (1) **Notice.**

(A) Notice of any special meeting shall be given at least three (3) days previously thereto by written notice delivered personally or mailed (including electronic mail) to each director at his or her business address.

(B) If postal mailed, such notice shall be deemed to be delivered when deposited in the United States Postal Service mail so addressed.

(2) **Waiver.**

(A) Any director may waive notice of any meeting.

(B) The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

(f) **Quorum.** A majority of the number of directors fixed by this section shall constitute a quorum for the transaction of business at any meeting of the board, but if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

(g) **Manner of acting.** The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board.

(h) **Proxies.**

(1)(A) A director may appoint a proxy to vote or otherwise act for him or her by signing an appointment form.

(B) A properly signed and dated proxy shall be acceptable for voting of absent members for a specific meeting date.

(C) The appointment becomes effective when received by the secretary or other officer or agent authorized to tabulate votes and may be limited or restricted by the grantor.

(2) A voting member may accept only one (1) proxy and, therefore, may cast only his or her vote and one (1) proxy vote on any given motion of the board.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-104. Officers.

(a) Officers.

(1) The officers of the Pulaski County Regional Solid Waste Management District shall be a:

- (A) Chair;
- (B) Vice chair; and
- (C) Secretary.

(2) The officers shall be annually elected by the Pulaski County Regional Solid Waste Management District Board of Directors.

(3) Such other officers and assistants as may be deemed necessary may be elected or appointed by the board.

(b) Chair. The chair shall:

- (1) Chair the regular and special meetings of the board; and
- (2) Represent the district before public and private agencies and organizations:
 - (A) As authorized by the board; and
 - (B) As necessary to perform the duties and functions of the district.

(c) Vice chair. The vice chair shall, in the absence of the chair:

- (1) Chair the regular and special meetings of the board; and
- (2) As authorized by the board, represent the district before public and private agencies and organizations as necessary to perform the duties and functions of the district.

(d) Secretary. The secretary shall, in general, perform:

- (1) All duties incident to the office of the secretary; and
- (2) Such other duties as from time to time may be assigned by the chair or the board.

(e) Custodian of the records. The Executive Director of the Pulaski County Regional Solid Waste Management District staff shall be the custodian of the records, minutes, notices, instruments, contracts, resolutions, and other documents of the district, which shall be maintained at the district office.

(f) **Salaries.** No officer who is a member of the board shall receive any salary of or from the district provided, however, that officers and directors may be reimbursed for properly documented expenses they incur on behalf of the district.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-105. Powers and duties.

(a)(1) **Statutory powers and duties.** The Pulaski County Regional Solid Waste Management District Board of Directors shall have those duties and powers as set forth in Acts 1991, No. 752, codified at Arkansas Code § 8-6-704 and set out herein below.

(2) The board shall have the following powers and duties:

(A) To collect, study, and initially evaluate the solid waste management needs of all localities within the Pulaski County Regional Solid Waste Management District, as provided in Arkansas Code § 8-6-716, and to publish their findings as a regional needs assessment;

(B) To evaluate the solid waste needs of the district and thereby update the regional needs assessment as appropriate;

(C) To formulate recommendations to all local governments within the district on solid waste management issues, and to formulate plans for providing adequate solid waste management;

(D) To issue or deny certificates of need to any applicant for a solid waste disposal facility permit within the district except for permits for landfill when a private industry bears the expense of operating and maintaining the landfill solely for disposal of waste generated by the industry of a similar kind or character;

(E) To petition the Arkansas Pollution Control and Ecology Commission or Director of the Division of Environmental Quality to issue, continue in effect, revoke, modify, or deny any permit for any element of a solid waste management system located within the district based on compliance or noncompliance with the solid waste management plan of the district;

(F) To adopt such rules pursuant to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., as are reasonably necessary to assure public notice and participation in any findings or rulings by the board and to administer the duties of the board;

(G) To establish programs to encourage recycling;

(H) To maintain an office at such places as it may determine;

(I) To sue and be sued in its own name and to plead and be impleaded;

(J) To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the district, including but not limited to entering into contracts and agreements with private entities for provisions of services;

(K) To establish and collect rents, fees, and charges as authorized by law;
and

(L) To carry out all other powers and duties conferred by Acts 1991, No. 752, and other applicable laws.

(b) **Other powers and duties.** The board may:

(1) Authorize the district to:

(A) Apply for such permits, licenses, certificates, grants, or approvals as may be necessary or proper to construct, maintain, and operate any portion of a solid waste management system; and

(B) Obtain, hold, and use such licenses, permits, certificates, grants, or approvals;

(2) Employ such engineers, architects, attorneys, real estate counselors, appraisers, financial advisors, and other consultants and employees as may be required in the judgment of the board and fix and pay their compensation from funds available to the district therefore;

(3) Purchase all kinds of insurance including, but not limited to insurance against:

(A) Tort liability;

(B) Business interruption; and

- (C) Risk of damage to property; and
- (4) Issue licenses to persons engaged in the business of hauling solid waste.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-106. Contracts, loans, checks, and deposits.

(a) **Contracts.** The Pulaski County Regional Solid Waste Management District Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Pulaski County Regional Solid Waste Management District, and such authority may be general or confined to a specific instance.

(b) **Loans.**

(1) No loans shall be contracted on behalf of the district and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the board.

(2) Such authority may be general or confined to specific instances.

(c) **Checks, drafts, etc.** All checks, drafts, or other orders for the payment of money, notes, or other evidence of indebtedness issued in the name of the district, shall be signed by such officer or officers, agent or agents, of the district and in such manner as shall from time to time be determined by resolution of the board.

(d) **Deposits.** All funds of the district not otherwise employed shall be deposited from time to time to the credit of the district in such banks, trust companies, or other depositories as the board may select.

(e) **Appropriation criteria.** The board shall determine the annual funding appropriations required to be levied or assessed in accordance with Acts 1991, No. 752, and other applicable laws by considering all available revenue sources and formulas, including, but not limited to:

- (1) The availability of federal grant and other funds;
- (2) Revenues generated from dedicated sources;
- (3) Service allocation formulas; and
- (4) Other factors, data, and information as the board deems necessary.

(f) **Annual audit.** The board shall cause to be conducted, by qualified accounting firms, annual audits of:

- (1) The district's financial management systems; and
- (2) All financial transactions.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-107. Fiscal year.

The fiscal year of the Pulaski County Regional Solid Waste Management District shall:

- (1) Begin on the first day of July of each year; and
- (2) End on the last day of the following June.

Authority. Arkansas Code § 8-6-704.

Subpart 2. Regional Solid Waste Management and Recycling Fund and Fees

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

"Authority: Ark. Code Ann. 8-6-710, and 8-6-714" "SECTION 3. Authorization.

3.1.Arkansas Code Ann. 8-6-710. Solid Waste Management Responsibility. The Board is responsible for the solid waste management of the District, which by necessity includes the collection, disposal, treatment and general management of the District's whole system of operations.

3.1.Arkansas Code Ann. 8-6-711. Solid Waste Management System. The Board is authorized to contract concerning facilities of any nature necessary or desirable for the control, collection and disposal, treatment of other handling of solid waste.

3.1.Arkansas Code Ann. 8-6-714. Rents, Fees, and Charges Collection by Utilities.

The Board may fix, charge and collect rents, fees and charges for the disposal, treatment or other handling of solid waste by the District. Notwithstanding that the District does not itself own and operate the landfills nor the fleet of collection vehicles, the management of the total system of waste disposal and treatment is included in the authority of the Board to raise revenues."

8 CAR § 230-201. Description — Purpose.

(a) Arkansas Acts 1991, No. 752, established a system of regional solid waste management and planning in Arkansas, forming regional solid waste management districts and describing their powers, duties, and responsibilities.

(b) Among other things, the regional solid waste management districts are responsible for planning, studying, and evaluating the solid waste management needs of their areas and publishing regional needs assessments and regional solid waste management plans which then guide decisions for solid waste management systems' development and operation.

(c) In order to carry out these duties and powers, the Pulaski County Regional Solid Waste Management District must be able to defray the cost of overhead, maintenance, and operation of its office to:

- (1) Compensate professional staff;
- (2) Cover the cost of contracts into which it enters; and
- (3) Meet other necessary expenses.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-202. Definitions.

As used in this subpart:

(1) "Board" means the Pulaski County Regional Solid Waste Management District Board of Directors;

(2) "District" means the Pulaski County Regional Solid Waste Management District;

(3) "District Solid Waste Management and Recycling Fund" means the combined proceeds of the solid waste fees levied by the Pulaski County Regional Solid Waste Management District;

(4) "Materials in the recycling, or composting, process" means ferrous and nonferrous metals diverted or removed from the solid waste stream so that they may be reused, as long as such materials are processed or handled using reasonably available processing equipment and control technology taking cost into account, and a substantial amount of the materials are consistently utilized to manufacture a product which otherwise would have been produced using virgin material;

(5) "Permitted landfill facilities" means a permitted landfill under the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 et seq.; and

(6) "Solid waste" means all putrescible and nonputrescible waste in solid, semisolid, or liquid form, including, but not limited to, yard or food waste, waste glass, waste metals, waste plastics, waste paper, waste paperboard, and all other solid and semisolid wastes resulting from industrial, commercial, agricultural, community, and residential activities, but does not include materials in the recycling, or composting, process.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-203. Purpose and applicability.

There is established a Pulaski County Regional Solid Waste Management District Solid Waste Management and Recycling Fund for the purpose of financing district operations and activities, to be supported by the following fees:

(1) There is fixed and levied a solid waste volume based fee of sixty cents (60¢) per ton of solid waste disposed of at all permitted landfill facilities within the district's boundaries; and

(2) There is fixed and levied a fee of two dollars (\$2.00) per ton on solid waste generated within the district and delivered to a transfer station or landfill outside the

district for disposal, and on solid waste generated outside the district and delivered within the district for disposal.

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

8 CAR § 230-204. Scope.

The Pulaski County Regional Solid Waste Management District Solid Waste Management and Recycling Fund shall be used exclusively for financing the district's operations and activities as described in the district's annual operating budget.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-205. Administrative procedures.

(a) Landfill owners/operators shall remit checks to the Pulaski County Regional Solid Waste Management District each quarter, with the amounts based on actual volumes of solid waste disposed of or delivered, as reported to the Division of Environmental Quality on its quarterly reporting form.

(b) A copy of the completed form shall accompany quarterly payments to the district.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-206. Enforcement and penalties.

(a) Arkansas Code § 8-6-722 provides that any person who violates this rule of the Pulaski County Regional Solid Waste Management District shall be deemed guilty of a misdemeanor.

(b) Upon conviction, the persons shall be subject to:

- (1) Imprisonment of not more than thirty (30) days;
- (2) A fine of not more than one thousand dollars (\$1,000); or
- (3) Both imprisonment and fine.

Authority. Arkansas Code § 8-6-704.

Subpart 3. Hauler Licensing

8 CAR § 230-301. Authority — Purpose — Applicability.

(a)(1) The Pulaski County Regional Solid Waste Management District is required by Acts 1991, No. 752, to enact and enforce a licensing program for all haulers who collect or transport solid waste in the district.

(2) See Arkansas Code § 8-6-721.

(b) The purpose of the licensing program is to protect the public health, safety, and welfare through the monitoring and enforcement of collection and transportation of solid waste by haulers in the district.

(c) This subpart applies to all haulers of solid waste of all types within the district.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-302. Definitions.

As used in this subpart, the following definitions shall apply:

(1) "Board" means the Pulaski County Regional Solid Waste Management District Board of Directors;

(2) "District" means the Pulaski County Regional Solid Waste Management District;

(3)(A) "Hauler", as defined in the Solid Waste Management Rules, 8 CAR pt. 60, of the Arkansas Pollution Control and Ecology Commission, means a person engaged in the collection or transportation of solid waste for disposal, transfer, or storage.

(B) "Hauler" does not include a person transporting noncommercial waste to a permitted facility;

(4) "License" means the document issued by the Pulaski County Regional Solid Waste Management District to the hauler approving the hauler and the vehicle for use by the hauler in:

(A) Collecting solid waste within the Pulaski County Regional Solid Waste Management District; or

(B) Transporting solid waste by the hauler for disposal or storage within the Pulaski County Regional Solid Waste Management District;

(5) "Person", as defined in the Solid Waste Management Rules, 8 CAR pt. 60, of the Arkansas Pollution Control and Ecology Commission, means any individual, corporation, company, firm, partnership, association, trust, state agency, governmental instrumentality or agency, institution, county, city, town or municipal authority or trust, venture, or other legal entity, however organized;

(6) "Solid waste", as defined in the Solid Waste Management Rules, 8 CAR pt. 60, of the Arkansas Pollution Control and Ecology Commission, 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.; and

(7) "Vehicle" means a vehicle and/or trailer used by a hauler for purposes of collection of solid waste within the Pulaski County Regional Solid Waste Management District and/or a vehicle and/or trailer used by a hauler for the transportation of solid waste for disposal or storage within the Pulaski County Regional Solid Waste Management District.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-303. License.

(a) A person who engages in the business of hauling solid waste shall obtain a license from the Pulaski County Regional Solid Waste Management District if the person is engaged in the:

- (1) Collection of solid waste within the district; and
- (2) Transportation of solid waste for disposal or storage in the district.

(b) A hauler shall obtain and complete an application for a license as prescribed by the district within the time frame set by the district.

(c) Licenses issued pursuant to this subpart shall not be transferable.

(d) A decal, representing the license, must always be in the vehicle and/or affixed to the trailer, and shall be displayed in a location in the vehicle and/or the trailer that is easily viewable from outside the vehicle.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-304. Information for license.

(a) An applicant for a license must provide the following information to the Pulaski County Regional Solid Waste Management District Board of Directors in substantially the following order:

(1) Proof of insurance, vehicle year, make, model, VIN number, license number, size in cubic yards (length x width x height ÷ 27);

(2) The service area of the business (Pulaski County, the State of Arkansas, or the United States), landfills used, and whether any solid waste is or will be transported out-of-state; and

(3) Type of solid waste hauled (all types, or only process waste and special materials as defined in the Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60).

(b)(1) The applicant shall provide all information required on such application as well as any additional information required by the Pulaski County Regional Solid Waste Management District.

(2) The applicant shall update or amend any information contained within the application by providing the district with such updated or amended information as applicable within thirty (30) days of the date in which any information provided by the applicant is no longer true and correct.

Authority. Arkansas Code § 8-6-704.

Codification Notes. "VIN" means vehicle identification number.

8 CAR § 230-305. Fees.

The Pulaski County Regional Solid Waste Management District Board of Directors hereby assesses the following annual license fees, to be paid by the heretofore defined haulers, for the collection and transportation of solid waste:

(1) **Up to two vehicles.** By January of each year, all current haulers subject to this subpart shall be assessed a license fee of:

(A) Fifty dollars (\$50.00) for each vehicle up to five cubic yards (5 yds³) capacity for up to two (2) such vehicles licensed; and

(B) One hundred dollars (\$100) for each vehicle of five cubic yards (5 yds³) capacity and over for up to two (2) such vehicles licensed;

(2) **More than two vehicles.**

(A) A licensed hauler with more than two (2) vehicles shall pay an additional fee of:

(i) Twenty-five dollars (\$25.00) per vehicle for each vehicle of less than five cubic yards (5 yds³) capacity up to a maximum fee of one thousand dollars (\$1,000); and

(ii) Fifty dollars (\$50.00) for each vehicle of five cubic yards (5 yds³) capacity and over up to a maximum fee of one thousand dollars (\$1,000).

(B) In no event shall a licensed hauler be assessed fees exceeding one thousand dollars (\$1,000), except when assessed a penalty for late payment of fees as described below;

(3) **Temporary licenses.** A temporary license may be obtained by persons who haul waste less than six (6) times per year at the rate of one-half (1/2) the permanent hauler fees paid by persons with up to two (2) vehicles (twenty-five dollars (\$25.00)) for the vehicle of up to five cubic yards (5 yds³) and fifty dollars (\$50.00) for the vehicle five cubic yards (5 yds³) and over);

(4) **Proration of fees.** If a new hauler is issued a license after March 31 of any year, the fees will be prorated quarterly based on the number of calendar quarters remaining in the calendar, including the quarter of the date on which the license is issued;

(5) **Failure to obtain license.**

(A) Failure to obtain a license by March 1 of each year will result in the hauler being prohibited from using a permitted landfill facility within the Pulaski County Regional Solid Waste Management District, until and unless the hauler obtains a license from the district.

(B) Permitted landfills in Pulaski County shall use all reasonable means to assist the district in:

(i) Informing haulers of licensing requirements; and

(ii) Identifying and providing to the district information on haulers

who are not licensed or whose license has expired; and

(6) **Landfill assistance procedures.**

(A) Permitted landfills will provide to the district by January 1 of each year written procedures outlining the means the landfill will take to assist the district in:

(i) Informing haulers of the licensing requirements; and

(ii) Identifying and providing to the district information on haulers

who are not licensed or whose license has expired.

(B) The written procedures will be reviewed by the board by March 31 of each year.

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

8 CAR § 230-306. Inspection of vehicle.

The Pulaski County Regional Solid Waste Management District, through its personnel and/or agents, shall have the right to review and inspect a hauler’s vehicle or vehicles to ensure the hauler’s compliance with this subpart.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-307. Suspension and revocation of license.

(a) A hauler’s license may be revoked, suspended, or terminated by the Pulaski County Regional Solid Waste Management District upon failure to comply with the provisions and requirements of this subpart, as well as failure to comply with any federal, state, local, or district statutes, laws, regulations, rules, and/or ordinances.

(b) Prior to suspension, revocation, or termination, the district shall have notified the licensed hauler in writing of the intent to suspend, revoke, or terminate the license, the reasons therefore, and that the licensed hauler has had an opportunity for a hearing in accordance with district procedures.

(c) A license may be suspended, revoked, or terminated for the following causes:

- (1) A violation of this part;
- (2) A violation of any provision of federal, state, or local law;
- (3) A violation of any license condition; and
- (4) Misrepresentations or omissions on the license application.

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

8 CAR § 230-308. Exemptions from licensing.

A license shall not be required for the following:

- (1) An individual hauling only their own household waste to a permitted facility;
- (2) The transport of solid waste from an industrial facility to its own Class 3N landfill;

(3) A solid waste management district engaged in the hauling of solid waste within its own district.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-309. Financial assurance.

(a) Any person applying for a license must establish financial responsibility to the Pulaski County Regional Solid Waste Management District Board of Directors.

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-310. Hauler requirements.

All collection systems and collection equipment shall meet the following conditions:

(1) Solid waste shall be:

(A) Collected and transported so as to prevent:

- (i) Public health hazards;
- (ii) Environmental hazards;
- (iii) Safety hazards; and
- (iv) Nuisances; and

(B) Kept in sanitary condition;

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

(B) The waste shall be suitably enclosed and/or covered so as to prevent:

- (i) Roadside littering;
- (ii) Attraction of disease vectors; or
- (iii) Creation of other nuisances; and

(3) Pursuant to Arkansas Code § 27-35-203(g)(1)(C), the maximum gross weight of any vehicle used for hauling solid waste shall not exceed eighty thousand pounds (80,000 lbs.).

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-311. Adoption of more restrictive standards.

The Pulaski County Regional Solid Waste Management Board of Directors may impose more stringent standards than those minimum standards set by the Arkansas Pollution Control and Ecology Commission.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-312. Violations.

(a)(1) Any person who collects or transports solid waste within the Pulaski County Regional Solid Waste Management District pursuant to Arkansas Code § 8-6-721 and who violates any section of this subpart, shall be deemed guilty of a misdemeanor.

(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.

(b) Any person who fails to comply with the licensing terms and conditions of this subpart by March 1 shall be required to pay a penalty to the district equal to twenty percent (20%) of the license fee per vehicle for which the hauler qualifies.

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

Subpart 4. Certificates of Need for Solid Waste Management Facilities

8 CAR § 230-401. Authority — Purpose.

(a) Arkansas Code § 8-6-706 requires all applicants for a solid waste landfill or transfer station permit to obtain a certificate of need from the regional solid waste management board with jurisdiction over the proposed site prior to submitting the application to the Division of Environmental Quality.

(b) The purpose of this subpart is to establish standards and procedures for the issuance of certificates of need in the Pulaski County Regional Solid Waste Management District.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-402. Definitions.

As used in this subpart, the following definitions shall apply:

(1) "Certificate of need" means a certificate issued by the Pulaski County Regional Solid Waste Management District Board of Directors to any person proposing to obtain a permit for a solid waste management 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 public comment period either in writing or verbally at the public hearing;

(4) "Landfill" means a permitted landfill under the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 et seq., and does not include permitted landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of waste generated by the industry;

(5) "Solid waste" means all putrescible and nonputrescible wastes in solid, semisolid, or liquid form, including, but not limited to, yard or food waste, waste glass, waste metals, waste plastics, waste paper, waste paperboard, and all other solid and semisolid wastes resulting from industrial, commercial, agricultural, community, and residential activities, but does not include materials in the recycling process as the same are defined in Arkansas Code § 8-6-702; and

(6) "Solid waste facility" means a landfill or transfer station required to obtain a certificate of need from the Pulaski County Regional Solid Waste Management District Board of Directors pursuant to Arkansas Code § 8-6-706.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-403. Certificate of need requirement.

Any applicant for a new solid waste facility permit or the modification of an existing solid waste facility permit to be located, in whole or in part, within the geographic boundaries of the Pulaski County Regional Solid Waste Management District must obtain a certificate of need from the Pulaski County Regional Solid Waste Management District Board of Directors prior to submitting the application to the Division of Environmental Quality.

Authority. Arkansas Code § 8-6-704.

8 CAR § 230-404. Procedure for obtaining a certificate of need.

(a) Notice of intent.

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

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

(A) The name of the applicant;

(B) The applicant's address and telephone number; and

(C) Whether the applicant is seeking a new or modified solid waste facility permit and the classification of the permit sought pursuant to Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60.

(b) Application procedure.

(1) Persons requesting a certificate of need from the Pulaski County Regional Solid Waste Management District Board of Directors must submit an application to the Pulaski County Regional Solid Waste Management District.

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

(A) The applicant's name, address, and telephone number;

(B) The name of the person having legal ownership of the land where the proposed facility will be located and documentation of applicant's right to develop such property as a solid waste facility from the legal owner;

(C) The location of the proposed facility as shown on the applicable United States Geological Survey topographic map or maps;

(D) The size of the proposed facility and capacity;

(E) A description of the geopolitical jurisdictions to be served, including population estimates by jurisdiction;

(F) Documentation that the proposed solid waste facility or modification complies with all of the criteria for evaluation in subsection (g) of this section; and

(G) Any other information deemed necessary to make a determination of need or requested by the Pulaski County Regional Solid Waste Management District staff.

(c) Completeness determination.

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

(2) Any additional information required by the Pulaski County Regional Solid Waste Management District to make a decision on the need of the proposed facility will be requested within this time.

(3) If additional information is requested by the Pulaski County Regional Solid Waste Management District staff, it will again make a completeness determination within fourteen (14) days of the receipt of the additional information.

(d) Public notice.

(1) When the Pulaski County Regional Solid Waste Management District staff has determined that an application for a certificate of need is complete, it shall give at least thirty (30) days' public notice prior to the Pulaski County Regional Solid Waste Management District Board of Directors' formal consideration of the certificate of need, during which period the public may review and comment on the application.

(2)(A) The notice shall include a brief summary of the proposed solid waste facility for which a certificate of need has been requested.

(B) The notice also shall state the date, time, and place of the public hearing on the certificate of need.

(3) The notice shall be mailed to:

(A) Any person specified by law; and

(B) All persons who shall have requested advance notice in writing of the Pulaski County Regional Solid Waste Management District Board of Directors' actions on certificates of need.

(4) Unless otherwise required by law, the notice shall be published in a newspaper or newspapers of general daily circulation selected by the Pulaski County Regional Solid Waste Management District in its discretion.

(e) **Public comment.** The Pulaski County Regional Solid Waste Management District shall afford all interested persons reasonable opportunity to submit written data, views, or arguments, in writing, during the thirty-day public notice period.

(f) **Public hearing.** Prior to the Pulaski County Regional Solid Waste Management District Board of Directors' formal consideration of an application for certificate of need, the Pulaski County Regional Solid Waste Management District shall hold a hearing to accept oral and written comments from the public concerning the application.

(g) **Determination.**

(1) Before the Pulaski County Regional Solid Waste Management District Board of Directors may issue a certificate of need, it must determine that the applicant has demonstrated compliance with the following criteria:

(A) That the proposed solid waste facility is consistent with the regional planning strategy adopted by the Pulaski County Regional Solid Waste Management District Board of Directors in the:

(i) Regional needs assessment; or

(ii) Regional solid waste management plan;

(B) That the proposed solid waste facility does not conflict with existing comprehensive land use plans of any local governmental entity;

(C) That the proposed solid waste facility does not disturb:

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

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

(D) That the proposed solid waste facility will not adversely impact conservation priority sites (highest, high, and medium) identified in the Pulaski County Regional Solid Waste Management District's most recently adopted edition of the Ecological Assessment of Pulaski County, Arkansas (Phase II Update, prepared by the Nature Conservancy, Arkansas Field Office), May, 2002;

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

(F) That the proposed solid waste facility does not conflict with the requirements of state or federal laws and rules applicable to the location of the proposed facility;

(G) That the proposed solid waste facility does not restrict the flow of the hundred-year flood plain, reduce the temporary water storage capacity of the flood plain, or result in a washout of solid waste so as to pose a hazard to human health or the environment;

(H)(i) If the application is for a transfer station that proposes to transfer waste outside of the Pulaski County Regional Solid Waste Management District, the

applicant must document that the district to which waste will be transferred has been notified and that the board of the transferee district has approved the receipt of such waste.

(ii) This provision does not apply if the waste is being transported for disposal outside the geographic limits of Arkansas;

(I) The applicant's detailed history and record with respect to violations of environmental laws and rules of the United States, or any state or political subdivision of a state, must demonstrate substantial compliance with such laws and rules;

(J) The location of the applicant's proposed solid waste facility shall be consistent with the Pulaski County Regional Solid Waste Management District's needs and its highway and road system; and

(K) If the application is for a landfill, the applicant must demonstrate a need based upon the Pulaski County Regional Solid Waste Management District's excess projected capacity that is currently permitted for operation, but in no event shall the Pulaski County Regional Solid Waste Management District's excess permitted projected capacity exceed thirty (30) years.

(2)(A) At the next Pulaski County Regional Solid Waste Management District Board of Directors meeting, following the close of the thirty-day public notice period described in subsection (d) of this section, the Pulaski County Regional Solid Waste Management District Board of Directors will take up for consideration the application for a certificate of need.

(B) The Executive Director of the Pulaski County Regional Solid Waste Management District staff shall present a recommended action to the Pulaski County Regional Solid Waste Management District Board of Directors.

(C) Persons supporting the issuance of the certificate of need and those opposing the issuance of the certificate of need will be provided with a total of ten (10) minutes for each side to address the staff's recommendation, which time may be extended equally by the Pulaski County Regional Solid Waste Management District Board of Directors when further presentation would aid the Pulaski County Regional Solid Waste Management District Board of Directors' decision.

(3)(A) The Pulaski County Regional Solid Waste Management District shall issue a written decision setting forth its determination.

(B) The decision shall state the basis for issuing or denying the certificate of need.

(C) A copy of the decision will be sent to the following:

(i) The applicant;

(ii) The Division of Environmental Quality of the Department of Energy and Environment; and

(iii) Any interested person who makes a written request for a copy of the decision.

(h) **Appeal of decision.** Any interested person shall have the right to appeal the issuance or denial of a certificate of need to the Secretary of the Department of Energy and Environment in accordance with Arkansas Pollution Control and Ecology Commission rules governing such appeals.

(i) **Continuing effect.**

(1) Upon receipt of a certificate of need, the applicant has sixty (60) days in which to file a preapplication for a solid waste facility permit with the Division of Environmental Quality or the certificate of need shall become void.

(2) Upon receipt of a certificate of need, the applicant has six (6) months in which to file a permit application for a solid waste facility permit with the division or the certificate of need shall become void.

(3) Certificates of need are issued to a specific person and are not transferable under any circumstances.

Authority. Arkansas Code § 8-6-704.