

Title 8. Environmental Law

Chapter XIII. Sebastian County Regional Solid Waste Management District

Subchapter A. Generally

Part 270. Sebastian County Regional Solid Waste Management District Rules

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

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

Subpart 1. Practices and Procedures

8 CAR § 270-101. Purpose and authority.

(a) The purpose of this part is to assure the proper management of solid waste generated within the Sebastian County Regional Solid Waste Management District or generated outside the district and brought to a processing, transfer, material recycling, or disposal facility within the solid waste service area of the district.

(b) The rules adopted and contained herein, and the enforcement thereof by the district:

- (1) Are designed and intended to:
 - (A) Provide minimum standards for the protection of the health and welfare of the public;
 - (B) Make sure that the environment is not polluted; and
 - (C) Prevent the creation or maintenance of unhealthful, unsanitary conditions or public health nuisances; and
- (2) Shall be liberally construed to accomplish these purposes.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-102. Administration.

The Director of the Sebastian County Regional Solid Waste Management District shall administer, implement, and enforce the provisions of this part.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-103. Definitions.

For the purposes of Sebastian County Regional Solid Waste Management District rules, the following definitions shall apply:

- (1) "ADEQ" means the Division of Environmental Quality;
- (2) "APC&EC" means the Arkansas Pollution Control and Ecology Commission;
- (3) "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;
- (4) "Board" means the Board of Directors of the Sebastian County Regional Solid Waste Management District;
- (5) "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;
- (6) "Commission" means the Arkansas Pollution Control and Ecology Commission;
- (7) "Director" means the Director of the Sebastian County Regional Solid Waste Management District;
- (8) "Directors" means the members of the Board of Directors of the Sebastian County Regional Solid Waste Management District;
- (9)(A) "District" means the Sebastian County Regional Solid Waste Management District.
(B) Jurisdiction and authority includes:

(i) Sebastian County; and

(ii) All municipalities and unincorporated areas within the county;

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

(11) "Illegal dump" means any place at which solid waste is placed, deposited, abandoned, dumped, or otherwise disposed of in a manner that is prohibited by 8 CAR §§ 270-601 – 270-606 or other state or federal statutes, rules, or regulations, or which constitute any one (1) of the following:

(A) A nuisance that attracts pests or undesirable vectors such as:

(i) Mosquitoes;

(ii) Flies;

(iii) Bees;

(iv) Rodents; or

(v) Any vermin;

(B) A fire, health, or safety hazard;

(C) A potential source of surface and/or groundwater contamination; or

(D) Other contamination that:

(i) Is hazardous to the public health; or

(ii) Endangers the environment;

(12) "Illegal dumping of solid waste" means the illegal placing, depositing, dumping, or causing to be placed, deposited, or dumped by any person any solid waste that is prohibited by this part:

(A) In or upon any public or private highway or road, including any portion of the right-of-way thereof;

(B) In or upon any private property into or upon which the public is admitted by easement or license or any private property;

(C) In or upon any public park or other public property, other than the property designated or set aside for such purpose by the governing board or body having charge thereof; or

(D) Upon any property for which an appropriate permit has not been issued by the Division of Environmental Quality;

(13) "Landfill" means a facility requiring a landfill permit as defined by Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60;

(14) "Material recovery facility" means a facility not subject to permitting requirements under Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60, which:

(A) Is engaged in the storage, processing, and resale of recovered materials; and

(B) Receives source-separated recyclable materials;

(15) "Permit" means to grant license by legal means to perform specific operations as granted by the proper regulatory control authority:

(A) Through a legal document (individual permit);

(B) By rule (general permit); or

(C) By other means deemed appropriate;

(16) "Person" means any:

(A) Individual;

(B) Partnership;

(C) Corporation;

(D) Association; or

(E) Public or private organization of any character;

(17) "Rule" means any Sebastian County 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 Sebastian County Regional Solid Waste Management District;

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

(19)(A) "Solid waste" means any garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other

discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342, or source, special nuclear, or byproducts material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(B) Recovered materials as defined by Arkansas Pollution Control and Ecology Commission 22.201 are not considered solid waste;

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

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

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

(B) Any person transporting waste more than five (5) times a year is a solid waste hauler, unless exempted below.

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

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

(ii) Hauling only waste tires; or

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

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

(i) Type I haulers are those that haul all categories of nonhazardous solid wastes as identified in Arkansas Pollution Control and Ecology Commission 22.203; and

(ii) Type II haulers are those that haul only Class 4 wastes as identified in Arkansas Pollution Control and Ecology Commission 22.203;

(23) "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;

(24) "Solid waste services area" means a solid waste services area as described in Arkansas Code § 8-6-701 et seq.; and

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

Authority. Arkansas Code § 8-6-704.

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

8 CAR § 270-104. Authority to enforce other regulations.

(a)(1) For the purposes of providing intergovernmental support to all governmental jurisdictions within the Sebastian County Regional Solid Waste Management District, the district shall be empowered to act as a legal agent or representative on behalf of any legally recognized federal, state, county, or city or any other local jurisdiction or special governmental entity within the district.

(2) Authority to the district shall be provided by means of a duly processed and authorized letter, or by an intergovernmental agreement, identifying all such specific and/or general powers given to the district.

(b) The Director of the Sebastian County Regional Solid Waste Management District is provided authority to act as the legal representative of the district to enter into agreement and to accept delegated authority or primacy for the district and to direct resources to enforce such delegated authority.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-105. Rulemaking — Purpose and authority.

At any Board of Directors of the Sebastian County Regional Solid Waste Management District’s meeting, the board may adopt proposed or final:

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-106. Rulemaking — Notice of proposed action.

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

(b)(1) Notice will normally be published on Wednesdays and shall run for three (3) consecutive days.

(2) The notice shall:

(A) State the substance of the:

- (i) Proposed new rule;
- (ii) Modification of an existing rule; or
- (iii) Rescission of an existing rule; and

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

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

(c) Notice shall also be mailed via first-class mail to:

(1) All persons who request advance notice, in writing, of any rulemaking by the district; and

(2) The Division of Environmental Quality.

(d) Notice shall also be provided to the:

- (1) Secretary of State; and

(2) Bureau of Legislative Research.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-107. Rulemaking — Public comment.

(a) The notice in 8 CAR § 270-106 shall solicit written comments from the public for a period of not less than thirty (30) days.

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-108. Rulemaking — Public hearing.

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

(b)(1) The district must hold a hearing to accept oral comments from the public concerning any proposed rulemaking action if requested by:

- (A) Twenty-five (25) persons;
- (B) A governmental subdivision or agency; or
- (C) An association having not less than twenty-five (25) members.

(2) The district shall fully consider all written and oral submissions pertaining to the rulemaking action before finalizing the language of the proposed rule.

(c) Should a public hearing be held, notice of the hearing shall be made in the manner provided in 8 CAR § 270-106 no less than ten (10) days in advance of the hearing.

(d) Upon adoption of a rule, the Board of Directors of the Sebastian County Regional Solid Waste Management District, if requested to do so by an interested person within thirty (30) days of adoption, shall issue a concise statement of the principal reasons for or against its adoption and demonstrate that public comments were duly considered.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-109. Rulemaking — Final action.

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

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

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-110. Rulemaking — Emergency proceedings.

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

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-111. Rulemaking — Filing.

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

certified copy of each rule adopted by it, and a statement of financial impact for the rule.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-112. Rulemaking — Effective date.

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

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

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

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-113. Rulemaking — Certification of rules.

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

- (1) Signature of the chair and secretary/treasurer of the board; or
- (2) Such other method as determined by the board from time to time.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-114. Rulemaking — Official records.

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

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

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-115. Rulemaking — Substantial compliance.

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-116. Rulemaking — Preemption by state or federal law.

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

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-117. Rulemaking — Severability.

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

Authority. Arkansas Code § 8-6-704.

Subpart 2. Certificates of Need

8 CAR § 270-201. Description.

(a) The Board of Directors of the Sebastian County Regional Solid Waste Management District is the designated board to conduct the solid waste planning and management responsibilities mandated by state law.

(b) This board has been duly designated under the terms and conditions prescribed in state law, and its jurisdictional boundaries include Sebastian County.

(c) State law provides that the board shall have the following powers and duties:

(1) Collect data, study and evaluate the solid waste management needs of all localities within this jurisdiction, and publish findings as a regional needs assessment;

(2) Evaluate on a continuous basis the solid waste needs of this jurisdiction, and thereby update the regional needs assessment at least biennially;

(3) Formulate recommendations to all local governments within this jurisdiction on solid waste management issues and formulate plans for providing adequate solid waste management;

(4) Issue or deny certificates of need to any applicant for a solid waste disposal facility permit within their district, with the exception of permits for landfills when a private industry bears the expense of operating and maintaining such landfill solely for disposal of waste generated by the industry or wastes of a similar kind or character;

(5) Adopt such rules as necessary to ensure:

(A) Consistency of review and decision-making procedures/criteria; and

(B) Public notice and participation in any findings or ruling of this board;

and

(6) Carry out all other powers and duties conferred by state law.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-202. Definitions.

As used herein, the terms listed below shall have the following meanings:

(1) "Affected persons" includes:

(A) The applicant;

(B) The Division of Environmental Quality regional solid waste management boards (RSWMBs) and solid waste service area boards (SWSABs) having jurisdiction contiguous to the boundary of the proposed landfill;

(C) Any persons residing within the geographic area designated by the application for use as a solid waste disposal facility site; and

(D) Solid waste landfill permittees having a permitted solid waste landfill site in Sebastian County;

(2)(A) "Certificate of need" means a certificate issued by the Board of Directors of the Sebastian County Regional Solid Waste Management District to an individual or organization proposing to obtain a landfill permit for solid waste disposal.

(B) The certificate recognizes that such landfill, when available, will be needed by those for whom it is intended.

(C) A certificate of need is a condition of application for a solid waste landfill permit and/or transfer station permit under the Arkansas Solid Waste Management Rules, 8 CAR pt. 60.

(D) The Division of Environmental Quality may deny any permit based upon the denial of a certificate of need by any board;

(3) "Certificate of need review" means review of petitions for certificates of need where the landfill to be permitted will be located in its jurisdictional area; and

(4) "Interested persons" means:

(A) The agencies, institutions, and associations with which the Board of Directors of the Sebastian County Regional Solid Waste Management District must coordinate its activities;

(B) Units of general local government within the county;

- (C) Regional multipurpose planning bodies which represent such units with respect to solid waste disposal matters; and
- (D) Contiguous RSWMBs and SWSABs.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-203. Purpose and applicability.

(a) The Board of Directors of the Sebastian County Regional Solid Waste Management District will administer the certificate of need review program which:

- (1) Applies to the offering of new or increased solid waste landfill and/or transfer station disposal capacity within its jurisdictional boundaries; and
- (2) Is consistent with the laws of the State of Arkansas.

(b) In performing its review functions, the board shall follow procedures and apply criteria developed in accordance with procedures and rules herein.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-204. General.

(a) The Board of Directors of the Sebastian County Regional Solid Waste Management District will administer within Sebastian County a certificate of need review program.

(b) Only the board will issue or deny certificates of need for proposed landfill and/or transfer station permits within Sebastian County.

(c) In issuing or denying certificates of need, the board will take into account the finding enumerated in the Regional Needs Assessment Report applicable to the area where the landfill and/or transfer station site is being proposed, and the criteria enumerated herein in this section, subsections (c), (d), and (e) of this section, and 8 CAR § 270-209.

(d) Except in the case of emergency circumstances that pose an imminent threat to public health and safety, each decision of the board to issue a certificate of need must be consistent with the regional needs assessment.

(e) Each decision of the board to issue or deny a certificate of need must be based on evidence that the proposed solid waste landfill and/or transfer station:

(1) Is consistent with the regional planning strategy adopted by the board in the regional needs assessment;

(2) Does not conflict with existing comprehensive land use plans of any local governmental entities;

(3) Does not disturb:

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

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

(4) Will not adversely affect the public use of any local, State of Arkansas, or federal facility, including but not limited to parks and wildlife management areas.

(f) **Note.** The decision of the board to issue or deny a certificate of need shall not be based on any technical merits related to proposed or existing solid waste landfills and/or transfer stations.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-205. Scope of certificate of need program.

(a) The Board of Directors of the Sebastian County Regional Solid Waste Management District will conduct reviews for new or increased solid waste landfill and/or transfer station capacity to be located or proposed to be located in Sebastian County and which are subject to review under the certificate of need program.

(b) Certificates may be issued regarding:

(1) Permits for any new solid waste landfill and/or transfer station disposal site;

(2) Transfer of an existing solid waste landfill and/or transfer station disposal permit; or

(3) Reclassification of an existing solid waste landfill and/or transfer station disposal permit.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-206. Notice of intent.

(a) At least thirty (30) days prior to submitting a petition for a certificate of need, the petitioner must notify the Board of Directors of the Sebastian County Regional Solid Waste Management District, in writing, of the intent to submit such petition.

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

(1) Name of applicant;

(2) Applicant's address and telephone number;

(3) Whether the applicant is seeking a new, or transfer or reclassification of, an existing landfill and/or transfer station permit;

(4) Site of the proposed or existing solid waste landfill and/or transfer station;

(5) Description of the geopolitical jurisdictions to be served by the landfill and/or transfer station, including population estimates by jurisdiction; and

(6) Confirmation from the Division of Environmental Quality that the applicant has requested a statement concerning the current and proposed solid waste landfill and/or transfer station disposal capacity respective to the service area and landfill class being proposed.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-207. Enforcement.

The certificate of need program provides that:

(1) No certificate of need application will be accepted, nor will a certificate of need be issued, to any applicant where the solid waste landfill disposal capacity for the

proposed service area and class or classes of permit under review exceeds twenty-five (25) years at the time the notice of intent (see 8 CAR § 270-206) is submitted;

(2) No certificate of need application will be accepted for review unless a notice of intent has been filed in accordance with 8 CAR § 270-206; and

(3) The Board of Directors of the Sebastian County Regional Solid Waste Management District will only issue a certificate of need where need is actually found to exist.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-208. Procedures for review of applications for certificates of need.

(a) Notice of the beginning of a review.

(1)(A) Timely written notification will be sent to affected persons at the beginning of a review, and to any person or entity that has requested their name be included on the mailing list.

(B) Notification will include the proposed review period (see subsection (b) of this section).

(2) For purposes of this subsection, the date of notification is the date on which the notice is sent or the date on which the notice appears in a newspaper of general circulation within the Board of Directors of the Sebastian County Regional Solid Waste Management District's jurisdiction.

(3)(A) Written notification to members of the general public and to interested persons will be by publication in a newspaper of general circulation in Sebastian County or the proposed solid waste service area, whichever is applicable.

(B) Notification to all affected persons will be made by regular mail.

(b) Review period.

(1) The board will establish a review period, which will include the date:

(A) Of the public hearing to be held in the county where the proposed solid waste landfill and/or transfer station is to be located; and

(B) The board will issue its final finding (normally sixty (60) days or less from the date of notification).

(2) The review period begins on the date established in subsection (a) of this section.

(c) **Public comment period.** From the date of notification (see subsection (a) of this section) through the close of business on the date of the public hearing (see subsection (f) of this section), the board will accept written comments from any interested or affected party regarding the application for which notification was given.

(d) **Information requirements.**

(1) The board may require any person or entity subject to a review to submit to the board information that the board requires relating to 8 CAR § 270-204(e)(1) – (4).

(2) The form, manner, and content of the information will be as follows:

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

(B) Name of individual/organization having legal ownership of the land where the proposed site and/or existing landfill and/or transfer station is located;

(C) Description of geopolitical jurisdiction or jurisdictions to be served, including population estimates by jurisdiction;

(D) Documentation that the proposed solid waste landfill and/or transfer station complies with each of the criteria enumerated in 8 CAR § 270-204(e)(1) – (4); and

(E)(i) Other information deemed necessary to make a determination of need.

(ii) This information will be specified and requested of the applicant within two (2) weeks of receipt of the initial application.

(3) An application for a certificate of need will not be placed under review nor a notification of beginning of review will be made until or unless the application:

(A) Contains the information specified herein; and

(B) Has been determined to be complete.

(e) **Written findings and conditions.**

(1)(A) Written findings which state the basis for any final decision made by the board are required.

(B) When a certificate of need is to be issued, these findings will include the findings of need required by 8 CAR § 270-207.

(2) The board will not make its final decision subject to any condition unless the condition directly relates to criteria established under 8 CAR § 270-204(c) – (e), 8 CAR § 270-209, and/or criteria prescribed by rule by the board in accordance with authorization under Arkansas law.

(f) Public hearing in the course of review.

(1) The board will provide a public hearing during the course of review (before the board makes its decision).

(2) The public hearing will be held in the county where the proposed waste disposal facility is to be located, and notification of said public hearing will be made in accordance with subsection (a) of this section.

(g)(1) **Ex parte contacts.** After the commencement of a public hearing under subsection (f) of this section, and before a decision is made, there shall be no ex parte contacts between:

(A) The applicant or any person acting on behalf of the applicant (or any person opposed to the issuance or in favor of withdrawal of a certificate of need petition); and

(B) Any member of the board.

(2) This does not preclude a governmental official who is on the board from communicating with officials or employees in his or her community or county when that community or county is an applicant of a certificate of need.

(3) **Note.** An "ex parte contact" is defined as an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include a request for status reports on any matter or proceeding.

(h) Withdrawal of a certificate of need.

(1) An applicant for a certificate of need will specify the time the applicant makes application for a solid waste disposal facility permit, and a time that if and when a permit is issued by the Division of Environmental Quality, construction will be completed and operation of the permitted facility is to begin.

(2)(A) After issuance of a certificate of need, the board will periodically review the progress of the holder of the certificate of need in meeting the timetable specified in the approved application and will report the same to the division.

(B)(i) If, on the basis of this review, the board determines that the holder of the certificate of need is not meeting the timetable and is not making a good faith effort to meet it, the board may withdraw the certificate of need.

(ii) In withdrawing a certificate of need, the board will follow the procedures set forth in subsection (e) of this section.

(i) **Availability of records — Methods of obtaining public access.** The board will:

- (1) Upon written request, provide written notification of:
 - (A) The status of the review of proposals;
 - (B) Findings made in the course of the reviews; and
 - (C) Other appropriate information respecting all reviews; and
- (2) Maintain and keep on file, and provide access by the general public to, all:
 - (A) Applications reviewed by the board; and
 - (B) Other written materials essential to any review.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-209. Criteria for review.

The Board of Directors of the Sebastian County Regional Solid Waste Management District will utilize the following criteria in its review of petitions for certificates of need:

- (1) 8 CAR § 270-204(c) – (e);
- (2) The information provided by the applicant in the petition;

- (3) The requirements and considerations of any needs assessments prepared pursuant to state law;
- (4) The location of the applicant's proposed solid waste landfill and/or transfer station based on the jurisdiction's needs and its highway and road system;
- (5) The need for the solid waste landfill and/or transfer station based upon the jurisdiction's excess projected capacity which is currently permitted for operation;
- (6) That the approval of the certificate of need and resulting increase in landfill capacity for the respective class of landfill does not cause the jurisdiction's excess projected capacity for that class to exceed thirty (30) years;
- (7) In the case of existing or previously permitted landfills and/or transfer stations, the quality of operation and compliance by those facilities in the past; and
- (8) Any solid waste management system plan, promulgated and approved pursuant to Acts 1971, No. 237, and the extent to which such plan conforms to an overall regional planning strategy.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-210. Continuous effect of a certificate of need.

(a)(1) When the Board of Directors of the Sebastian County Regional Solid Waste Management District grants a certificate of need, the applicant shall be required to submit a preapplication to the Division of Environmental Quality within sixty (60) days of the date of the certificate of need.

(2) If, after sixty (60) days, a preapplication has not been submitted to the division, then the certificate of need shall be withdrawn as prescribed in 8 CAR § 270-208(h).

(b)(1) Under no conditions or circumstances shall a certificate of need be in effect for more than six (6) months unless a permit application for which the certificate of need was issued is pending with the division.

(2) If a permit application is denied or approved by the division, then the certificate of need for which the permit was requested becomes withdrawn.

(c) 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 § 270-211. The sixty-day application process.

(a) The following is a summary of the process of submitting and the progression of an application for a certificate of need.

(b) Each step in the process must be completed prior to a certificate of need being issued or denied:

(1)(A) Letter of intent.

(B) A letter of intent is required for every proposal to be reviewed.

(C) A potential applicant must submit a letter of intent to the Board of Directors of the Sebastian County Regional Solid Waste Management District prior to submission of an application.

(D) See 8 CAR § 270-206;

(2)(A) Submission of application.

(B) The applicant is responsible for submitting all information concerning the proposed acquisition of a certificate of need for the purpose of obtaining a solid waste landfill and/or transfer station permit.

(C) See 8 CAR § 270-208;

(3)(A) Determination of completeness.

(B) The board will:

(i) Determine the completeness of an application; and

(ii)(a) Within two (2) weeks of receipt of an application, notify the applicant of any additional information necessary for completion of the application.

(b) If no requests for additional information are made by the board within two (2) weeks, the application will be deemed to be complete and affected persons will be notified of the beginning of the review.

(C) See 8 CAR § 270-208(a) and (d);

(4)(A) Beginning of review.

(B) The initiation of the sixty-day review period begins on the date of notification by the board, by certified letter, to the applicant of the completeness of the application and the beginning of the review, or, on the date that the public notice appears in the newspaper, whichever is later.

(C) See 8 CAR § 270-208(a);

(5)(A) Notification of the beginning of review.

(B) Upon determination of completeness, the board will notify, in writing, the applicant and all other affected persons that the review period for the application has begun.

(C) See 8 CAR § 270-205(b)(1) and (2);

(6)(A) Public hearing during the course of review.

(B) The board will provide a public hearing during the course of review.

(C) See 8 CAR § 270-208(f); and

(7)(A) Board findings.

(B) The board will:

(i) Make a final determination on the application based on the established criteria; and

(ii)(a) Provide written findings which state the basis for the final determination.

(b) See 8 CAR § 270-208(e).

(C)(i) This determination will be made within sixty (60) days from the beginning of review.

(ii) See subdivision (b)(4) of this section.

(D) Such findings will be sent to:

(i) The applicant;

(ii) The Division of Environmental Quality; and

(iii) Others upon written request.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-212. Appeal of decisions of the board.

Any interested party to a certificate of need determination by the Board of Directors of the Sebastian County Regional Solid Waste Management District may appeal the decision to the Director of the Division of Environmental Quality pursuant to procedures adopted by the Arkansas Pollution Control and Ecology Commission.

Authority. Arkansas Code § 8-6-704.

Subpart 3. Waste Hauler Program

8 CAR § 270-301. Purpose.

(a) The Board of Directors of the Sebastian 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 Sebastian County Regional Solid Waste Management District.

(b) The purpose of this licensing program is to better manage and monitor the collection and transportation of solid waste by haulers in the district.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-302. Scope.

(a) A person who regularly, more than five (5) times a year, engages in the business of hauling solid waste must obtain a license from the Board of Directors of the Sebastian County Regional Solid Waste Management District if the person is engaged in the:

(1) Collection of solid waste within the Sebastian County Regional Solid Waste Management District; or

(2) Transportation of solid waste for disposal or storage in the Sebastian County Regional Solid Waste Management District.

(b)(1) A license will only be issued to:

- (A) A person;
- (B) A partnership;
- (C) A corporation;
- (D) An association;
- (E) The State of Arkansas;
- (F) A political subdivision of the state;
- (G) An improvement district;
- (H) A sanitation authority; or
- (I) Another regional solid waste management district.

(2) The Sebastian County Regional Solid Waste Management District may in the future engage in the hauling of solid waste within the Sebastian County Regional Solid Waste Management District without licensure but will comply with all applicable standards required under this section.

(c) For the purpose of this program, a license shall not be required for an individual hauling their own household waste to a permitted facility.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-303. Licensing standards and requirements.

(a) Any person who transports solid waste shall:

- (1) Hold the appropriate driver's license as defined by Arkansas state law; and
- (2) Annually register all collection vehicles with the Board of Directors of the

Sebastian County Regional Solid Waste Management District providing:

- (A) Name, address, and telephone number of registrant;
- (B) Description of each vehicle to be registered including:
 - (i) Make, model, and year of vehicle;
 - (ii) Vehicle ID number;

- (iii) License plate number; and
- (iv) Name of vehicle owner; and

(C) Description of the nature of wastes and size of loads.

(b)(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's license:

(A) Solid waste shall be collected and transported so as to prevent:

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

(B)(i) Collection and transportation equipment shall be designed and constructed so as to be as leak-proof as practical.

(ii) The waste shall be suitably enclosed or covered so as to prevent:

- (a) Roadside littering;
- (b) Attractions of vectors; or
- (c) Creations of other nuisances;

(C) Collection and transportation vehicles shall be kept in a sanitary condition;

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

(ii) These wastes are specifically prohibited from disposal at the City of Fort Smith Sanitary Landfill; and

(E) All solid waste collected shall be transported to a state-permitted facility.

(c)(1) Any hauler applying for a license must establish and maintain financial responsibility to the board.

(2) Proof of contractor/vehicle liability insurance with minimum coverage as required by Arkansas state law, Arkansas Code § 27-19-605, of seventy-five thousand dollars (\$75,000) will be required to demonstrate financial responsibility.

(3) The Sebastian County Regional Solid Waste Management District shall be shown as a certificate holder on the certificate of insurance.

(d) No permit holder shall be deemed an employee or an agent of the district.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-304. Fees.

(a) The Board of Directors of the Sebastian County Regional Solid Waste Management District shall assess the following annual fees for licensing the collection and transportation of solid waste in the Sebastian County Regional Solid Waste Management District:

(1) By January of each year, for all current haulers subject to this program, a minimum license fee of one hundred dollars (\$100) will be assessed for one (1) or two (2) vehicles registered; and

(2) A licensee with more than two (2) vehicles shall pay an additional fee of fifty dollars (\$50.00) per vehicle registered up to a maximum fee of one thousand dollars (\$1,000).

(b) Upon payment of the fee and vehicle inspection by City of Fort Smith personnel, each vehicle registered will be provided with a license to collect and transport solid waste in the district.

(c) If a new hauler is issued a license after January, the fees will be prorated based on the number of full months remaining in the calendar year.

(d)(1) Failure to obtain a license by February 1 will result in doubling the fee.

(2) Failure to obtain a license by March 1 will result in the hauler being prohibited from using the Fort Smith Sanitary Landfill or collecting or transporting waste within the district.

(3) New haulers will have thirty (30) days from commencement of collecting or transporting waste in the district to obtain a license without a penalty.

(4) After thirty (30) days, the license fee will be doubled, and after sixty (60) days, the hauler will be prohibited from using the Fort Smith landfill and/or collecting or transporting waste in the district.

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

Subpart 4. Solid Waste Assessment

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

"§ 9.01 Authority

This Chapter D, Solid Waste Assessment Rule, is adopted and imposed pursuant to ACA. §8-6-714, as amended by Act 209 of 2011."

8 CAR § 270-401. Definitions.

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

(1) "ADEQ" or "division" means the Division of Environmental Quality;

(2) "Administrative order" means the written finding of the Sebastian County Regional Solid Waste Management District which proposes to assess a penalty, suspend, revoke, or deny a license or permit, or to take other action against a person which grants that person a right to request a hearing pursuant to this part, other than the denial of a certificate of need;

(3) "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;

(4) "Board" means the Board of Directors of the Sebastian County Regional Solid Waste Management District;

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

(6) "Director" means the Director of the Sebastian County Regional Solid Waste Management District;

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

(8) "District" means the Sebastian County Regional Solid Waste Management District, which includes Sebastian County and all municipalities and unincorporated areas within the county;

(9) "Person" means any:

(A) Individual;

(B) Partnership;

(C) Corporation;

(D) Association; or

(E) Public or private organization of any character;

(10) "Rule" means any Sebastian County Regional Solid Waste Management District rule or statement of general applicability and future effect that implements, interprets, or prescribes law or mandatory policy;

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

(12) "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 byproducts material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923);

(13) "Solid waste disposal facility" means any landfill as defined by the Division of Environmental Quality;

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

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

(ii) Any person transporting waste more than five (5) times a year is a solid waste hauler, unless exempted below.

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

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

(ii) Hauling only waste tires; or

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

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

(i) Type I haulers are those that haul all categories of nonhazardous solid wastes as identified in Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60; and

(ii) Type II haulers are those that haul only process waste and special materials as identified in ADEQ Regulation 22.202;

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

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

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

Authority. Arkansas Code § 8-6-704.

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

8 CAR § 270-402. Applicable waste.

(a) Starting May 16, 2011, there shall be assessed a fee, to be paid to the Sebastian County Regional Solid Waste Management District, on all solid waste generated:

(1) Within the district; or

(2) Outside the district and brought to a processing, transfer, recycle, 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 within the district.

(c) This fee will not be applied to:

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

(2) Any nonmunicipal solid waste generated by private industry and shipped to another state for:

(A) Recycling;

(B) Treatment; or

(C) Disposal;

(3) Any solid waste recycled, used, or generated by any steel mills or related facilities classified within subsector 331 of the 2007 North American Industrial Classification System, as it existed on January 1, 2011;

(4) Any recyclable materials which are processed or marketed for recycling;

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

- (6) Any materials which are removed from solid waste and processed for recycling;
- (7) Waste tires processed through an approved waste tire program; or
- (8) Household hazardous wastes collected through a HHW program that is handled as Subtitle C waste.

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

8 CAR § 270-403. Fee amount.

(a) The amount of the fee assessed shall be one dollar and seventy cents (\$1.70) per ton of solid waste handled.

(b) If weight tickets are not available, the fee shall be calculated on a volume basis as follows:

- (1) Twenty-five cents (25¢) per uncompacted cubic yard; and
- (2) Forty-five cents (45¢) per compacted cubic yard.

(c)(1) If solid wastes, subject to a fee under this subpart, are shipped, delivered, or transported to another solid waste management district within this state that also imposes a fee pursuant to Arkansas Code § 8-6-714(a)(1)(A), then the fees imposed shall be divided between the districts pursuant to any interlocal agreement in place between the districts.

(2) If no interlocal agreement is in place, the larger of the fees shall be imposed and said fees shall be split evenly between the districts.

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

8 CAR § 270-404. Landfills.

(a) Any landfill located within the Sebastian County Regional Solid Waste Management District shall pay to the district an amount equal to the fee amount in 8 CAR § 270-403.

(b) Such fee shall be paid according to the schedule listed in 8 CAR § 270-406.

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

8 CAR § 270-405. Solid waste transporters.

Any person or hauler who collects solid waste generated in the Sebastian County Regional Solid Waste Management District but transports it out of the district shall be required to submit the applicable fee in 8 CAR § 270-403 according to the schedule in 8 CAR § 270-406.

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

8 CAR § 270-406. Schedule.

(a)(1) Fees shall be paid to the Sebastian County Regional Solid Waste Management District monthly.

(2) For all wastes handled during the prior month, payment will be due by the tenth of the following month.

(b)(1) Fees must be submitted along with a Solid Waste Report Form, provided by the district.

(2) A copy of the Division of Environmental Quality's Solid Waste Quarterly Report Form may be acceptable in lieu of the district form upon written approval by the Director of the Sebastian County Regional Solid Waste Management District.

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

8 CAR § 270-407. Intent.

It is the intention under this part for all waste that is generated or disposed of within the Sebastian County Regional Solid Waste Management District to be assessed a fee by the district one (1) time only.

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

8 CAR § 270-408. Violations.

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-409. Penalties.

A penalty of up to five thousand dollars (\$5,000) per violation per day of violation may be assessed against any person violating the provisions of this subpart.

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

8 CAR § 270-410. Enforcement.

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-411. Inspection and information gathering.

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

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

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-412. Severability.

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

Authority. Arkansas Code § 8-6-704.

Subpart 5. Waste Tires

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

"§ 12.01 Authority.

Ark. Code Ann. § 8-9-404(a)(2)(B) authorizes Regional Solid Waste Management Districts to impose an additional fee on the sale of new truck tires."

8 CAR § 270-501. Waste tire fees.

(a) Truck tire recycling fee.

(1) The Sebastian County Regional Solid Waste Management District hereby imposes an additional fee of three dollars and twenty-five cents (\$3.25) per tire on the retail sale of each new truck tire in the district.

(2) As used herein, "truck tire" includes all tires with a rim size of nineteen and one-half inches (19.5") or larger.

(b) Collection of fee.

(1) The truck tire recycling fee shall be collected by all retail sellers of tires located in any county within the district.

(2) Such fee shall be charged to the person who purchases a truck tire.

(3) All fees collected shall be submitted with the monthly report to the Department of Finance and Administration.

(c) Other waste tire fees.

(1) The truck tire recycling fee described above is in addition to the waste tire fees described in Arkansas Code § 8-9-404(a)(2)(A).

(2) All waste tire fees otherwise prescribed by law are unaffected by this rule.

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

Subpart 6. Enforcement Program

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

"§ 13.01 Purpose and 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. Ark. Code Ann. § 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."

"§ 14.01 Purpose and 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, Ark. Code Ann. § 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."

8 CAR § 270-601. Illegal dumping — Purpose.

8 CAR §§ 601 – 605 is being enacted to provide for a variety of mechanisms for the Sebastian County Regional Solid Waste Management District to enforce violations of Arkansas laws and rules governing the illegal dumping and disposal of solid wastes.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-602. Illegal dumping — Definitions.

Definitions shall be derived from 8 CAR § 270-103 or Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60, may be used if not found in Sebastian County Regional Solid Waste Management District rules and are deemed appropriate by the Director of the Sebastian County Regional Solid Waste Management District.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-603. Illegal dumping — Prohibited acts.

(a) It shall be illegal for any person:

(1) To construct, install, alter, modify, use, or operate any facility or site on any property for the purpose of either receiving, storing, or processing of solid waste without an appropriate permit that is current, valid, and properly implemented as issued by the Division of Environmental Quality specifically for the purposes of such operation in all or part;

(2) To dispose of solid wastes at any facility or site other than a facility or site for which an appropriate permit that is current, valid, and properly implemented as issued by the division specifically for the purposes of such operation in all or part;

(3) To dump, deposit, throw, or in any manner leave or abandon any solid wastes, including, but not limited to, trash, garbage, tin cans, bottles, rubbish, refuse, vehicles, mechanical equipment, trailers, or other undesirable material upon:

(A) Property owned by another person without the written permission of the owner or occupant of the property; or

(B) Any public highway, street, road, public park or recreation area, or any other public property except as designated for disposal of such waste; or

(4) To store, collect, transport, sort, process, burn, or dispose of solid waste in such a manner or place as to:

(A) Create or be likely to create a public nuisance or a public health hazard; or

(B) Cause or have the potential to cause water or air pollution within the meaning of the Arkansas Water and Air Pollution Control Act, Arkansas Code § 8-4-101 et seq.

(b) There is created a rebuttable presumption that shall arise in any administrative, civil, or criminal action under 8 CAR §§ 270-601 – 270-605 to the effect that, if it can be proved that one (1) or more items of solid waste bear the name or names of one (1) or more persons in such a form as to indicate that the person or persons were the owners of those items and those items were unlawfully disposed of, then the person or persons are presumed to have committed the unlawful act of illegal dumping of solid waste.

(c) No person shall be liable for any violation of 8 CAR §§ 270-601 – 270-605 or of any rule or order of the Board of Directors of the Sebastian County Regional Solid Waste Management District, issued pursuant to this subpart, if the violation results solely from the act or omission of a third party, unless the person has knowingly allowed the violation to occur through acquiescence, acts, and/or omissions.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-604. Illegal dumping — Enforcement options.

Any person who violates a provision of 8 CAR §§ 270-601 – 270-605 may be subject to the following enforcement actions:

- (1) A civil complaint filed pursuant to Arkansas Code § 8-6-505;
- (2) A citation issued by a duly authorized Illegal Dump Enforcement Officer;
- (3) A citation issued by a duly authorized enforcement officer pursuant to Arkansas Code § 8-6-704(b)(1)(D); or

(4) A criminal action filed by an authorized prosecuting attorney.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-605. Illegal dumping — Penalties.

(a)(1) Any person who violates any provision of 8 CAR §§ 270-601 – 270-605 is in violation of Sebastian County Regional Solid Waste Management District rules and is also guilty of 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.

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-606. Illegal burning — Purpose.

8 CAR §§ 270-606 – 270-609 is being enacted to provide for a variety of mechanisms for the Sebastian County Regional Solid Waste Management District to enforce violations of Arkansas laws and rules governing the illegal burning of solid wastes.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-607. Illegal burning — Prohibited acts.

It shall be illegal for any person to burn solid wastes in a manner inconsistent with Arkansas Pollution Control and Ecology Commission, Arkansas Air Pollution Control Code, 8 CAR pt. 40.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-608. Illegal burning — Enforcement options.

Any person who violates a provision of 8 CAR §§ 270-606 – 270-609 may be subject to the following enforcement actions:

- (1) A civil complaint filed pursuant to Arkansas Code § 8-6-505;
- (2) A citation issued by a duly authorized Illegal Dump Enforcement Officer;
- (3) A citation issued by a duly authorized enforcement officer pursuant to Arkansas Code § 8-6-704(b)(1)(D); or
- (4) A criminal action filed by an authorized prosecuting attorney.

Authority. Arkansas Code § 8-6-704.

8 CAR § 270-609. Illegal burning — Penalties.

(a)(1) Any person who violates any provision of 8 CAR §§ 270-606 – 270-609 is guilty of 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.

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

Authority. Arkansas Code § 8-6-704.