

Title 8. Environmental Law

Chapter XVII. White River Regional Solid Waste Management District

Subchapter A. Generally

Part 350. Policies and Procedures

Subpart 1. Administrative Practices and Procedures

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

"§1.01 Authority

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

The records of District activities, including any rule and procedures adopted by the Board of Directors, shall be maintained at the offices of the White River Regional Solid Waste Management District, P. O. Box 2396, 1652 White Drive, Batesville, AR 72501.

These records shall be available to any citizen during regular business hours and as defined by the Arkansas Freedom of Information Act."

8 CAR § 350-101. Definitions.

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

- (1) "ADEQ" or "division" means the Division of Environmental Quality;
- (2) "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;
- (3) "Board" means the Board of Directors of the White River Regional Solid Waste Management District;

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

(5) "Certificate of need review" means review of the application for a certificate of need by the White River Regional Solid Waste Management District;

(6) "Class 1 waste" means household, commercial, and industrial, and small quantities of conditionally exempt hazardous waste;

(7) "Class 3 waste" means nonhazardous commercial and industrial wastes that are permitted by the Division of Environmental Quality to be disposed of in a Class 3 landfill;

(8)(A) "Class 4 waste" means bulky, inert, nonputrescible wastes that do not degrade, or degrade very slowly.

(B) "Class 4 wastes" include construction and demolition wastes, appliances, furniture, stumps, limbs, and other bulky wastes that are not normally collected with other household or commercial waste;

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

(10) "Director" means the Director of the White River Regional Solid Waste Management District;

(11) "District" means the White River Regional Solid Waste Management District, which includes the:

(A) Counties of:

(i) Cleburne;

(ii) Fulton;

(iii) Independence;

(iv) Izard;

(v) Jackson;

(vi) Sharp;

(vii) Stone;

(viii) Van Buren;

(ix) White; and

(x) Woodruff; and

(B) Municipalities and unincorporated areas within those counties;

(12)(A) "Hauler" means a person engaged in the collection and/or transportation of solid waste, both Class 1 and Class 4, whether full or part-time, for storage and/or disposal.

(B) "Hauler" does not include a:

(i) Person transporting his or her own household waste to a permitted facility; or facility;

(ii) Homeowner transporting his or her own Class 4 waste to a permitted facility;

(13) "Interested persons" means any person who:

(A) Notifies the White River Regional Solid Waste Management District of their interest in being notified of White River Regional Solid Waste Management District activities; and

(B) Is on the White River Regional Solid Waste Management District's mailing list;

(14) "Interlocal agreement" means an agreement between the Board of Directors of the White River Regional Solid Waste Management District and another solid waste district board, acting under the provisions of Acts 1991, No. 752, that is designed to coordinate and define the division of fees assessed and collected as related to the movement and disposal of solid waste between the two (2) districts;

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

(B) As used herein, the term does not include, however, 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 or waste of a similar kind or character;

(16) "Person" means any individual, partnership, corporation, L.L.C.S., association, or other similar entity or entities, or public or private organization of any character;

(17) "Process waste" means solid waste resulting from an industrial/manufacturing and/or processing operation;

(18) "Rule" means any White River 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 White River Regional Solid Waste Management District;

(19) "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 material 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);

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

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

(B) "Transfer stations" are not considered disposal facilities.

Authority. Arkansas Code § 8-6-704.

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

8 CAR § 350-102. Procedure for adoption of rules.

The following procedure shall be utilized by the Board of Directors of the White River Regional Solid Waste Management District in promulgating any rule:

(1) Prior to the adoption, amendment, or repeal of any rule, the board shall:

(A)(i) Give at least twenty (20) days' notice of its intended action.

(ii) The notice shall:

(a) Include a general statement of the issues to be discussed;

(b) Include the time and the place for interested persons to present their views thereon; and

(c) Be published in the Arkansas Democrat-Gazette; and

(B)(i) Afford all interested persons reasonable opportunity to submit written data, views, or arguments prior to the consideration of the issue by the board.

(ii) Further, if the board in its discretion shall so direct, oral testimony or argument may be received;

(2)(A) Notwithstanding the foregoing, if the board finds that an emergency exists and the public health, safety, or welfare requires adoption of a rule upon fewer than twenty (20) days' notice and states in writing its reasons for that finding, it may proceed:

(i) Without prior notice or hearing; or

(ii) Upon any abbreviated notice and hearing that it may choose.

(B) The rule may be effective for no longer than one hundred eighty (180) days;

(3) Each rule adopted by the board shall be effective:

(A) On the date or time set forth in the rule; or

(B) If no such date is set forth in the rule, then it shall become effective ten (10) days after adoption; and

(4) If any provision of any White River 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 or 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

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

"§3.01 Authority

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 finding or ruling of the board and to administer the duties of the board. Further, Ark. Code Ann. § 8-6-706(d) (7) authorizes Districts to adopt procedures for the issuance of Certificates of Need."

8 CAR § 350-201. Applicability.

(a) This subpart shall apply to:

(1) All landfills and transfer stations proposed to be located either wholly or partially within the jurisdiction of the White River Regional Solid Waste Management District; or

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

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-202. Criteria for review.

(a) When reviewing an application for a certificate of need, the White River Regional Solid Waste Management District will consider the following criteria:

(1) Is the proposed facility consistent with the regional planning strategy adopted by the Board of Directors of the White River Regional Solid Waste Management District in the regional needs assessment or the regional solid waste management plan?;

(2) Will the proposed facility conflict with existing comprehensive land use plans of any local governmental entities?;

(3) Will the proposed facility disturb an archeological site as recognized by the Arkansas Historic Preservation Program or a rare and endangered species habitat as recognized by either the Arkansas State Game and Fish Commission or the United States Fish and Wildlife Service?;

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

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

(6) If located within a hundred-year floodplain, the facility must not restrict the flow of a hundred-year flood, reduce the temporary storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human health or the environment;

(7)(A) For landfills, does the proposed facility provide landfill disposal capacity needed within the White River Regional Solid Waste Management District?

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

(C) Along with the certificate of need for a landfill, the White River Regional Solid Waste Management District shall provide to the Director of the White River Regional Solid Waste Management District an allocation of waste capacity for each

permitted landfill within the White River Regional Solid Waste Management District's jurisdiction in order to determine the design capacity of the proposed facility; and

(8)(A) For transfer stations, if a transfer station proposed to transfer waste outside the district in which it is located, the petition shall also contain documentation that the regional board of the district into which the waste will be transferred has:

- (i) Been notified; and
- (ii) Approved receipt of the waste.

(B) This provision does not apply to waste transfers outside the state.

(b) The Board of Directors of the White River Regional Solid Waste Management District shall issue or deny the certificate of need based on an evaluation of:

(1) The location of the applicant's proposed facility based on the White River Regional Solid Waste Management District's needs and the highway and road system in the proposed site area;

(2) The service area to be served by the proposed facility;

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

(4) All other information provided by the applicant and whether the applicant followed procedure for obtaining a certificate of need in this section.

(c)(1) The White River Regional Solid Waste Management District will not consider the following when reviewing an application for a certificate of need: the technical merits of the application related to the proposed or existing landfill or transfer station.

(2) Technical merits of an application will be determined by the Division of Environmental Quality.

(d)(1) Certificates of need are issued to specific persons and for specific locations.

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

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-203. Procedures for obtaining a certificate of need.

(a) Application.

(1) A person requesting a certificate of need from the White River Regional Solid Waste Management District must submit an application to the district, which will also serve as the applicant's notice of intent as per Permit Application Procedures, 8 CAR § 60-301 et seq., of the Solid Waste Management Rules, 8 CAR pt. 60.

(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 the right to develop such property as a solid waste facility from the legal owner;

(C) The type and location of the proposed facility as shown on a topographic map and a state or county road map, including a legal description of the property;

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

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

(F) Documentation of information applicable to each of the criteria for evaluation listed in this section;

(G) For landfills, a statement from the Division of Environmental Quality concerning current and projected disposal capacity respective to the area and the solid waste district; and

(H) Other information deemed by the Board of Directors of the White River Regional Solid Waste Management District as necessary to make a determination of need.

(b) Completeness determination.

(1) Within fourteen (14) days of receipt of the initial application, the district will make a completeness determination of the application.

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

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

(c) Review period.

(1) Once the district has determined that an application for a certificate of need is complete:

(A) The applicant will be notified; and

(B) Public notice of the review period will be placed in papers of general daily or weekly circulation.

(2)(A) The review period will begin on the date of publication of the notice of the review period.

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

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

(d) Public hearing.

(1) During the review period, the district will conduct a public hearing within the county where the proposed facility or modification is to be located.

(2) The notice for the public hearing shall be made no less than ten (10) days in advance of the hearing.

(e) Determination.

(1) At the first scheduled board meeting following the close of the review period, the board will take up for consideration the application for a certificate of need.

(2) Unless the board has affirmatively issued or denied a certificate of need within one hundred eighty (180) days from the beginning of the review period, the certificate of need will be deemed to have been denied.

(3)(A) The board shall issue written findings when making a determination.

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

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

- (i) The applicant;
- (ii) The division; and
- (iii) Any interested persons who request such findings in writing from

the district.

(f) Appeal of decision.

(1) Any interested person as defined in 8 CAR § 350-101 to a certificate of need determination shall have the right to appeal the issuance or denial of a certificate of need to the Director of the Division of Environmental Quality in accordance with division rules governing such appeals.

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

Authority. Arkansas Code § 8-6-704.

Subpart 3. Certificate of Compliance

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

"§5.02 Authority

Arkansas Code Annotated §8.6.712(b) authorizes Districts to issue rules which are consistent with and in accordance with all applicable environmental protection performance standards adopted by state law or incorporated by reference from federal law."

8 CAR § 350-301. Description.

(a) The certificate of compliance program requires all persons seeking a compost or waste tire processing permit or waste tire collection center permit from the Division of Environmental Quality to apply to the White River Regional Solid Waste Management District for a certificate of compliance.

(b) The certificate of compliance is designed to:

(1) Ensure that solid waste facilities within the district are consistent with the district's solid waste management plan; and

(2) Allow the Board of Directors of the White River Regional Solid Waste Management District the opportunity to comment on the proposed permit in a proactive position rather than in a reactive stance.

(c) A certificate of compliance is not required for persons seeking a certificate of need.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-302. Notification by applicant.

(a) The White River Regional Solid Waste Management District should be notified in writing as to the intent of the person or persons who are applying for a solid waste permit from the Division of Environmental Quality.

(b) For existing permitted operations, the request should specify:

(1) The present nature of the operation;

(2) The types of permit or permits currently held by the operation;

(3) Changes or additions to the permit or permits being sought by the person

or

persons;

(4) The geographic area affected by the permit or permits changes; and

(5) Other information as may be requested by the Director of the White River Regional Solid Waste Management District.

(c) For new operations without existing permits, the request should specify:

(1) The nature of the new operation and what materials will be processed;

(2) The type of permit or permits for which the applicant will be applying;

(3) The geographical area that will be affected by the permit or permits;

(4) The principal investors and/or owners and operator of the proposed

facility; and

(5) Other information as may be requested by the director.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-303. District staff responsibilities.

Upon written notification, the White River Regional Solid Waste Management District staff will:

(1) Research the application for the proposed new facility and/or changes to existing facilities for compliance with the district's solid waste management plan and/or waste tire management plan;

(2) Determine the completeness of the application, request additional information if merited, and prepare written material for presentation to the Board of Directors of the White River Regional Solid Waste Management District; and

(3)(A) Present the material to the board at the next regularly scheduled meeting or, if circumstances require and with authorization from the board chair, poll the board for an informal vote.

(B) Said vote to be made formal at the next regularly scheduled meeting.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-304. District board decisions.

(a) The decision to issue a certificate of compliance will rest with the Board of Directors of the White River Regional Solid Waste Management District.

(b) The following conditions apply:

(1) Only the board shall have the authority to issue a certificate of compliance;

(2) All decisions by the board are final;

(3) An applicant whose request for a certificate of compliance is denied may, within thirty (30) days, make an appeal to the board for reconsideration providing:

(A) New information is available; or

(B) A question of procedure arises; and

(4) Upon approval, the board's chair shall issue a letter indicating:

(A) The approval of the applicant's request; and

(B) That said permit is in compliance with the White River Regional Solid Waste Management District's solid waste management plan and/or waste tire management plan.

Authority. Arkansas Code § 8-6-704.

Subpart 4. Waste Hauler Licensing Program

8 CAR § 350-401. Purpose and authority.

(a)(1) The Board of Directors of the White River 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 White River Regional Solid Waste Management District.

(2) The purpose of these requirements is to ensure the continued health and safety of citizens residing in the White River Regional Solid Waste Management District by:

(A) Providing for a uniformly safe method of collecting and transporting solid waste; and

(B) Assisting the White River Regional Solid Waste Management District in developing a data base essential for planning, evaluation, and management of solid waste within the White River Regional Solid Waste Management District's geographic boundaries.

(b)(1) Arkansas Code § 8-6-721:

(A) Requires regional solid waste management districts to establish and maintain a program for licensing haulers of solid waste within their respective jurisdictions; and

(B) Sets minimum standards for said licenses.

(2) 8 CAR § 60-203 of the Solid Waste Management Rules sets certain minimum requirements for licensing of solid waste haulers.

(3) The following are the requirements for any person who hauls solid waste, either Class 1 or Class 4, inside the geographical boundaries of the White River Regional Solid Waste Management District.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-402. Scope of the program.

(a) A person, as defined in 8 CAR § 350-101, who engages in the business of hauling solid waste must obtain a license from the Board of Directors of the White River Regional Solid Waste Management District if:

(1) The person collects Class 1 or Class 4 solid waste within the White River Regional Solid Waste Management District; or

(2) The person transports Class 1 or Class 4 solid waste for storage or disposal within the White River Regional Solid Waste Management District.

(b)(1) A license may 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 White River Regional Solid Waste Management District may in the future engage in the hauling of solid waste within its own boundaries without licensure but will comply with all applicable standards required in this section.

(3) For the purpose of this program, these standards will apply to solid waste haulers that collect or haul Class 1 or Class 4 waste.

(4) A license shall not be required for an individual hauling their own household waste to a permitted facility.

(c) Licenses will be issued by the White River Regional Solid Waste Management District when:

- (1) All aspects of the application have been completed;
- (2) Compliance with Division of Environmental Quality standards for hauling solid waste have been achieved; and
- (3) All fees have been paid.

(d) Local governments and solid waste districts shall be exempt from this license requirement.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-403. Licensing standard and requirements.

Any person who transports solid waste, either Class 1 or Class 4, shall:

- (1) Possess the appropriate driver's license as defined by Arkansas law; and
- (2) Annually register all collection vehicles within the White River Regional Solid Waste Management District, providing the following information:
 - (A) Name, address, Social Security number (or tax identification number, if incorporated), and telephone number of registrant;
 - (B) Make, model, year, and VIN of vehicle or vehicles;
 - (C) License plate number;
 - (D) Copy of operator's license of all participating drivers;
 - (E) Description of the class and origin of the waste, size of the loads hauled, and their destination; and
 - (F) Financial assurance in the form of proof of vehicle liability insurance.

Authority. Arkansas Code § 8-6-704.

Codification Notes. "VIN" means vehicle identification number.

8 CAR § 350-404. Requirements for maintaining permits.

(a) All collection and transportation vehicles must meet the conditions outlined below.

(b) Failure to comply with these conditions may result in revocation of hauler license:

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

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

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

(B) The waste shall be:

(i) Suitably enclosed or covered so as to prevent:

- (a)* Roadside littering;
- (b)* Attraction of vectors; or
- (c)* Creation of other nuisances; and

(ii) In compliance with state law;

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

(4)(A) Regular collection days shall be established as appropriate.

(B) Collection shall be performed as necessary;

(5) Collection and transportation of chemicals, poisons, explosives, radiological waste, and other hazardous materials shall be in accordance with the requirements of state and federal regulatory controls;

(6) All solid waste collected within the White River Regional Solid Waste Management District shall be transported to an approved facility licensed with the:

- (A) Division of Environmental Quality; or
- (B) State to which it is being transported;

(7) All vehicles covered by this subpart must prominently display a current license registration sticker provided by the district;

(8) Said waste hauler licenses shall be nontransferable and nonreturnable;

(9) Haulers will be required, upon reasonable notification by the district, to provide the district with records and data on the nature of waste collected or transported, or provide any other information as requested to help the Board of Directors of the White River Regional Solid Waste Management District track the composition, volume, and flow of solid waste; and

(10) Haulers will abide by all federal, state, and local laws and division and district rules regarding the collection, hauling, and disposal of solid waste.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-405. Financial responsibility.

Any hauler applying for a license must establish and maintain financial responsibility to the Board of Directors of the White River Regional Solid Waste Management District by annually providing proof of commercial or vehicle liability insurance with minimum coverage as required by state law.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-406. Fees.

(a)(1) The Board of Directors of the White River Regional Solid Waste Management District shall assess the following annual fees for licensing the collection and transportation of solid waste in the White River Regional Solid Waste Management District.

(2) Said fees shall be nontransferable and nonrefundable:

(A) Vehicles of one (1) ton or less shall be subject to a twenty-five-dollar annual fee per vehicle; and

(B) Vehicles of over one (1) ton shall be subject to a fifty-dollar annual fee per vehicle.

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

(c)(1) Licenses must be renewed annually with the license year beginning January 1.

(2) 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) Haulers will have thirty (30) days to obtain a license without penalty.

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

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

Subpart 5. Waste Transfers

8 CAR § 350-501. Purpose and authority.

Movement of waste either in or out of the boundaries of the White River Regional Solid Waste Management District shall comply with Arkansas Code § 8-6-712.

Authority. Arkansas Code § 8-6-704.

Subpart 6. Host Fee

8 CAR § 350-601. Purpose and authority.

(a)(1) Legal authority is based upon Arkansas Code § 8-6-714.

(2) Arkansas Code § 8-6-714 provides that a regional solid waste management board has the authority to "...fix, charge, and collect rents, fees, and charges..." related to the generation, movement, and/or disposal of solid waste within its district and to the management of solid waste needs of the White River Regional Solid Waste Management District in accordance with applicable law.

(b)(1) Arkansas Acts 1991, No. 752, established the regional solid waste management districts and described their powers, duties, and responsibilities.

(2) These responsibilities include planning, studying, and evaluating the solid waste management needs of their areas and publishing regional needs assessments and solid waste management plans.

(3) The purpose of these powers, duties, and responsibilities is to support the Board of Directors of the White River Regional Solid Waste Management District in its decisions for the development and operation of solid waste systems in the White River Regional Solid Waste Management District.

(c) In order to carry out the above powers, duties, and responsibilities, the White River Regional Solid Waste Management District must be able to compensate professional staff, cover the costs of contracts into which it enters, and defray the cost of its operations including offices, overhead, maintenance, travel, and other expenses necessary to perform duties assigned by the Board of Directors of the White River Regional Solid Waste Management District.

(d) Pursuant to the above legislation, the Board of Directors of the White River Regional Solid Waste Management District has determined that the imposition of the fees set forth herein is necessary to support the White River Regional Solid Waste Management District's management and direct involvement with the White River Regional Solid Waste Management District's disposal and/or treatment of solid waste, including waste generated:

(1) Within and disposed of within the White River Regional Solid Waste Management District;

(2) Within and disposed of outside of the White River Regional Solid Waste Management District; and

(3) Outside of the White River Regional Solid Waste Management District but disposed of within the White River Regional Solid Waste Management District.

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

8 CAR § 350-602. Fee structure.

(a) A fee of one dollar (\$1.00) is hereby imposed and charged on each ton or portion thereof of solid waste that is generated:

(1) Within the White River Regional Solid Waste Management District and delivered to a:

(A) Landfill located within the White River Regional Solid Waste Management District; or

(B) Transfer station located within the White River Regional Solid Waste Management District;

(2) Outside the White River Regional Solid Waste Management District and disposed of within the White River Regional Solid Waste Management District; or

(3) Inside the White River Regional Solid Waste Management District and disposed of outside the White River Regional Solid Waste Management District.

(b)(1) In the event that another regional solid waste management board or district fixes, charges, or collects any fees on such solid waste pursuant to the provisions of Arkansas Code § 8-6-714, then the fee to be imposed and charged shall be calculated by:

(A) Taking the sum of one dollar (\$1.00) per ton or portion thereof of solid waste described in subdivisions (a)(1), (a)(2), or (a)(3), above; and

(B) Adding the per-ton fee that has been assessed to each such ton of solid waste by another regional solid waste management board or district.

(2) The resulting sum shall be the applicable fee to be paid for such solid waste, but such fee shall not exceed a total fee of two dollars (\$2.00) per ton.

(c) However, if the landfill or transfer station pays a fee on such solid waste pursuant to the provisions of Arkansas Code § 8-6-714 to another regional solid waste management board or district, then the landfill or transfer station shall be entitled to a credit so that the total fee paid does not exceed two dollars (\$2.00) per ton.

(d) If another landfill or transfer station collects a fee on such solid waste and the White River Regional Solid Waste Management District fails to receive the sum of one dollar (\$1.00), then the White River Regional Solid Waste Management District shall

have the right to pursue such other regional solid waste management board or district for any amount necessary to allow the White River Regional Solid Waste Management District to receive the sum of one dollar (\$1.00) per ton or portion thereof of solid waste.

(e) Such fee:

(1) Shall be collected by the applicable landfill or transfer station in accordance with this subpart; and

(2) Will be submitted on a monthly basis to the White River Regional Solid Waste Management District by the tenth of the following month.

(f) This subpart will be effective thirty (30) days after filing with the State of Arkansas in accordance with the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., or other laws or policies pertaining to the rulemaking authority of a state agency.

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

8 CAR § 350-603. Interlocal agreements — Authority and structure.

(a) “Interlocal agreement” means an agreement between the Board of Directors of the White River Regional Solid Waste Management District and another regional solid waste management board, acting under the provisions of Acts 1991, No. 752, that is designed to coordinate and define the division of fees assessed and collected as related to the movement and disposal of solid waste between the two (2) districts.

(b) The White River Regional Solid Waste Management District shall have the right to enter into an interlocal agreement with one (1) or more other regional solid waste management board or district to allocate the fee imposed and charged under this subpart in accordance with applicable law.

(c) In the absence of an interlocal agreement with another regional solid waste management board or district, then the regional solid waste management board or district shall divide the fee imposed by this subpart equally in accordance with applicable law.

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

8 CAR § 350-604. Exceptions.

This part shall not apply to waste or materials as described in Arkansas Code § 8-6-714(b).

Authority. Arkansas Code § 8-6-704.

Subpart 7. Illegal Dumps Program

8 CAR § 350-701. Purpose and authority.

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

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

(b)(1) Improper and illegal waste disposal places the public health at risk.

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

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

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

(c) The Board of Directors of the White River Regional Solid Waste Management District is given authority to address illegal dumping through the following:

(1) Arkansas Pollution Control and Ecology Commission, Solid Waste Management Rules, 8 CAR pt. 60;

(2) Arkansas Code § 8-6-508, which empowers solid waste management districts to employ illegal dump control officers and establishes their powers and duties; and

(3) Arkansas Code § 8-6-901, which provides for the certification of the illegal dumps control officers.

Authority. Arkansas Code § 8-6-704.

Subpart 8. Solid Waste Management and Recycling Grants Program

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

"Arkansas Code § 8-6-615 adopted by Arkansas Act 1333 of 2013, authorizes distribution of the Solid Waste Management and Recycling Fund to the regional solid waste management districts for this purpose.

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 finding or ruling of the board and to administer the duties of the board."

8 CAR § 350-801. Purpose.

(a) The purpose of this program is to provide financial assistance for solid waste programs that serve to reduce the state's dependence on landfills and to protect public health.

(b) Such programs include:

- (1) Waste reduction activities;
- (2) Reuse of waste items as raw materials in a production process;
- (3) Recycling (including but not limited to paper, plastic, metals, electronics, and glass);

- (4) Using waste materials to produce an end product without recycling;
- (5) Using waste materials as fuel; and
- (6) Other related activities as approved by the Board of Directors of the White River Regional Solid Waste Management District.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-802. Applicability.

This subpart governs the process by which the White River Regional Solid Waste Management District's distribution from the Arkansas Solid Waste Management and Recycling Fund is administered and distributed within the district's ten (10) counties.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-803. Eligibility.

The following entities are eligible to apply for grant assistance:

- (1) County governments and incorporated cities and towns in the ten-county White River Regional Solid Waste Management District service area; and
- (2) The Board of Directors of the White River Regional Solid Waste Management District.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-804. Eligible projects.

Projects eligible for grant assistance include:

- (1) Solid waste management planning that integrates waste reduction and landfill diversion;
- (2) Public information and education programs that:
 - (A) Encourage waste reduction and recycling; and
 - (B) Stimulate demand for products produced from recycled materials;

(3) Waste and waste transfer facilities and equipment that integrate waste diversion and recycling into their operations;

(4) Activities that support material recovery facilities (recycling centers) including, but not limited to:

(A) Facility costs;

(B) Equipment costs; and

(C) Logistical systems;

(5) Recycling and waste diversion activities associated with illegal dump abatement programs;

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

(7) Costs related to the daily administrative functions of the White River Regional Solid Waste Management District operation as directed by the Board of Directors of the White River Regional Solid Waste Management District.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-805. Ineligible expenses.

(a)(1) The Solid Waste Management and Recycling Grant Program is a reimbursement grant program, and eligible expenses must be incurred only after a grant has been awarded.

(2) Any and all expenses incurred prior to grant award are ineligible and cannot be reimbursed.

(b) The White River Regional Solid Waste Management District reserves the right to deny reimbursement of any grant expense or expenses considered inappropriate to an approved grant project.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-806. Preapplication.

(a)(1) At the beginning of each annual grant round, a letter and preapplication form will be mailed to all county judges and to all mayors of incorporated cities and towns notifying them of the grant round and application period.

(2) A listing of eligible grant projects, a local match amount, and a submission deadline will be included in the notification.

(b) A written appeal may be submitted to the Board of Directors of the White River Regional Solid Waste Management District regarding project eligibility.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-807. Board review and prioritization.

(a) After state disbursement of grant funds has been received by the White River Regional Solid Waste Management District, the Board of Directors of the White River Regional Solid Waste Management District will meet to:

- (1) Review preapplications received during the application period;
- (2) Set aside any unacceptable preapplications; and
- (3) Prioritize eligible preapplications for funding.

(b) Prioritization will be given to projects that the board determines will have the greatest benefit.

(c) If prioritized preapplications exceed the amount of the district's funding disbursement, the board may:

- (1) Withhold funding of a project until a future grant round; or
- (2) Adjust funding levels of any or all preapplications to fit the amount of grant money available in the grant round.

(d) All board action is based on majority vote.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-808. Final applications.

(a) After prioritization by the Board of Directors of the White River Regional Solid Waste Management District, applicants will be:

(1) Provided a final application form; and

(2) Asked to submit applications and supporting documentation by a specified deadline.

(b) Final applications will be reviewed by White River Regional Solid Waste Management District staff for completeness.

(c) Grant awards will be executed by the board chair and each grant applicant.

(d) Applications not submitted by the preset deadline will not be considered for funding.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-809. Public notice and comment period.

(a) When final applications are completed and received by White River Regional Solid Waste Management District staff, a listing of proposed applicants and projects will be published in a newspaper or newspapers of general circulation for the area or areas impacted by the proposed grant projects.

(b)(1) Notice will be in the form of legal notices that will appear a minimum of thirty (30) days prior to grants being funded.

(2)(A) The notice will provide applicant names, project names, and amounts, and instructions for submission of comments, both orally and in writing.

(B) Any negative comments will be taken to the Board of Directors of the White River Regional Solid Waste Management District for consideration prior to final funding approval.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-810. Reimbursement procedure.

(a) Grant purchases can begin immediately upon notification that an applicant's grant has been awarded.

(b) Only items included in the budget of the approved grant application will be reimbursed.

(c)(1) For expenses to be reimbursed, the applicant must submit the following:

(A) A detailed bill of sale or invoice of the item or items purchased;

(B) A cancelled check copy (bank statement copy or two-sided proof showing cancellation); and

(C) All capital equipment purchases of three hundred dollars (\$300) or more must include VIN, serial number, detailed photos, and physical location of the equipment.

(2) Reimbursement documents are to be submitted to the White River Regional Solid Waste Management District offices for review and disbursement of grant funds to the applicant.

(3) Staff will check documentation and submit the appropriate amount to accounting for reimbursement.

(4) Expenses exceeding grant awards cannot be reimbursed.

Authority. Arkansas Code § 8-6-704.

Codification Notes. "VIN" means vehicle identification number.

8 CAR § 350-811. Reimbursement deadline.

(a) Grant recipients will be allowed three (3) years from the date a grant was funded to:

(1) Complete the grant project; and

(2) Request reimbursement for project expenses.

(b) See 8 CAR § 350-810 for disposition of unspent grant funds.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-812. Minimum Conditions of Grant Acceptance.

Final application documents include Minimum Conditions of Grant Acceptance, wherein each applicant agrees to the following upon acceptance of the funded grant:

(1)(A) Maintain accurate grant records with an itemized listing of grant expenses including purchase date, item or items purchased, vendor, and purchase price, along with purchase documents, including:

- (i) Detailed invoice or bill of sale;
- (ii) Cancelled check copies and photos; and
- (iii) VIN numbers and/or serial numbers of equipment purchases of three hundred dollars (\$300) or more.

(B) Purchase document files should be maintained for a minimum of five (5) years;

(2)(A) Complete and submit an annual report to the White River Regional Solid Waste Management District:

- (i) Including the itemized listing of grant expenses in subdivision (1) of this section; and
- (ii) Summarizing the progress made on the project and its impact on the facility or program.

(B) Physical locations of capital equipment should also be listed in this report;

(3)(A) Maintain information for the state Recycling Activity Survey, which is to be submitted through the district for a period of five (5) years after the grant award.

(B)(i) The quantities of materials recycled/diverted (tons, cubic yards, gallons, etc.) and any revenue received from the sale of wastes diverted or recycled should be recorded throughout the state fiscal year (July 1 – June 30).

(ii) These numbers are necessary for completion of the Recycling Activity Survey, which is required annually by Arkansas Reg.11.409(B); and

(4) All purchases of property, equipment, and materials will be in accordance with the appropriate state purchasing law for the applicant entity (county, first-class city, second-class city, and incorporated town).

Authority. Arkansas Code § 8-6-704.

Codification Notes. "VIN" means vehicle identification number.

8 CAR § 350-813. Unexpended grant funds.

(a) Grant funds awarded to a local government that are released in the event a project has been cancelled, remain after the completion of the grant project, or exist at the end of the three-year grant expenditure deadline, may be released to the White River Regional Solid Waste Management District to be redistributed as all or part of another grant project.

(b) A request by a grant recipient to relinquish and release unspent funds to the district must be documented by a request on official letterhead:

- (1) Signed by the elected official; and
- (2) Submitted to the Board of Directors of the White River Regional Solid Waste Management District.

Authority. Arkansas Code § 8-6-704.

8 CAR § 350-814. Redistribution of unexpended grant funds.

(a) The Board of Directors of the White River Regional Solid Waste Management District will review unspent grant funds and will, when deemed appropriate, make funds available for other proposed grant project or projects, separate from or included with the annual Solid Waste Management and Recycling Fund disbursement to the White River Regional Solid Waste Management District.

(b) Proposed projects using unexpended grant funds will follow the same grant application procedure listed in 8 CAR §§ 350-801 and 350-802.

Authority. Arkansas Code § 8-6-704.

Subpart 9. Severability

8 CAR § 350-901. Severability policy.

If any portion of this part is found by a court of law to be unconstitutional, it shall not negate the remainder of this part.

Authority. Arkansas Code § 8-6-704.