

FAULKNER COUNTY SOLID WASTE MANAGEMENT DISTRICT



RULES AND REGULATIONS

RULES AND REGULATIONS OF THE FAULKNER COUNTY SOLID WASTE MANAGEMENT DISTRICT

Index

CHAPTER A:	Practices and Procedures
	Subchapter 1: General
	Subchapter 2: Rulemaking
	Subchapter 3: Adjudications
	Subchapter 4: Governing Body; Regional Board of Directors
	Subchapter 5: Regional Board Meetings
CHAPTER B:	Certificates of Need
	Subchapter 6: Authority and Criteria
	Subchapter 7: Procedures
CHAPTER C:	Waste Tire Program
	Subchapter 8: Waste Tire Program
CHAPTER D:	Waste Hauler Program
	Subchapter 9: Waste Hauler's License
CHAPTER E:	Solid Waste Facilities
	Subchapter 10: General
CHAPTER F:	Solid Waste Assessment
	Subchapter 11: Assessment
	Subchapter 12: Procedure
	Subchapter 13: Compliance and Enforcement

PRACTICES AND PROCEDURES

CHAPTER A

Subchapter 1: General

§ 1.01 Authority

Ark. Code Ann. §8-6-704(6) authorizes Regional Solid Waste Management boards to adopt such rules or regulations 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.

§1.02 Definitions

For the purposes of these regulations, the following definitions shall apply:

“Administrative Procedure Act” means the Arkansas Administrative Procedure Act codified at Ark. Code Ann. § 25-15-201 to 214, as amended from time to time.

“ADEQ” or “Department” means the Arkansas Department of Environmental Quality.

“Adjudicatory Action” means an action taken by the District to assess a penalty: suspend, revoke or deny a license or permit, or other punitive action against another person, with the exception of the denial of a Certificate of Need.

“Board” means the Board of Directors of the Faulkner County Solid Waste Management District.

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

“Class S Composting Facility” means a facility defined as requiring a Class S Composting Permit under ADEQ Regulation 22.

“Commission” means the Arkansas Pollution Control & Ecology Commission.

“Directors” mean the members of the Board of Directors of the Faulkner County Solid Waste Management District.

“District” means the Faulkner County Solid Waste Management District which includes all of Faulkner of County and the municipalities within the county.

“Director” means the Director of the Faulkner County Solid Management Waste District.

“Person” means any individual, partnership, corporation, association, public organization, or private organization of any character.

“Rule” means any District regulation 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 District.

“Rulemaking Action” shall include any action by the District to adopt, amend or repeal a District Rule.

“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, semi-solid, 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 by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

“Solid Waste Disposal Facility” means any Class I or Class IV landfills as defined by the Arkansas Department of Environmental Quality.

“Solid Waste Facility” means any facility which holds or should hold a facility permit issued by the Solid Waste Division of ADEQ.

“Solid Waste Material Recovery Facility” means a facility defined as requiring a Solid Waste Material Recovery Facility permit by ADEQ Regulation 22.

“Transfer Station” means a facility defined as requiring a Transfer Station permit by ADEQ Regulation 22.

Subchapter 2: Rulemaking

§ 2.01 Proposed Action

At any Board meeting, the Board may adopt proposed new rules or regulations; modifications to existing rules or regulations; or repeal of any existing rules or regulations.

§ 2.02 Notice of Proposed Action

Notice of the proposed new rule or regulation, modification or repeal of an existing rule or regulation, shall be given to the public via publication in the following publications:

- Log Cabin Democrat.

Notice will normally be published on Wednesdays. The notice shall state the substance of the proposed new rule, modification or rescission of an existing rule and provide information on obtaining a copy of the proposal from the District. The notice shall inform the public of the time, place and manner in which they may present their comments.

Notice shall also be mailed, via first class mail, to all persons who request advance notice, in writing, of any rulemaking by the District in advance of the Board meeting designated for consideration of the proposed new rule, modification to existing rule, or repeal of existing rule. Notice shall also be mailed, via first class mail, to ADEQ.

§ 2.03 Public Comment

The notice in § 2.02 shall solicit written comments from the public for a period of not less than thirty (30) days. The notice shall also provide the address where all comments should be sent.

§ 2.04 Public Hearing

The District may, at its sole discretion, hold a public hearing to take oral comments from the public concerning any proposed action.

Should a public hearing be held, notice of the hearing shall be made in the manner provided in §2.02 no less than 10 days in advance of the hearing.

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

§ 2.05 Final Action

At any Board meeting following the close of the public comments period or any public hearing, the Board may act on the proposal by: adopting it as originally written; adopting a modified version; or, denying the proposal.

The Board reserves the right to re-issue any proposal for public comment following significant modifications.

§ 2.06 Emergency Proceedings

Should the District find that imminent peril to the public health, safety or welfare requires adoption of a regulation upon fewer than 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 regulation. Any emergency regulation so adopted may be effective for no longer than 120 days.

§ 2.07 Filing

The District shall file with the Secretary of State, the Arkansas State Library and the Bureau of Legislative Research, a certified copy of each regulation adopted by it, and a statement of financial impact for the regulation.

§ 2.08 Effective Date

Each regulation adopted by the District shall be effective 10 days after filing unless a later date is specified by law or in the regulation itself. However, an emergency regulation may become effective immediately upon filing, or at a stated time less than 10 days thereafter, if the District finds that this effective date is necessary because of imminent peril to the public health, safety or welfare. The District's finding and a brief statement of the reasons therefore shall be filed with the regulation. The District shall take appropriate measures to make emergency regulations known to the persons who may be affected by them.

§ 2.09 Certification of Regulations

A copy of any regulation adopted by the Board may be certified by signature of the Chairman and Secretary/Treasurer of the Board, and by affixing the official seal of the District thereon.

§ 2.10 Official Records

The District shall maintain a certified copy of every regulation or rules adopted by the District. This copy shall be kept at the principal office of the District. A copy of each notice of rulemaking shall also be kept on file at the District.

§ 2.11 Substantial Compliance

Every Rulemaking Action by the District after the effective date of the Subchapter shall be effective if the Rulemaking Action substantially complies with this Subchapter.

§2.12 Preemption by State or Federal Law

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 Subchapter shall be preempted to the extent necessary to comply with State or Federal law. Whenever possible, the provisions of this Subchapter shall be interpreted to be consistent with requirements of State and Federal law.

§ 2.13 Severability

If any provision of any District Rule or the application thereof to any Person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of District Rules, which can be given effect without the invalid provision or application, and to this end the provisions of all District Rules shall be considered severable.

§ 2.14 Petition for Rulemaking

Any person residing or doing business within the District may petition the Board for a Rulemaking Action. Within thirty (30) days after submission of a petition, the Board shall either deny the petition, stating in writing its reasons for the denial, or shall initiate rulemaking proceedings. If no action is taken by the Board within thirty (30) days, the petition shall be deemed to be denied, and the Board shall not be required to take any further action, except to state its' reasons for denial, in writing.

Subchapter 3: Adjudications

§ 3.01 Assessment of Penalty

The Board shall keep a log of all complaints or violations and is granted the discretion and authority to assess monetary penalties for violations of District Regulations as well as to revoke, suspend, or deny a license or permit to any person for cause; after an attempt to resolve any violation of complaint informally. Penalties are defined in Section 9.06 below.

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

§ 3.02 Form

Penalties shall be assessed by a written Administrative Order, signed by a member of the Board, and delivered to the person against whom the penalty is assessed; with the right to appeal and have a hearing as set out below.

Administrative Orders shall be delivered in person or by Certified Mail, return receipt requested, to the address of record at the District.

The Director has the discretion to attach a Consent Agreement to an Administrative Order and to enter into Consent Agreements to settle any Administrative Order.

§ 3.03 Request for Appeal

Within thirty days of the receipt of any Administrative Order, the person against whom the Order was issued can request an appeal before the District Board, who may waive any penalty for a first offense based on the person's prior record.

The request for appeal must be in writing and received by the District office no later than close of business thirty days after the date of the Administrative Order. If the thirtieth day falls on a Saturday, Sunday or District Holiday, the request is due by the close of business the following business day.

Requests for appeal may be delivered to the District in person or by Certified Mail, return receipt requested.

§ 3.04 Appeal to Board

Persons who timely file a request for appeal shall be entitled to be heard at the first regularly scheduled Board meeting following their request for appeal.

If a request for appeal is received within fourteen days prior to a scheduled Board meeting, the appeal will be heard at the next regularly scheduled Board meeting. Both sides may appear in person or by counsel. The District shall present their case first, followed by the appellant. Both sides may offer testimony and present evidence to be considered by the Board. Cross-examination shall be allowed as well as questions by the Board.

The hearing shall be conducted by the presiding Chair of the Board.

Conduct of the hearing shall be informal. The Chair shall be entitled to use their discretion to allow, disallow or strike any evidence or testimony that they feel is irrelevant, unreliable or duplicative. A transcript of the hearing shall be developed. This transcript, along with all evidence presented to and accepted by the Chair shall make up the Administrative Record in that matter. At the close of the hearing, the Board shall enter a written order. Each party shall be responsible for drafting a written order to be submitted to the Board. Alternatively, the Board may draft an order at the close of the hearing.

§ 3.05 Final Agency Action

The written order adopted by the Board shall be the final agency action for the purpose of appeal to Circuit Court.

§ 3.06 Appeals to Circuit Court

The appellant may appeal the final action of the Board to Circuit Court in Faulkner County, Arkansas.

Subchapter 4: Governing Body - Regional Board of Directors

§4.01 Board of Directors

The District shall be governed by a Regional Solid Waste Management Board of Directors ("Board"). The Board shall plan for and oversee the operations, finances and policies of the District and shall have all powers and duties as provided and authorized by state law. Requirements regarding who can be a member of the Board are followed from Ark Code Ann. § 8-6-703.

§4.02 Officers

The general officers of the Board shall consist of no less than five members including a chairman, vice-chairman, secretary and treasurer. Election of officers shall occur at the Annual Meeting and terms of office shall commence on that date and continue until the next Annual Meeting. In the discretion of the Board, any two or more offices may be held by the same person, except that the Chairman may not hold any other office concurrently.

§4.03 Executive Committee

(a) The Board may delegate to an executive committee any of its duties and powers, unless otherwise prohibited by law. The Chairman, Vice-Chairman, Secretary, and Treasurer shall be members of the Executive Committee and shall represent their respective jurisdictions on the Executive Committee. Executive Committee members shall be elected at the annual meeting, and their terms shall commence on that date and continue until the next Annual Meeting.

(b) Consistent with the policies and procedures set forth by the Board, the Executive Committee shall be responsible for budget, operations and management of the District, and shall provide directions to the administrative staff. The Executive Committee is authorized to act on all District activities and affairs, except for electing officers and amending the By-Laws.

(c) Members of the Executive Committee present in person or represented by proxy shall constitute a quorum. All proxies shall be in writing and filed with the Chairman prior to or at the time of the meeting. A majority vote of those members present in person or represented by proxy shall be required for any action of the Executive Committee.

(d) Regular meetings of the Executive Committee shall be held as needed. The meeting date, time, and place shall be determined by the Chairman and will be at a place and time reasonably accessible to all Executive Committee members. Written notice of the Executive Committee meetings shall be given personally or by mail to each member of record not less than two (2) days nor more than sixty (60) days before the meeting.

§4.04 Appointed Committees

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

Subchapter 5: Regional Board Meetings

§5.01 Meetings

(a) Regular meetings of the Board will be held as needed. The meeting date, place, and time shall be determined by the Chairman and shall be held at a place and time reasonably accessible to all Board Members.

(b) Special meetings of the Board may be called at any time by the Chairman, by resolution of the Board, or by not less than five (5) members of the Board.

(c) The Annual Meeting of the Board shall be held during the month of December at a place and time reasonably accessible to all Board Members, as determined by the Chairman.

(d) Written notice of the Board Meetings shall be given personally or by mail to each member of record not less than two (2) days nor more than sixty (60) days prior to the meeting. In case of Special Meetings, this notice shall also include a statement of the purpose or purposes for which the Special Meeting is called and no other business may be transacted or considered at any such Special Meeting.

§5.02 Quorum

A majority of the membership of the Board, present in person or represented by proxy shall constitute a quorum. All proxies shall be in writing and filed with the Chairman prior to or at the time of the meeting. A majority vote of those members present in person or represented by proxy shall be required for any action of the Board.

§5.03 Amendment of Bylaws

The Board's Bylaws may be adopted, amended or repealed at any meeting of the Board by a majority vote of at least two-thirds (2/3) of all Board Members. Written notice of proposed changes to the Bylaws must be sent to Board Members not less than ten (10) days nor more than sixty (60) days prior to the meeting at which the action is to be voted upon.

§5.04 Parliamentary Procedure

Robert's Rules of Order shall govern all meetings of the Board and Executive Committee.

CERTIFICATES OF NEED

CHAPTER B

Subchapter 6: Authority and Criteria

§ 6.01 Authority

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

§ 6.02 Definitions

“Certificate of Need” means a certificate issued by the Board to any person proposing to obtain a permit for a solid waste facility.

“Certificate of Need Review” means review of the application for a Certificate of Need.

“Interested persons” means the applicant and any persons who submit public comments during the review period either in writing or verbally at the public hearing.

“Landfill” means a permitted landfill under the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 *et seq.* As used herein, the term does not include permitted landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry or wastes of a similar kind or character.

“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, semi-solid, 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 by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

“Solid Waste Facility” means a Landfill or Transfer Station as defined in this section.

“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.

§ 6.03 Applicability

The regulations in Chapter B shall apply to every solid waste facility proposed to be located either wholly or partially within the jurisdiction of the District or the expansion of any existing landfill within the jurisdiction of the District. These regulations shall apply to facilities that do not have a pre-application pending with ADEQ for a new permit or modification of an existing permit as of the effective date of these regulations. A certificate of need is not required for landfills where a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry or wastes of similar kind or character.

§ 6.04 Criteria for Review

When reviewing an application for a Certificate of Need, the District will consider the following criteria:

- a. Whether the proposed facility is consistent with the Regional Planning Strategy adopted by the board in the Regional Needs Assessment or the Regional Solid Waste Management Plan;
- b. Whether the proposed facility conflicts with existing comprehensive land plans of any local governmental entities;
- c. Whether the proposed facility disturbs an archeological site as recognized by the Arkansas Archaeological Survey, or a rare and endangered species habitat as recognized by either the Arkansas State Game and Fish Commission or the United States Fish and Wildlife Service;
- d. Whether the proposed facility will adversely affect the public use of any local, state or federal facility, including, but not limited to, parks and wildlife management areas;
- e. Whether the proposed facility conflicts with the requirements of state or federal laws and regulations on the location of disposal facilities;
- f. If the proposed facility is located within the 100-year floodplain, whether it restricts the flow of the 100-year flood, reduces the temporary water storage capacity of the floodplain, or could result in washout of solid waste so as to pose a hazard to human health or the environment;
- g. Whether the proposed facility is appropriately located given the District’s needs and taking into consideration its road system;
- h. For landfills, whether the proposed facility provides landfill disposal capacity needed within the District. In no event, shall the District’s excess projected capacity for any class of landfill exceed thirty (30) years unless the city or county government within whose jurisdiction the proposed landfill is located authorizes through adoption of a resolution approval of the excess capacity;

- i. For transfer stations, whether a public transfer station is located within a twelve-mile radius of the proposed facility and whether sufficient transfer station capacity exists within the proposed service area;
- j. 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;
- k. The service area to be served by the proposed facility; and, whether the applicant followed the procedures for obtaining a Certificate of Need in Subchapter 7.

§ 6.05 Continuing Effect

Upon receipt of a final Certificate of Need from the District, the applicant has 120 days in which to file a pre-application for a solid waste landfill permit with ADEQ. If a pre-application is not filed within 120 days, the Certificate of Need shall expire.

Upon receipt of a Certificate of Need, the applicant has one (1) year in which to file a permit application for a solid waste landfill permit with ADEQ. If a permit application is not filed within one (1) year, the Certificate of Need shall expire.

Certificates of Need are issued to specific persons or organizations. 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.

Subchapter 7: Procedures for Obtaining a Certificate of Need.

§ 7.01 Notice of Intent

At least fifteen (15) days prior to submitting an application for a Certificate of Need, the applicant must notify the District, in writing, of its intent to submit such an application. The Notice of Intent shall include the following information:

- a. The name of the applicant;
- b. The applicant's address and telephone number;
- c. Whether the applicant is seeking a new or modified solid waste facility permit and the classification of the permit sought;
- d. The site of the proposed facility;
- e. A description of the geo-political area to be the proposed facility, including population estimates by jurisdiction;
- f. For landfills, confirmation from the ADEQ that the applicant has requested a statement concerning the current and proposed solid waste landfill disposal capacity respective to the area and landfill class being proposed.

§ 7.02 Application

Persons requesting a Certificate of Need from the District must submit an application to the District. All applications for a Certificate 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 a right to develop such property as a solid waste facility from the legal owner;
- c. The location of the proposed facility as shown on the applicable 7.5° USGS topographic map(s);
- d. The size of the proposed facility and capacity proposed;
- e. A description of the geo-political jurisdictions to be served, including population estimates by jurisdiction;
- f. Documentation that the proposed solid waste facility or modification complies with all of the criteria for evaluation listed in Section 6.04.
- g. For landfills, the current permitted capacity for the appropriate landfill within the district and the estimated increase in permitted capacity for the proposed facility or modification;
- h. For transfer stations, a map showing the location of the proposed facility and all existing transfer stations with a twelve-mile radius around each; and,
- i. Any other information deemed necessary to make a determination of need.

§ 7.03 Completeness Determination

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

§ 7.04 Review Period

Once the District has determined that an application for a Certificate of Need is complete, it will so notify the applicant and publish notice of the review period in papers as described in Section 2.02. The review period will begin on the date the completeness determination is made to the applicant to the date of publication of notice of the review period, whichever is later. The review period will run for thirty (30) days. During the review period, public comment will be taken.

§ 7.05 Public Hearing

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

§ 7.06 Determination

At the first scheduled Board meeting following the close of the review period, the Board will consider the application for a Certificate of Need. The Director shall present a recommendation to the Board. Those supporting the issuance of the Certificate of Need and those opposing the issuance of the Certificate of Need will be provided an opportunity to address the Director's recommendation.

Unless the Board has affirmatively issued or denied a Certificate of Need within one-hundred and twenty (120) days of the beginning of the review period, the Certificate of Need will be deemed to have been denied.

The Board shall issue written findings when making a determination. The findings will be sent to the following:

The applicant; ADEQ; and any interested persons who request such findings in writing from the District.

§ 7.07 Appeal of Decision

Any interested person in a Certificate of Need determination shall have the right to appeal the issuance or denial of a Certificate of Need to the Director of ADEQ in accordance

with ADEQ regulations governing such appeals. Only interested persons shall have a right of appeal. An "interested person" is considered only a person that has submitted comments within the review period specified in §7.04.

WASTE TIRE PROGRAM

Chapter C

Subchapter 8: Waste Tire Program

§ 8.01 Notice of Intent

Faulkner County Solid Waste Management District is part of the Inter-District Waste Tire Program and follows ADEQ Regulation 14 for recycling waste tires.

WASTE HAULER PROGRAM

Chapter D

Subchapter 9: Waste Hauler Licenses

§ 9.01 Definitions

“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, semi-solid, 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 33U.S.C. §1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923). Recovered materials as defined by ADEQ Regulation 22.201 are not considered solid waste.

“Solid Waste Hauler” means a Solid Waste Hauler is any person or business engaged in the collection and/or transportation for disposal or storage of solid wastes. Solid Waste Hauler does not include a person transporting their personal household wastes to a permitted facility. Solid Waste Hauler does not include a person hauling only waste tires. Solid Waste Hauler does not include a person transporting solid waste from an industrial facility to its own Class 3 landfill.

There are two types of Solid Waste Haulers:

Type I Haulers are those that haul all categories of nonhazardous solid waste as identified in ADEQ Regulation 22.203;

Type II Haulers are those that haul only Class IV wastes as identified in ADEQ Regulation 22.203.

§ 9.02 Hauler’s License Required

Effective January 1, 2007, no person shall engage in the business of collection and/or transportation of solid wastes in the District without first securing a Solid Waste Hauler’s License from the Board. This does not apply to private individuals who transport their personal household solid waste to a permitted facility.

A Solid Waste Hauler's License shall only be issued to a person, partnership, corporation, association, the State of Arkansas, a political subdivision of the state, an improvement district, a sanitation authority, or another regional solid waste management district.

A Solid Waste Hauler's License is required under the following circumstances:

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

The District may engage in the hauling of solid waste within the District without a license, but shall comply with all applicable standards required in Section 2(b).

All Solid Waste Haulers' Licenses shall be issued for a period not to exceed one (1) year. Licenses shall run from January 1st through December 31st of each year. Applications for a license shall be mailed out by the District to each hauler and post marked no later than November 1st if said applications are not mailed out by November 1st then the deadline to submit such shall be extended accordingly. Application packets shall be returned to the District no later than December 15th of each year except as stated above. A solid waste hauler's license issued by the District does not supersede any local government's issuance of an exclusive franchise for hauling within its' boundaries.

§ 9.03 Standards

- a. All collection and transportation systems shall meet the conditions outlined below. Failure to comply with these conditions may result in a revocation of the hauler license.
- b. All persons driving collection and/or transportation vehicles shall hold the appropriate driver's license as required by state law.
- c. Solid wastes shall be collected and transported so as to prevent public health hazards, environmental hazards, safety hazards, and nuisances and shall be kept in a sanitary condition.
- d. Collection and transportation equipment shall be designed and constructed so as to be leak-proof. The waste shall be suitably enclosed or covered so as to prevent roadside littering, attraction of vectors or creation of other nuisances, in accordance with ADEQ Regulation 22. This means that vehicles must have either: enclosed waste storage areas; or for vehicles with open waste storage areas, such as caged pickups, they must be tarped when traveling in excess of 35 miles per hour. Haulers should require customers to utilize animal resistant containers and bags of suitable strength to reduce tearing and spilling of litter.

- e. Collection and transportation of chemicals, medical wastes, poisons, explosives, radiological wastes and other hazardous materials shall be in accordance with the requirements of state and federal regulatory controls.
- d. All solid wastes collected shall be transported to a permitted facility in Accordance with ADEQ Regulation 22.
- f. All vehicles hauling solid waste within the District shall display the registration sticker issued by the District near the driver's side door and in plain sight. In addition, beginning January 1, 2007, all licensed vehicles must display both the business name and phone number in letters no less than 2 inches high on both sides of the vehicle.
- g. Service shall be provided at a minimum once a week (Commercial Haulers). Haulers may skip hauling on major holidays, provided they provide service to those customers affected during that week. Customers should be provided a minimum of two weeks notice of any change in collection schedule. Inclement weather may excuse haulers from this provision.
- h. Haulers are responsible for cleaning up any spills and/or loose trash caused by the hauler. Haulers may provide service in any zone they wish. When licensing, haulers will be required to indicate in which zones they wish to provide service. A hauler who indicates that they provide service in a zone must provide service to any customer within that zone that requests it, unless that hauler can show good cause why they will not. Good cause may be a history of failing to pay bills or other dispute between the customer and hauler. The location of the customer will not be considered good cause.

§ 9.04 Licensing Procedures

Any person/business subject to § 9.03 shall register annually with the District on a form prescribed by the District.

All persons engaged in the business of collection or transportation of solid wastes within the District must register such business with the District by December 15th of each year and provide the following information:

Business/Commercial Haulers:

Name of Company
 Business Address
 Mailing Address
 Contact Person
 Phone Number
 E-mail Address
 Fax Number
 Make Model and Year of each vehicle being licensed
 License Plate Number
 Insurance Provider
 Area Serviced (Zone)

Any person applying for a license must establish financial responsibility to the District. Proof of liability insurance will be required and may be considered adequate financial responsibility.

Licenses are non-transferable and non-reusable. If a licensed hauler replaces a registered vehicle with another vehicle during the year, the District shall be notified and the information in § 9.04(c) above shall be provided for both vehicles. A new registration sticker shall be provided for the new vehicle. The hauler shall remove the registration sticker from the disposed vehicle and if the hauler brings in the old sticker to the District a new one will be issued at one half the original cost for the new vehicle.

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

§ 9.05 Fees

Fees shall be assessed as follows:

- a. A minimum fee of \$100.00 is required and will license up to the first two (2) vehicles annually.
- b. An additional fee of \$50.00 per vehicle ~~per year~~ will be assessed for the third and all subsequent vehicles ~~up to a maximum fee of \$1,000.00~~ annually.
- c. Fees for new licenses or additional units will be pro-rated based on the number of full months remaining in the calendar year.
- d. Haulers Licensing after the deadline imposed herein shall be assessed a penalty measured from fourteen (14) days after the due date as follows:
 - a. One (1) to sixty (60) days late – twenty-five percent (25%) of the License fee.
 - b. Sixty-one (61) to ninety (90) days late – fifty percent (50%) of the License fee.
 - c. Ninety-one (91) days and later – one hundred percent (100%) of the License fee.

§ 9.06 Penalties

- a. Registration
 - a. Failure to register under these regulations constitutes a misdemeanor under Ark. Code Ann. § 8-6-722. Upon conviction the person shall be subject to imprisonment for not more than thirty (30) days or a fine of not more than one thousand dollars (\$1,000.00), or both imprisonment and fine. Additionally, failure to register may subject the hauler to administrative penalties of not more than five hundred dollars

(\$500.00) and two points for the first offense and not more than one thousand dollars (\$1000.00) and four points for subsequent offenses. Each day or part of any day during which a violation is continued or repeated shall constitute a separate offense.

b. Compliance

- a. Failure to comply with any other part of this subchapter constitutes a misdemeanor under Ark. Code Ann. § 8-6-722. Upon conviction the person shall be subject to imprisonment for not more than thirty (30) days or a fine of not more than two hundred fifty dollars (\$250.00) for the first offense, five hundred dollars (\$500.00) for a second offense and one thousand dollars (\$1,000.00) for subsequent offenses, or both imprisonment and fine. Each day or part of any day during which a violation is continued or repeated shall constitute a separate offense.

c. Collection

- a. Failure to collect trash in a sanitary manner, failure to provide services paid for without good cause, failure to provide service when requested without good cause, failure to submit adequate trust fund fees under Section § 9.08, or failing to properly dispose of wastes collected may subject the hauler to administrative penalties of not more than two hundred and fifty dollars (\$250.00) and one point for the first offense and not more than five hundred dollars (\$500.00) and two points for subsequent offenses.

d. Registration Sticker

- a. Failure to display the registration sticker, failure to notify the District of additional trucks, failure to display the haulers name and telephone number on the sides of vehicles, or other administrative violations may subject the hauler to administrative penalties of not more than one hundred dollars (\$100.00) and one point for the first offense and not more than two hundred and fifty dollars (\$250.00) and two points for subsequent offenses.

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

§ 9.07 Revocation and Suspension

The District may revoke or suspend a Hauler's License under the following conditions.

- a. The District may suspend a Hauler's License for (6) six months if they are assessed penalties totaling five points within a (12) twelve month period.
- b. The District may suspend a hauler's license for (12) twelve months if they are assessed penalties totaling ten points within a (12) twelve month period.

- c. The District may permanently revoke a hauler's license if they are assessed penalties totaling fifteen points within a (12) twelve month period.
- d. The District may permanently revoke a hauler's license if they are suspended for more than (12) twelve months in any (36) thirty-six month period.

§ 9.08 Waste Hauler Trust Fund

There shall be established on the books of the District a fund to be known as the Waste Hauler Trust Fund. Monies deposited in this fund shall be kept in a separate depository account.

- a. 50% of fees collected by the District as Waste Haulers Licensing fees shall be deposited into the Waste Hauler Trust Fund.
- b. Deposits shall be made until the Waste Hauler Trust Fund reaches \$25,000.00. After that, all Waste Haulers Licensing fees shall be deposited into the District's general funds. If the Waste Hauler Trust Fund balance drops below \$25,000.00, deposits will resume until the fund reaches \$25,000.00 again.
- c. Money deposited into the Waste Hauler Trust Fund shall be used exclusively to provide service by another hauler, for a period of thirty (30) days, to any area in which a hauler has abandoned such area of service in which customers have pre-paid said hauler; the balance, if any, to be refunded to the customer. Accumulated interest may be used to promote awareness of rural trash hauling services. In the event it is determined that said fund is no longer needed, in whole or in part then said fund shall, with interest, (unless expended as authorized herein) be returned to the District's general funds.
- d. In order to qualify for service using Fund proceeds, the customer must demonstrate proof of payment. Service will only be provided for the length of time paid for but not received.
- e. Any hauler who fails to provide service to a customer, who then qualifies for reimbursement under these provisions, shall be permanently barred from further waste hauling within the District.

SOLID WASTE FACILITIES

CHAPTER E

Subchapter 10: General

All landfills located within Faulkner County must conform to the requirements set forth in Arkansas Regulation No. 22; Solid Waste Management Rules of the Arkansas Pollution Control and Ecology Commission.

SOLID WASTE ASSESSMENT

CHAPTER F

Subchapter 11: Assessment

§ 11.01 Applicable Waste

Starting January 1, 2007 there shall be assessed a fee, to be paid to the District, on all solid waste generated within the District; or generated outside the District and brought to a processing or disposal facility within the District.

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

This fee will not be applied to 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; to any recyclable materials which are processed and marketed for recycling; to any organic materials which are delivered to a Class Y or O composting facility; to any materials which are removed from solid waste and processed for recycling; to waste tires processed through the District's waste tire program; or to household wastes collected through the District's HHW program that is handled as Subtitle C waste.

§ 11.02 Fee Amount

The amount of the fee assessed shall be \$1.50 per ton. Each landfill located within the District shall have scales and shall weigh all solid waste received at the facility and fees shall be paid on a per ton basis.

Subchapter 12: Procedures

§ 12.01 Landfills

Any landfill located within the District shall pay an amount equal to the per ton fee in Section § 11.02 times the number of tons of solid waste handled. Such fee will be paid according to the schedule listed in Section 12.07.

§ 12.02 Solid Waste Material Recovery Facility

Any Solid Waste Material Recovery Facility located within the District shall pay to the District an amount equal to the per ton fee amount in Section §11.02 times the number of tons of solid waste handled. Such fee will be paid according to the schedule listed in Section §12.07.

Any waste handled by a solid waste material recovery facility that is delivered to a landfill within the District shall be exempt from the fees imposed by this Section.

§ 12.03 Class S Composting Facilities

Any Class S composting facility located within the District shall pay to the District an amount equal to the per ton fee amount in Section § 11.02 times the number of tons of solid waste handled. Such fee will be paid according to the schedule listed in Section §12.07.

Any waste handled by a class S composting facility that is delivered to a landfill within the District shall be exempt from the fees imposed by this Section.

§ 12.04 Transfer Stations

Any transfer station located within the District shall pay to the District an amount equal to the per ton/yard fee amount in Section §11.02 times the number of tons/yards of solid waste handled.

Any waste handled by a transfer station that is delivered to a landfill, Solid Waste Material Recovery Facility to class S composting facility within the District shall be exempt from the fees imposed by this Section.

§ 12.05 Sludge/Other Material

Any hauler who collects and/or transports sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, generated within the District shall be required to submit the applicable fee in

Section § 11.02 times the number of tons waste transported , to the District according to the schedule in § 12.07.

§ 12.06 Out-of-District Haulers

Any hauler who collects solid waste generated within the District but transports it out of district for processing or disposal shall be required to submit the applicable fee in Section § 11.02 times the number of tons/yards of waste transported, to the District according to the schedule in § 12.07.

Additionally, the Arkansas Department of Environmental Quality requires out-of-state disposal fees to be paid as per Regulation 11: Chapter Two: Solid Waste Management Landfill and Out-of-State Transporter Disposal Fee System.

A.C.A. § 8-6-606(b)

(1):for all solid waste generated and transported within the state but to be disposed of outside the state, there is imposed on each such solid waste transporter a solid waste transportation fee of twenty-five cents (25¢) for each uncompacted cubic yard of solid waste and forty-five cents (45¢) for each compacted cubic yard of solid waste transported.
(2) If a solid waste transporter chooses to operate on a weight basis, the solid waste transporter fee shall be one dollar and fifty cents (\$1.50) for each ton of solid waste transported in the state.

§ 12.07 Schedule

Fees shall be ~~paid to the District quarterly~~collected as follows:

On or before January 15, April 15, July 15, and October 15 of each year, each landfill facility permittee shall pay to the District the full fee amount owed for the preceding quarter.

- ~~a. For all waste handled during the months of January-March payment will be due by May 15th .~~
- ~~b. For all wastes handled during the months of April-June, payment will be due by August 15th .~~
- ~~c. For all wastes handled during the months of July-September, payment will be due by November 15th.~~
- ~~d. For all wastes handled during the months of October-December, payment will be due by February 15th.~~

Fees must be submitted along with a form, provided by the District.

§ 12.08 Recycling Credits

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

Solid Waste Material Recovery Facility:

- a. A Solid Waste Material Recovery Facility may take credit for any materials they have previously paid a fee on if they can demonstrate that those materials were later shipped for recycling or converted to compost.

Class S Composting Facility:

- a. A Class S Composting Facility may take credit for any materials they have previously paid a fee on if they can demonstrate that those materials were later shipped for recycling or converted to compost.

Subchapter 13: Compliance and Enforcement

§ 13.01 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 Chapter F.

§ 13.02 Penalties

A penalty of up to \$1,000.00 per violation per day of violation may be assessed against any person violating the provisions of Chapter F.

§ 13.03 Enforcement

The Director is authorized to seek approval of the Board to institute legal and/or equitable action in the appropriate courts to enforce any violations of Chapter F.

§ 13.04 Inspections and Information Gathering

Any Solid Waste Facility or Solid Waste Hauler shall, upon the request of any District designated person, furnish information relating to any activity at the facility or business and permit such person at all times to have access to, and to copy all records relating to such activity. Any District designated person shall be allowed access to all requested records during normal business hours.

§ 13.05 Severability

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

Chairman

Secretary/Treasurer

September 13, 2011

FCSWMD

09.13.1109.21.12

Rules and Regulations