

# FAULKNER COUNTY SOLID WASTE MANAGEMENT DISTRICT



## Rules and Regulations

**RULES AND REGULATIONS OF THE  
FAULKNER COUNTY SOLID WASTE MANAGEMENT DISTRICT**

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# 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 of 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.

