

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION



REGULATION NO. 28

REGULATION OF THE STATE OF ARKANSAS FOR COUNTY RECYCLING PROGRAMS

**Approved by the Pollution Control and Ecology Commission
On December 3, 2004**

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CHAPTER 1 SCOPE, AUTHORITY AND PURPOSE

Reg.28.101 Scope

This regulation contains the rules and procedures for the establishment or designation of adequate recyclable materials collection centers or systems in counties in the State of Arkansas.

Reg.28.102 Authority

These regulations are issued by the Arkansas Pollution Control & Ecology Commission pursuant to A.C.A. § 8-6-701, et seq.

Reg.28.103 Purpose

The purpose of this regulation is to establish, as required by A.C.A. § 8-6-720(b), minimum requirements for adequate recyclable materials collection centers or systems which are convenient for persons to use and which will provide citizens of the State of Arkansas the opportunity to recycle.

CHAPTER 2 DEFINITIONS

Reg.28.201 Definitions

For the purpose of this regulation, the following definitions apply:

Board or Regional Board - means a regional solid waste management board, established pursuant to A.C.A. § 8-6-701, et seq.;

Centers of Commerce - means locations where residents of a county go to school, work, shop, or conduct business;

Commission - means the Arkansas Pollution Control and Ecology Commission;

Convenient - means a curbside system of collection; collection centers, whether public, private, or nonprofit, which are accessible to residents on the way to centers of commerce; or any other method of collection which, upon petition by the board to the Director, is deemed readily accessible to the general public for the purpose of recycling;

Department - means the Arkansas Department of Environmental Quality or its successors;

Director - means the Director of the Arkansas Department of Environmental Quality;

District - means a regional solid waste management district, as established pursuant to A.C.A. § 8-6-701, et seq.;

End User - means a business or manufacturer which takes recyclable materials and alters or converts them into new materials or products;

Intermediate Processor - means a company or material recovery facility that purchases or otherwise accepts recyclable waste materials and, after processing, sells them to an end user;

Nontraditional Working Hours - means days and hours of the week other than 8:00 a.m. to 5:00 p.m. Monday through Friday;

Opportunity to Recycle - means the availability of a curbside system of collection; or collection centers at sites which are convenient for persons to use;

Recyclable Materials or Recyclables - means those materials from the solid waste stream that can be recovered for use in present or reprocessed form;

Recyclable Materials Collection Center or Collection Center - means a facility which receives or stores recyclable materials prior to transportation to material recovery facilities, markets for recycling, or disposal;

Recyclable Materials Collection System or Collection System - means a type of recyclables collection which does not include the direct use of a recyclable materials collection system by the general public. Collection systems include curbside, house-to-house, and other such

collection services provided to the general public, which directly receive and transport recyclable materials collection centers, material recovery facilities, or markets;

Recycling - means the systematic collection, sorting, decontaminating, and returning of solid waste materials to commerce as commodities for use or exchange.

CHAPTER 3 DUTIES OF BOARDS

Reg.28.301 Duties of Boards

As required by A.C.A. § 8-6-720, each regional solid waste management board shall provide residents of its district the opportunity to recycle by establishing or designating in each county of the district at least one collection center or system which meets the requirements contained in Chapter Four and Chapter Five below. Each board must incorporate into its solid waste management plan its proposal for fulfilling this mandate.

CHAPTER 4 COLLECTION CENTERS REQUIREMENTS

Reg.28.401 Location

Collection centers shall be located in or near each county's centers of commerce, to be situated at convenient waste transfer or disposal facilities, or at existing recycling facilities or intermediate processors, whether public, private, or nonprofit. Other locations may be deemed convenient by the Director upon petition by the Board.

Reg.28.402 Operating Hours

Collection centers shall be open a minimum of eight hours per month during nontraditional working hours, with operational hours otherwise not limited.

Reg.28.403 Quality Control

Collection centers shall be attended by paid workers or volunteers on a periodic basis to ensure quality control of the recyclables collected and the dissemination of educational materials and information to users. The proposed number of hours the collection center is to be attended shall be submitted to the Department for review and approval. "Attended" does not include the servicing or cleaning of the recyclables collection area unless workers are also available to provide educational materials and information to users.

Reg.28.404 Marketing Materials Requirement

Collection centers shall ensure that collected materials are transported and marketed to either intermediate processors or to end users. Boards shall not prevent a person generating or collecting recyclable materials from delivering the recyclable materials to a recycling facility, an intermediate processor, or an end user of their choice.

Reg.28.405 Grant Use Requirements

The disposal option granted in A.C.A. § 8-6-702 (10) may be used only for residue from the decontaminating of collected materials or if markets are determined by the Director, in consultation with the State Marketing Board for Recyclables, to be unavailable for the collected materials. If markets are determined to be available by the Director, collected recyclables must be marketed.

Reg.28.406 Public Awareness

Boards shall provide information to the public describing how, when, and where materials may be deposited for recycling, including an ongoing promotional and educational program which encourages source separation. Each Board shall submit to the Department a description of promotional and educational programs and copies of printed educational material for inclusion in the Recycling Division's library. The information should include all facilities within the District that accept recyclable materials.

Reg.28.407 Required Recyclable Material

Three (3) or more materials shall be collected from the list of recyclable materials contained in Reg.28.602 (A) through (I) or authorized under (M). (Whole tires, lead-acid batteries, and yard waste may be collected at the same collection center, but will not apply toward one of the three required materials in this regulation.) Since paper comprises over 40 percent of the solid waste stream, the Department encourages the collection of at least one type of paper as one of the three required materials for recycling.

Reg.28.408 Adequate Existing County Recycling Facilities

Boards are to determine if existing recycling facilities are adequate, whether public, private-for-profit, or nonprofit. Boards shall designate those determined to be adequate as collection centers. In the event existing recycling facilities do not accept the minimum number of materials, boards are to encourage existing recycling facilities to accept at a minimum three recyclable materials contained in Reg.28.602 (A) through (I) or authorized under (M) in order to qualify for designation as a recyclables collection center. If existing recycling do not or cannot meet these requirements, two recycling facilities may be jointly designated by the board, provided that a minimum of three recyclable materials contained in Reg.28.602 (A) through (I) or authorized under (M) are collected by the combined locations.

Reg.28.409 County Exemption Procedures

If existing recycling materials are not adequate, boards are to establish at least one recyclable materials collection center in each county of the district, unless granted an exemption by the Commission, as provided in A.C.A. § 8-6-720(a)(2). An exemption may be granted if a county is adequately served by a recyclable materials collection center in another county. A written agreement, complying with A.C.A § 8-6-709 and entered into by the affected recycling centers, counties, and boards, which describes the sharing arrangement, must be presented to the Commission before the Commission may approve an exemption.

CHAPTER 5 COLLECTION SYSTEMS REQUIREMENTS

Reg.28.501 Minimum Requirements for Collection Systems

Curbside or house-to-house collection systems, or any other types of collection systems, if used instead of a recyclable materials collection center to satisfy the requirements of this regulation, shall be made available to every household in the county. The minimum requirements of this regulation may be met by a collection system used in conjunction with a collection center, provided that every resident of the county has the opportunity to conveniently recycle three (3) or more materials from the list in Chapter Six.

Reg.28.502 Public Awareness

Boards shall provide information to the public describing how, when, and where materials may be placed for collection, and shall provide an ongoing promotional and educational program. Each board shall submit to the Department a description of promotional and educational programs and copies of printed educational materials for inclusion in the Recycling Division's library.

Reg.28.503 Required Recyclable Material

Three or more materials shall be collected from the list of recyclable materials contained in Reg.28.602 (A) through (I) or authorized under (M). (Whole tires, lead-acid batteries, and yard waste may be collected as part of the system, but will not apply toward one of the three required materials in this regulation.) Since paper comprises over 40 percent of the solid waste stream, the Department encourages the collection of at least one type of paper as one of the three required materials for recycling.

Reg.28.504 Adequate Existing County Recycling Systems

Boards are to determine if existing recycling systems are adequate, whether public, private-for-profit, or nonprofit. Boards shall designate those determined as adequate as recyclable materials collection systems. In the event existing recycling systems do not accept the minimum number of materials, boards are to encourage existing recycling systems to accept at a minimum three materials from the list of recyclable materials contained in Reg.28.602 (A) through (I) or authorized under (M) in order to qualify for designation as a recyclable materials collection system.

Reg.28.505 County Exemption Procedures

If existing recycling systems are not adequate, boards are to establish at least one recyclable materials collection center or system or combination of the two in each county of the district, unless granted an exemption by the Commission, as provide in A.C.A. § 8-6-720(a)(2) and there is a written agreement between the affected counties and board(s), as set forth in A.C.A. § 8-6-709.

CHAPTER 6 ACCEPTABLE RECYCLABLE MATERIALS

Reg.28.601 Required Recyclable Material

Three or more materials shall be collected from the list of recyclable materials contained in Reg.28.602 (A) through (I) or authorized under (M). (Whole tires, lead-acid batteries, and yard waste may be collected as part of the collection system, but will not apply toward one of the three required materials in this regulation.) Since paper comprises over 40 percent of the solid waste stream, the Department encourages the collection of at least one type of paper as one of the three required materials for recycling.

Reg.28.602 Acceptable Recyclable Materials

- (A) Metals
- (B) Newspaper
- (C) Corrugated Cardboard or Paperboard
- (D) Office Papers
- (E) Glass
- (F) Plastic
- (G) Used Motor Oil
- (H) White Goods
- (I) Electronics
- (J) Whole Tires
- (K) Yard Waste
- (L) Lead Acid Batteries
- (M) Other materials will be considered on a case-by-case basis, upon petition by the Board to the Director. The Director will use the following criteria in his review of "other" materials:
 - (1) Percentage material represents of the user area waste stream, as documented by the Board;
 - (2) Toxicity of the item

CHAPTER 7 REPORTING REQUIREMENTS

Reg.28.701 Annual Reporting

Reports containing the following information must be filed on or before July 15 for the preceding twelve months by the designated collection center(s) or system(s) to the appropriate Board(s) of jurisdiction, documenting the following data:

- (A) Amounts recycled by weight and volume;
- (B) Dates and hours of operation (prove minimum requirement);
- (C) Attended hours of operation (Prove Director-approved minimum requirement);
- (D) Educational materials provided or educational system used to promote the program (Only if different from last report);

Reg.28.702 Survey Requirement

Boards shall compile a summary of the information required in Reg.28.601 and submit it to the Department on or before August 15 for the preceding twelve months.

Reg.28.703 Waste Minimization Report

Boards shall determine and include in the August 15 summary report to the Department, the percentage of the district's waste stream represented by the total amounts recycled during the previous calendar year. This data is required to document progress toward the State's recycling goals as provided in A.C.A. § 8-9-101

CHAPTER 8 SEVERABILITY

Reg.28.801 Severability

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

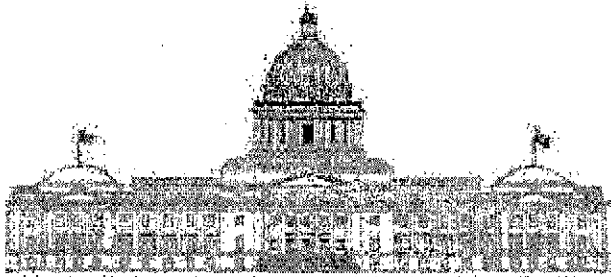
CHAPTER 9 EFFECTIVE DATE

Reg.28.901 Effective Date

This regulation is effective ten (10) days after filing with the Secretary of State, the State Library, and the Bureau of Legislative Research.

ARKANSAS REGISTER

Transmittal Sheet



Charlie Daniels
Secretary of State
State Capitol Room 026
Little Rock, Arkansas 72201-1094
(501) 682-3527

For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Environmental Quality

Department Arkansas Pollution Control and Ecology Commission

Contact Deborah Pitts E-mail Pitts@ADEQ.state.ar.us Phone (501) 682-0883

Statutory Authority for Promulgating Rules Ark. Code Ann. §§ 8-1-203(b)(1) and 8-6-708

Rule Title: Regulation No. 28, County Recycling Programs; Docket No. 04-004-R

Intended Effective Date

☐ Emergency

☒ 10 Days After Filing

☐ Other _____

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

07/28/04

09/14/04

09/16/04

12/03/04

☒ Electronic Copy of Rule Provided (per Act 1648 of 2001)

☐ Electronic Copy of Rule to be e-mailed from: _____

Contact Person

Email Address

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

Michael O'Malley
Signature

(501) 682-7890

omalley@adeq.state.ar.us

Phone Number

E-mail Address

Administrative Hearing Officer

Title

12/13/04

Date

FILED
AR. REGISTER DIV.
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LITTLE ROCK, ARKANSAS
BY _____

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December 13, 2004

RECEIVED
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BUREAU OF
LEGISLATIVE RESEARCH

Ms. Donna Davis
Administrative Rules and Regulations Committee
Room 433, State Capitol Building
Little Rock, AR 72201

Re: Regulation No. 28, (Regulations of the State of
Arkansas for County Recycling Programs);
Docket No. 04-004-R

Dear Ms. Davis:

I am enclosing the following for filing with your office:

1. Two (2) hard copies of the amendment to Regulation No. 28, (Regulations of the State of Arkansas for County Recycling Programs).
2. Two (2) copies of Minute Order No. 04-27
3. Two (2) copies of the Financial Impact Statement.

Please provide written confirmation of your receipt of these materials by file-marking the enclosed copy of this letter and returning it to me.

Thank you for your assistance in this matter.

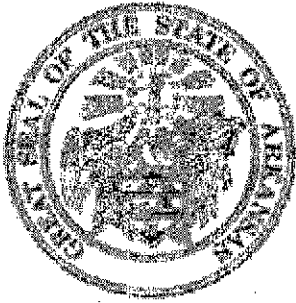
Respectfully,

Michael O'Malley

Michael O'Malley
Administrative Hearing Officer

Enclosures

ARKANSAS STATE LIBRARY



Agency Certification Form For Depositing Final Rules and Regulations At the Arkansas State Library

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For Office Use Only		
Effective Date:		Classification Number:
Name of Agency: Arkansas Department of Environmental Quality		
Contact Person: Deborah Pitts		Telephone: (501) 682-0883
Statutory Authority for Promulgating Rules: Ark. Code Ann. §§ 8-1-203(b)(1) and 8-6-708		
Title of Rule: Regulation No. 28 – Regulation of the State of Arkansas for County Recycling Programs; Docket No. 04-004-R; Minute Order No. 04-27		
Rule Status	Effective Date Status	Effective Date
☐ New Rule/Regulation	☐ Emergency	
☒ Amended Rule/Regulation	☒ 10 Days after filing	December 23, 2004
☐ Repealed Rule/Regulation	☐ Other	
☐ Order	☐ Repealed	
☐ Emergency Rule/Regulation	Adopted by State Agency	
☐ Rule above is proposed and will be replaced by final version		
☒ Financial and/or Fiscal Impact Statement Attached		
Certification of Authorized Officer		
I hereby certify that the attached rules were adopted in compliance with Act 434 of 1967 as amended.		
Signature: <u>Michael D'Malley</u>		Date: <u>12/13/04</u>
Title: <u>Administrative Hearing Officer, Arkansas Pollution Control & Ecology Commission</u>		

ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION

LOCATION-SUBJECT
Adoption of Revisions to
Regulation No. 28

DOCKET NO. 04-004-R

MINUTE ORDER NO. 04 - 07

PAGE 1 OF 1

Pursuant to public notice and hearing, and in consideration of the fact that no public comments were received, the Arkansas Pollution Control and Ecology Commission hereby adopts changes to Regulation No. 28, County Recycling Programs.

PROMULGATED THIS 3rd DAY OF DECEMBER, 2004, BY ORDER OF THE
ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION.

BY:

Randy Quillin
Randy Quillin, Chairman

ATTEST:

Marcus C. Devine
Marcus C. Devine, Director

APPROVED:

Mike Huckabee
Mike Huckabee, Governor

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Chairman

SUBMITTED BY: Deborah Pitts PASSED: 12/3/04