

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION



RULE NO. 28

RULE OF THE STATE OF ARKANSAS FOR COUNTY RECYCLING PROGRAMS

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

TABLE OF CONTENTS

CHAPTER 1 SCOPE, AUTHORITY AND PURPOSE	1-1
Rule 28.101 Scope	1-1
Rule 28.102 Authority	1-1
Rule 28.103 Purpose	1-1
CHAPTER 2 DEFINITIONS	2-1
Rule 28.201 Definitions	2-1
CHAPTER 3 DUTIES OF BOARDS	3-1
Rule 28.301 Duties of Boards	3-1
CHAPTER 4 COLLECTION CENTERS REQUIREMENTS.....	4-1
Rule 28.401 Location.....	4-1
Rule 28.402 Operating Hours	4-1
Rule 28.403 Quality Control.....	4-1
Rule 28.404 Marketing Materials Requirement	4-1
Rule 28.405 Grant Use Requirements	4-1
Rule 28.406 Public Awareness	4-1
Rule 28.407 Required Recyclable Material	4-2
Rule 28.408 Adequate Existing County Recycling Facilities.....	4-2
Rule 28.409 County Exemption Procedures	4-2
CHAPTER 5 COLLECTION SYSTEMS REQUIREMENTS	5-1
Rule 28.501 Minimum Requirements for Collection Systems	5-1
Rule 28.502 Public Awareness	5-1
Rule 28.503 Required Recyclable Material	5-1
Rule 28.504 Adequate Existing County Recycling Systems	5-1
Rule 28.505 County Exemption Procedures	5-1
CHAPTER 6 ACCEPTABLE RECYCLABLE MATERIALS	6-1
Rule 28.601 Required Recyclable Material	6-1
Rule 28.602 Acceptable Recyclable Materials	6-1
CHAPTER 7 REPORTING REQUIREMENTS	7-1
Rule 28.701 Annual Reporting	7-1
Rule 28.702 Survey Requirement	7-1
Rule 28.703 Waste Minimization Report	7-1
CHAPTER 8 SEVERABILITY.....	8-1
Rule 28.801 Severability.....	8-1
CHAPTER 9 EFFECTIVE DATE.....	9-1
Rule 28.901 Effective Date.....	9-1

CHAPTER 1 SCOPE, AUTHORITY AND PURPOSE

Rule 28.101 Scope

This rule 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.

Rule 28.102 Authority

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

Rule 28.103 Purpose

The purpose of this rule 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

Rule 28.201 Definitions

For the purpose of this rule, 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;

Division - means the Division of Environmental Quality or its successors;

Director - means the Director of the Division 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

Rule 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

Rule 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.

Rule 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.

Rule 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 Division 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.

Rule 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.

Rule 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.

Rule 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 Division 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.

Rule 28.407 Required Recyclable Material

Three (3) or more materials shall be collected from the list of recyclable materials contained in Rule 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 rule.) Since paper comprises over 40 percent of the solid waste stream, the Division encourages the collection of at least one type of paper as one of the three required materials for recycling.

Rule 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 Rule 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 Rule 28.602 (A) through (I) or authorized under (M) are collected by the combined locations.

Rule 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

Rule 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 rule, shall be made available to every household in the county. The minimum requirements of this rule 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.

Rule 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 Division a description of promotional and educational programs and copies of printed educational materials for inclusion in the Recycling Division's library.

Rule 28.503 Required Recyclable Material

Three or more materials shall be collected from the list of recyclable materials contained in Rule 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 rule.) Since paper comprises over 40 percent of the solid waste stream, the Division encourages the collection of at least one type of paper as one of the three required materials for recycling.

Rule 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 Rule 28.602 (A) through (I) or authorized under (M) in order to qualify for designation as a recyclable materials collection system.

Rule 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

Rule 28.601 Required Recyclable Material

Three or more materials shall be collected from the list of recyclable materials contained in Rule 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 rule.) Since paper comprises over 40 percent of the solid waste stream, the Division encourages the collection of at least one type of paper as one of the three required materials for recycling.

Rule 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

Rule 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);

Rule 28.702 Survey Requirement

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

Rule 28.703 Waste Minimization Report

Boards shall determine and include in the August 15 summary report to the Division, 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

Rule 28.801 Severability

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

CHAPTER 9 EFFECTIVE DATE

Rule 28.901 Effective Date

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

RECEIVED

By Arkansas Secretary of State at 9:45 am, Dec 15, 2021

ARKANSAS REGISTER



Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**

Secretary of State

John Thurston

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Pollution Control & Ecology Commission

Department Department of Energy and Environment

Contact Michael McAlister E-mail mcalister@adeq.state.ar.us Phone 501-682-0918

Statutory Authority for Promulgating Rules Act 704 of the 93rd General Assembly

Rule Title: Rule 28, " Rule of the State of Arkansas for County Recycling Programs"

Intended Effective Date
(Check One)

Date

☐ Emergency (ACA 25-15-204)

Legal Notice Published

☐ 10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment

☐ Other _____
(Must be more than 10 days after filing date.)

Reviewed by Legislative Council

Adopted by State Agency

12/03/2021

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Peter Alberg

Peter.Alberg@adeq.state.ar.us

12/15/2021

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Charles Moulton
Signature

501-682-7890

moulton@adeq.state.ar.us

Phone Number

E-mail Address

Administrative Law Judge

Title

12/13/2021
Date

2021 DEC 20 AM 10:27

ARKANSAS STATE LIBRARY



Agency Certification Form

For Depositing Rules
At the Arkansas State Library

DOCUMENT SERVICES, ARKANSAS STATE LIBRARY
900 West Capitol Avenue, Suite 100
Little Rock, AR 72201
501-682-2550
aslib-govdocs@ade.arkansas.gov



For Office Use Only

Classification Number:

Name of Agency:

Division/Department/Office:

Arkansas Pollution Control & Ecology Commiss Department of Energy and Environment

Contact Person:

Telephone:

Michael McAlister

501-682-0918

Statutory Authority for Promulgating Rules:

Act 704 of the 93rd General Assembly

Title of Rule:

See attached index of rules amended.

Rule Status	Date Adopted by Agency	Effective Date
Amended <input type="checkbox"/>	12/03/2021	<input type="radio"/> 10 Days After Filing
(Use drop down to select different status)	MM/DD/YYYY	<input type="radio"/> Other: _____ (if other, specify date)

☐

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:

Charles Montoya

Date:

12/14/2021

Title:

Administrative Law Judge

2021 DEC 20 AM 10: 27

ARKANSAS STATE LIBRARY

ARKANSAS POLLUTION CONTROL AND ECOLOGY

COMMISSION RULE AMENDMENTS INDEX

The following rules of the Arkansas Pollution Control and Ecology Commission have been amended following the expedited procedure of Act 704 of the 93rd General Assembly:

- a. Rule 1, "Prevention of Pollution by Oil Filed Waste";
- b. Rule 3, "Licensing of Wastewater Treatment Plant Operators";
- c. Rule 4, "Rule to Require a Disposal Permit for Real Estate Subdivisions in Proximity to Lakes and Streams";
- d. Rule 7, "Civil Penalties";
- e. Rule 9, "Fee Rule";
- f. Rule 11, "Rules for Solid Waste Disposal Fees; Landfill Post-Closure Trust Fund; Solid Waste Management and Recycling Fund Distribution; and Recycling Grant Programs";
- g. Rule 12, "Storage Tanks";
- h. Rule 15, "Arkansas Open-Cut Mining and Land Reclamation";
- i. Rule 17, "Arkansas Underground Injection Control Code";
- j. Rule 18, "Arkansas Air Pollution Control Code";
- k. Rule 20, "The Arkansas Surface Coal Mining and Reclamation Code";
- l. Rule 21, "Arkansas Asbestos Abatement Rule";
- m. Rule 22, "Solid Waste Management Rules";

- n. Rule 26, “Rules of the Arkansas Operating Air Permit Program”;
- o. Rule 28, “Rule of the State of Arkansas for County Recycling Programs”;
- p. Rule 29, “Arkansas Brownfield Redevelopment”;
- q. Rule 30, “Arkansas Remedial Action Trust Fund Hazardous Substances Site Priority List”;
- r. Rule 31, “Nonattainment New Source Review Requirements”;
- s. Rule 32, “Environmental Professional Certification”;
- t. Rule 33, “Motor Vehicle Racing Facility Rules”;
- u. Rule 34, “State Water Permit Rule”; and
- v. Rule 36, “Tire Accountability Program”.

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT: Approval
of Amendments to APC &
EC Rules**

Docket No. 21-003-MISC

MINUTE ORDER NO. 21- 18

Pursuant to Act 704 of the 93rd General Assembly, the Arkansas Pollution Control and Ecology Commission hereby grants and approves the Division of Environmental Quality's Motion to Approve Rule Amendments, and approves the amendments to rules which are specifically set forth and contained in the mark-up drafts of rules provided to the Commission with the above-referenced motion; that further, the Commission orders that the existing effective date of each rule shall remain the same and that no substantive changes to these rules are promulgated or intended by these amendments.

**THIS 3RD DAY OF DECEMBER, 2021, BY ORDER OF THE ARKANSAS
POLLUTION CONTROL AND ECOLOGY COMMISSION.**

COMMISSIONERS:

<u>SUA</u>	S. Ausbrooks
<u>AB</u>	L. Bengal
<u>CC</u>	C. Colclasure
<u>JSF</u>	J. Fox
<u>MNG</u>	M. Goggans
	R. McMullen

<u>D.A. by 11</u>	D. Melton
<u>RM</u>	R. Moss, Jr.
<u>RR</u>	R. Reynolds
<u>R</u>	R. Roper
<u>D</u>	D. Vandergriff
<u>WWW</u>	W. Ward

10.27.21 SUBMITTED BY: Michael McAlister DATE PASSED: 12/03/21
R. Roper, Chair