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States' Environmental Justice Statutes: Arkansas



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[AR Code §§ 8-6-1501 – 8-6-1504](#)

Current through the 2022 Fiscal Session of the 93rd Arkansas General Assembly.

§ 8-6-1501. Purpose.

(a) Through extensive legislation since 1989, the State of Arkansas has made significant strides toward a comprehensive and regionalized approach to solid waste management. The General Assembly recognizes the need to develop viable facilities for managing and disposing of the state's solid waste. This subchapter should be construed as a complement to the state's overall regionalization strategy by encouraging an equitable and efficient dispersal of solid waste management facilities to serve the needs of all citizens.

(b) The General Assembly also acknowledges that, while solid waste management facilities are essential, certain types of solid waste management facilities impose specific burdens on the host community. National trends indicate a tendency to concentrate high impact solid waste disposal facilities in lower-income or minority communities. Such high impact solid waste disposal facilities may place an onus on the host community without any reciprocal benefits to local residents. The purpose of this subchapter is to prevent communities from becoming involuntary hosts to a proliferation of high impact solid waste management facilities.

§ 8-6-1502. Definitions.

As used in this subchapter:

(1) "Hazardous substance sites" means the same as set out in § 8-7-503;

(2) "Hazardous waste" means the same as set out in § 8-7-203;

(3)

(A) "High impact solid waste management facility" means, excluding the facilities described in subdivision (3)(B) of this section, any solid waste landfill, any solid or commercial hazardous waste incinerator, and any commercial hazardous waste treatment, storage, or disposal facility.

(B) "High impact solid waste management facility" does not include the following:

(i) Recycling or composting facilities;

(ii) Waste tire management sites;

(iii) Solid waste transfer stations;



(iv) Solid waste landfills which have applications pending for either increased or new acreage or provisions for additional services or increased capacity;

(v) A facility dedicated solely to the treatment, storage, or disposal of solid waste or hazardous waste generated by a private industry when the private industry bears the expense of operating and maintaining the facility solely for the disposal of waste generated by the industry or wastes of a similar kind or character;

(vi) A facility or activity dedicated solely to a response action at a location listed by the state or United States Government as a hazardous substance site;

(vii) An existing facility operating under the interim status of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., or implementing rules of the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., or the Arkansas Hazardous Waste Management Code;¹ or

(viii) Expansion of existing hazardous waste facilities under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., or the Arkansas Hazardous Waste Management Act of 1979, § 8-7-201 et seq., either through increased acreage or provision for additional services or increased capacity;

(4) “Host community” means the closest governmental unit as measured along major facility access roads and highways exercising zoning authority encompassed within a twelve-mile radius of the site of a proposed high impact solid waste management facility;

(5) “Permitting” means any governmental authorization to proceed with construction or operation of a facility or activity required by either state law or local ordinance; and

(6)

(A) “Solid waste” means the same as set out in § 8-6-702.

(B) However, “solid waste” does not include hazardous waste as defined in this section.

§ 8-6-1503. Division's permitting authority.

The Division of Environmental Quality shall not process any application for a permit subject to § 8-6-1504 until the affected local and regional authorities have issued definitive findings regarding the criteria set out in § 8-6-1504.

§ 8-6-1504. Location—Presumption against certain sites.

(a)

(1) There shall be a rebuttable presumption against permitting the construction or operation of any high impact solid waste management facility, as defined in this



subchapter, within twelve (12) miles of any existing high impact solid waste management facility.

(2) This presumption shall be honored by the Division of Environmental Quality, the regional solid waste management board with jurisdiction over the site, and any other governmental entity with permitting or zoning authority concerning any facility.

(b) The presumption in subsection (a) of this section can be rebutted if any of the following is shown:

(1) That no other suitable site for such a high impact solid waste management facility is available within the regional solid waste management district because of the restraints of geology or any other factors listed at § 8-6-706(b)(2); or

(2)

(A) That incentives have prompted the host community to accept the siting of the high impact solid waste management facility.

(B) Such incentives may include, without limitation:

(i) Increased employment opportunities;

(ii) Reasonable host fees not to exceed the prevailing state average;

(iii) Contributions by the high impact solid waste management facility to the community infrastructure, e.g. road maintenance, park development, and litter control;

(iv) Compensation to adjacent individual landowners for any assessed decrease in property values; or

(v) Subsidization of community services.

