

DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY

SUBJECT: Rule No. 1: Prevention of Pollution by Oil Field Waste

DESCRIPTION: The Department of Energy and Environment and the Division of Environmental Quality (DEQ) propose this rulemaking to modify Rule 1: “Prevention of Pollution by Oil Field Waste.” This rulemaking is necessary to streamline the regulation of Class II Disposal and Class II Commercial Disposal wells. The Arkansas Pollution Control and Ecology Commission (Commission) has general rulemaking authority through Ark. Code Ann. § 8-1-203(b)(1)(A), and specific authority to promulgate this rule through Ark. Code Ann. § 8-4-202(a) and (b).

Background

Commission Rule 1: “Prevention of Pollution by Oil Field Waste,” regulates the surface facilities of high volume Class II Disposal and Class II Commercial Disposal Wells. The Oil and Gas Commission (OGC) regulates the disposal wells themselves pursuant to General Rule H-1. Under the present regulatory scheme, operators of these facilities must obtain a permit from DEQ for operation of the surface facilities, and a permit from the OGC to drill and operate the disposal wells. Similarly, the surface facilities are regulated by a different regulatory scheme than the wells themselves. This present structure burdens the operators with regulatory overlap and duplicative permitting.

The Proposed Rule Amendments

The proposed amendment to Rule 1 will remove the regulatory responsibility for regulating and permitting the surface facilities of high volume Class II Disposal and Class II Commercial Disposal Wells. Simultaneously, the OGC is amending Rule H-1 to assume regulation of these same surface facilities. This will enable all of the regulatory responsibility for the operation of Class II wells to be exercised by the Oil and Gas Commission.

Necessity and Practical Impact of Rule Amendments

The rule amendment will eliminate an area of regulatory overlap and create more government efficiency in permitting and regulating Class II disposal wells. The amendment will allow the Oil and Gas Commission to permit and regulate both the Class II wells and the necessary surface facilities. This will allow the operators of these facilities to obtain permits from one government agency and allow the industry to rely upon the regulatory scheme of only the OGC. The rule amendments will ultimately save the State of Arkansas resources through greater regulatory efficiency.

PUBLIC COMMENT: A public hearing was held on August 29, 2024. The public comment period expired on September 8, 2024. The agency has indicated that it received no public comments.

The proposed effective date is December 1, 2024.

FINANCIAL IMPACT: The agency has indicated that the amended rule does have a financial impact. Per the agency, Oil and Gas Commission rules H-1 and B-2 will require approximately 30-35 commercial disposal well operators to obtain a bond to ensure proper clean-up of the surface facilities in the event that the company becomes insolvent and the sites are abandoned. The rules will require bond amounts ranging from \$50 - \$400K depending on the size and characteristics of the surface facility. DEQ is unable to quantify the exact cost that the disposal well operators will incur to purchase these financial assurances, but letters of credit, surety bonds and CD's may be used to satisfy the bond amount.

LEGAL AUTHORIZATION: The Arkansas Pollution Control and Ecology Commission is given and charged with the power and duty to adopt, modify, or repeal, after notice and public hearings, rules implementing or effectuating the powers and duties of the Division of Environmental Quality and the Commission under the Arkansas Water and Air Pollution Control Act, codified at Title 8, Chapter 4 of the Arkansas Code. *See* Arkansas Code Annotated § 8-4-202(a).



DIVISION OF ENVIRONMENTAL QUALITY

Sarah Huckabee Sanders
GOVERNOR

Shane E. Khoury
SECRETARY

Proposed amendment to APC & EC RULE 1: “PREVENTION OF POLLUTION BY OIL FIELD WASTE”

April, 2024

PURPOSE AND AUTHORITY

The Department of Energy and Environment and the Division of Environmental Quality (DEQ) propose this rulemaking to modify Rule 1: “Prevention of Pollution by Oil Field Waste.” This rulemaking is necessary streamline the regulation of Class II Disposal and Class II Commercial Disposal wells. The Arkansas Pollution Control and Ecology Commission (Commission) has general rulemaking authority through Ark. Code Ann. § 8-1-203(b)(1)(A), and specific authority to promulgate this rule through Ark. Code Ann. § 8-4-202(a) and (b).

BACKGROUND

Commission Rule 1: “Prevention of Pollution by Oil Field Waste,” regulates the surface facilities of high volume Class II Disposal and Class II Commercial Disposal Wells. The Oil and Gas Commission (OGC) regulates the disposal wells themselves pursuant to General Rule H-1. Under the present regulatory scheme, operators of these facilities must obtain a permit from DEQ for operation of the surface facilities, and a permit from the OGC to drill and operate the disposal wells. Similarly, the surface facilities are regulated by a different regulatory scheme than the wells themselves. This present structure burdens the operators with regulatory overlap and duplicative permitting.

THE PROPOSED RULE AMENDMENTS

The proposed amendment to Rule 1 will remove the regulatory responsibility for regulating and permitting the surface facilities of high volume Class II Disposal and Class II Commercial Disposal Wells. Simultaneously, the OGC is amending Rule H-1 to assume regulation of these same surface facilities. This will enable all of the regulatory responsibility for the operation of Class II wells to be exercised by the Oil and Gas Commission.

NECESSITY AND PRACTICAL IMPACT OF RULE AMENDMENTS

The rule amendment will eliminate an area of regulatory overlap and create more government efficiency in permitting and regulating Class II disposal wells. The amendment will allow the Oil and Gas Commission to permit and regulate both the Class II wells and the necessary surface facilities. This will allow the operators of these facilities to obtain permits from one government agency and allow the industry to rely upon the regulatory scheme of only the OGC. The rule amendments will ultimately save the State of Arkansas resources through greater regulatory efficiency.

RECOMMENDATION

The Department of Energy and Environment and DEQ recommend that the proposed amendments to Rule 1: “Prevention of Pollution by Oil Field Waste,” be approved.

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF APC & EC RULE 1)
“PREVENTION OF POLLUTION BY OIL)
FIELD WASTE”) DOCKET NO. 24-002-R

RESPONSIVE SUMMARY

Comes now, the Department of Energy and Environment, Division of Environmental Quality (“DEQ”), by and through, Michael McAlister, Managing Attorney, and provides this Responsive Summary as required under Rule No. 8.815 of the Arkansas Pollution Control and Ecology Commission (APC & EC):

1. On July 26, 2024, the APC & EC passed Minute Order 24-11 to initiate rulemaking for amendments to APC & EC Rule 1, “Prevention of Pollution by Oil Field Waste.”
2. On August 3rd and 4th, 2024, the notice of the proposed rule changes, public hearing, and public comment period was published in the Arkansas Democrat-Gazette.
3. On August 29, 2024, at 2:00 p.m., the APC & EC and DEQ held a public hearing regarding the proposed rule changes at 5301 Northshore Drive, North Little Rock, AR 72118. No public comments were offered during the public hearing.
4. The public comment period expired on September 8, 2024, at 4:30 p.m., and no public comments were received during the public comment period.

Respectfully Submitted,


By: 
Michael McAlister, Managing Attorney
Department of Energy and Environment
Division of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72218
(501) 682-0918
Michael.McAlister@arkansas.gov

EXHIBIT B

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT Department of Energy and Environment

BOARD/COMMISSION Division of Environmental Quality

BOARD/COMMISSION DIRECTOR Bailey Taylor

CONTACT PERSON Lauren Ballard

ADDRESS 5301 Northshore Drive, North Little Rock, AR 72118

PHONE NO. (501) 682-0581 EMAIL lauren.ballard@arkansas.gov

NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING
Lauren Ballard Bailey Taylor

PRESENTER EMAIL(S) lauren.ballard@arkansas.gov Bailey.Taylor@adeq.state.ar.us

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?
Rule No. 1," Prevention of Pollution by Oil Field Waste"
2. What is the subject of the proposed rule? To regulate oil fields to prevent any oil field waste from entering in
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

The Arkansas Pollution Control and Ecology Commission has routinely repealed all unnecessary rules. The current rules are all necessary for the exercise of the regulatory authority of the Division of Environmental Quality. This rule amendment is necessary to streamline regulatory authority between the division and the Oil and Gas

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

The Arkansas Pollution Control and Ecology Commission has general rulemaking authority pursuant to Ark. Code Ann. Sec. 8-1-203(b), and specific rulemaking authority under Ark. Code Ann. Sec. 8-4-202(a) and (b).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

Currently, the Oil and Gas Commission (OGC) regulates and permits Class II disposal wells. Under Rule 1, the Division of Environmental Quality regulates and permits the surface facilities of high volume Class II Disposal wells and Class II Commercial Disposal wells. The purpose of the amendment is to allow the OGC to regulate all Class II Disposal Wells and Class II Commercial Disposal Wells, as well as the surface facilities. This will clarify and streamline the regulatory responsibility between the OGC and Division of Environmental Quality in regard to Class II Disposal Wells and Class II Commercial Disposal Wells. Ultimately, this amendment will make the permitting process more efficient for both industry and government regulators, and allow for cost savings by eliminating regulatory overlap.

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

https://www.adeq.state.ar.us/regs/draft_regs.aspx

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: 08/29/2024

Time: 2:00 pm

Place: Commission Room, 5301 Northshore Drive, North Little Rock, AR 72118

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. 09/08/2024

15. What is the proposed effective date for this rule? December, 2024

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Department of Energy and Environment
BOARD/COMMISSION Division of Environmental Quality
PERSON COMPLETING THIS STATEMENT Lauren Ballard
TELEPHONE NO. (501) 682-0581 **EMAIL** lauren.ballard@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Rule No. 1: Prevention of Pollution by Oil Field Waste

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
 - (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$0.00

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$0.00

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$0.00

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$0.00

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

Oil and Gas Commission rules H-1 and B-2 will require approximately 30-35 commercial disposal well operators to obtain a bond to ensure proper clean-up of the surface facilities in the event that the company becomes insolvent and the sites are abandoned . The rules will require bond amounts ranging from \$50 - \$400K depending on the size and characteristics of the surface facility. DEQ is unable to quantify the exact cost that the disposal well operators will incur to purchase these financial assurances, but letters of credit, surety bonds and CD's maybe

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0.00

Next Fiscal Year

\$ 0.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.



DIVISION OF ENVIRONMENTAL QUALITY

Sarah Huckabee Sanders
GOVERNOR

Shane E. Khoury
SECRETARY

Notice of Proposed Rule Changes, Public Hearing, and Comment Period

The Division of Environmental Quality (DEQ) has proposed amendments to Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 1, “Prevention of Pollution by Oil Field Waste” pursuant to Arkansas Code Annotated § 8-1-203(b) and Arkansas Code Annotated §8-4-202(a) and (b). Oral and written comments by stakeholders and the public will be received and made a part of the record during the public comment period.

Pursuant to APC&EC Rule 8, DEQ by this notice solicits comments of any interested party to the proposed rule amendments by submitting comments in writing on or before the end of the public comment period, which is September 8, 2024. All comments should be sent to Carol Booth at the address below.

Full and complete copies of the proposed changes to Rule 1 are available for inspection and review after making an appointment during regular business hours at the DEQ headquarters building, 5301 Northshore Drive, North Little Rock, AR 72118. The proposed rule changes are also available at DEQ information depositories located in public libraries at Arkadelphia, Batesville, Blytheville, Camden, Clinton, Crossett, El Dorado, Fayetteville, Forrest City, Fort Smith, Harrison, Helena, Hope, Hot Springs, Jonesboro, Little Rock, Magnolia, Mena, Monticello, Mountain Home, Pocahontas, Russellville, Searcy, Stuttgart, Texarkana, and West Memphis; and in campus libraries at the University of Arkansas at Pine Bluff and the University of Central Arkansas at Conway.

A public hearing will be held on August 29, 2024, beginning at 2:00 p.m., Central Time, to accept comments on the proposed amendments to Rule 1, “Prevention of Pollution by Oil Field Waste.” The hearing will be held in the Commission Room at the Department of Energy and Environment headquarters building at 5301 Northshore Drive, North Little Rock, AR 72118. The public hearing may be viewed via live broadcast on the E&E YouTube channel at https://www.youtube.com/channel/UCMr_txISHivnxRjg3dmOZ0A. If the hearing is postponed and rescheduled, a new legal notice will be published to announce the details of the new hearing date.

Oral and written comments regarding the rule amendments will be accepted at the hearing, but written comments are preferred in the interest of accuracy. In addition, written and electronic mail comments will be considered if received no later than 4:30 p.m., Central Time, September 8, 2024. Written comments should be delivered or mailed to: Carol Booth, Department of Energy and Environment, 5301 Northshore Drive, North Little Rock, AR 72118. Submit electronic comments on the proposed rule amendments: comment@adeq.state.ar.us.

The proposed amendment to Rule 1, “Prevention of Pollution by Oil Field Waste,” amends the rule to eliminate regulatory overlap with the Oil and Gas Commission in regard to high volume Class II Disposal wells and Class II Commercial Disposal wells. In Rule 1.201, the definitions of “Class II Well,” “Commercial disposal well,” “Disposal system,” “Disposal Well,” “High Volume disposal system,” and “Surface facility” will be eliminated because they will no longer be used in the rule. Rule 1.302 “Permit by Rule, Rule 1.303 “Disposal System Permits,” Rule 1.304 “Violation of Permit Prohibited” and Rule 1.305 “Permits Required” will be eliminated from the rule. Additional non-substantive or clerical revisions are proposed throughout Rule 1 for consistency and clarity.

A complete listing of the proposed changes to Rule 1 can be found on the “Draft Rules” page of the DEQ’s website: https://www.adeq.state.ar.us/regs/draft_regs.aspx under APC&EC Docket No. 24-002-R.

The deadline for submitting written comments on the proposed rule revisions is 4:30 p.m., Central Time, September 8, 2024.

Published August 3rd and 4th, 2024

Bailey Taylor, Interim Chief Administrator of Environment,
Department of Energy and Environment

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

RULE NO. 1

PREVENTION OF POLLUTION BY OIL FIELD WASTE



INITIAL MARK-UP DRAFT

Submitted to the Arkansas Pollution Control and Ecology Commission in
July, 2024

EXHIBIT A

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CHAPTER 1 : GENERAL PROVISIONS

Rule 1.101 Title

This rule shall be known by and may be cited as “Rule No. 1: Prevention of Pollution by Oil Field Waste.”

Rule 1.102 Authority

The legal authority for this rule is the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*

Rule 1.103 Purpose

The purpose of this rule is to prevent any oil field waste, including without limitation salt water, from entering any water of the State.

Rule 1.104 Applicability

This rule applies to ~~any surface-~~ crude oil and gas production facilities ~~associated with a disposal system for~~ capable of generating oil field waste.

CHAPTER 2 : DEFINITIONS

Rule 1.201 Definitions

As used in this rule:

“DEQ” or “Division” means the Division of Environmental Quality or its successor, unless otherwise specified.

“OGC” means the Oil and Gas Commission or its successor.

“APC&EC” means the Arkansas Pollution Control and Ecology Commission or its successor, unless otherwise specified.

~~“Class II Well” means a well in which Class II Fluids are injected.~~

“Class II Fluids” is defined by the Oil and Gas Commission (OGC) and means:

“(A) Produced water and/or other fluids brought to the surface in connection with drilling, completion or fracture treatments, workover or recompletion and plugging of oil, natural gas, Class II or wells that are required to be permitted as water supply wells by the [OGC]; enhanced recovery operations; or natural gas storage operations, or

(B) Produced water and/or other fluids from (A) above, which prior to re-injection have been used on site for purposes integrally associated with well drilling, completion or fracture treatments, workover or recompletions or plugging oil, natural gas, Class II or wells that are required to be permitted as water supply wells by the [OGC]; enhanced recovery operations; natural gas storage operations; or chemically treated or altered to the extent necessary to make them usable for purposes integrally related to well drilling, completion, workover or recompletions or plugging oil, natural gas, Class II or wells that are required to be permitted as water supply wells by the [OGC]; enhanced recovery operations; natural gas storage operations, or commingled with fluid wastes resulting from fluid treatments outlined above, provided the commingled fluid wastes do not constitute a hazardous waste under the Resource Conservation and Recovery Act, or

(C) Waste fluids from gas plants (including filter backwash, precipitated sludge, iron sponge, hydrogen sulfide and scrubber liquid) which are an integral part of oil and gas production operations; and waste fluids from gas dehydration plants (including glycol-based compounds and filter backwash), unless the gas plant or gas dehydration plant wastes are classified as hazardous under the federal Resource Conservation and Recovery Act.”

~~“Commercial disposal well” means a “Class II Commercial Disposal Well” defined by the Oil and Gas Commission as:~~

~~“a permitted Class II well in which Class II Fluids are injected, for which the Permit Holder receives deliveries of Class II Fluids by tank truck from multiple oil and gas well operators, and either charges a fee at the disposal well facility or purchases the Class II Fluids at the source for subsequent transport to the disposal well facility for the specific purpose of disposal of the delivered Class II Fluids.”~~

“Director” means the Director of the Division of Environmental Quality or the Director’s designee, unless otherwise specified.

~~**“Disposal system”** means a system for disposing of oil field waste.~~

~~**“Disposal well”** means a “Class II Disposal Well” defined by the Oil and Gas Commission as:~~

- ~~“(A) A permitted Class II well in which Class II Fluids are injected into zones not productive of oil and gas, and brine used to produce bromine, within the field boundary established by an order of the [OGC] for the production of liquid hydrocarbons or brine used to produce bromine, where the well is located or will be located, for the purpose of disposal of those fluids; or~~
- ~~(B) A permitted Class II well in which Class II Fluids are injected into a zone or zones which are not commercially productive of dry gas, within the same common source of supply, where the well is located or will be located, for the purpose of disposal of those fluids.”~~

~~**“High volume disposal system”** means a disposal system with an on-site storage capacity of greater than 1000 barrels of oil field waste.~~

“Oil field waste” means salt water, other Class II Fluids, crude oil, waste oil, oil sludge, oil water emulsion, or oil bearing mixtures of any kind associated with an oil or gas well, oil or gas production facilities, or disposal systems.

“Person” means any state agency, municipality, governmental subdivision of the state or the United States, public or private corporation, individual, partnership, association, or other entity.

“Pollution” means contamination or other alteration of the physical, chemical, or biological properties of any waters of the state, or discharge of any liquid, gaseous, or solid substance in any waters of the state as will, or is likely to, render the waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wild animals, birds, fish, or other aquatic life.

~~**“Surface Facility”** means all on-site facilities and equipment associated with a disposal system installed or used by the permittee to achieve compliance with this rule.~~

“Waters of the State” means all streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, that are contained within, flow through, or border upon this state or any portion of the state.

CHAPTER 3 : DISPOSAL OF OIL FIELD WASTE

Rule 1.301 Discharge of Oil Field Waste Prohibited

(A) A person who possesses or controls any oil or gas well as contractor, owner, lessee, agent manager, or in any other capacity, shall not allow any oil field waste to be discharged onto the ground or escape in any other manner that results in the flow of oil field waste into any waters of the State, whether by natural drainage, seepage, overflow, or otherwise.

(B) All oil field waste shall be confined or disposed of in a manner that will prevent the discharge or flow of that waste into any waters of the State.

~~Rule 1.302 — Permit by Rule~~

~~A person who operates any surface facility associated with a disposal well that is not a surface facility associated with a commercial disposal well or a high volume disposal system shall be deemed to have a permit by rule for the purposes of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 et seq., if the following conditions are met:~~

- ~~(1) The disposal well is permitted as a disposal well in accordance with the rules promulgated by the Oil and Gas Commission (OGC);~~
- ~~(2) The OGC disposal well permit number and the location for the permitted disposal well is posted at the facility; and~~
- ~~(3) The person who operates the disposal well is in compliance with all applicable rules promulgated by OGC.~~

~~Rule 1.303 — Disposal System Permits~~

~~(A) A person shall not operate any surface facility associated with a commercial disposal well or high volume disposal system in Arkansas unless the person has first submitted to DEQ:~~

- ~~(1) Plans and specifications for a disposal system adequate to prevent the discharge or flow of oil field waste into any of the waters of the State; and~~
- ~~(2) An application for a permit to install and operate the disposal system.~~

~~(B) The Division shall grant or deny the permit under the terms and conditions as it may prescribe for the prevention of pollution of the waters of the State.~~

~~Rule 1.304 — Violation of Permit Prohibited~~

~~A person shall not operate any permitted disposal system in violation of the terms and conditions of the permit as required by this rule.~~

~~Rule 1.305~~ — Permit Required

- ~~(A) A person shall not operate any disposal system without having applied for the appropriate disposal permit or fulfilled all requirements for the permit by rule as required by this rule.~~
- ~~(B) If a proper permit application has been made, the well may be operated pending final action by DEQ.~~
- ~~(C) The operator of the disposal system shall post at the facility the location for the OGC permitted disposal well or OGC permitted commercial disposal well and DEQ disposal system permit number.~~

Rule 1.3062 Disposal of Salt Water

Disposal of salt water shall be accomplished by subsurface discharge through a disposal well regulated by OGC or other disposal methods approved by DEQ.

Rule 1.3073 Surface Disposal Prohibited

Unless otherwise permitted by OGC General Rules or by the approval of both the Directors of DEQ and OGC, surface disposal of oil field waste in earthen pits is prohibited.

Rule 1.3084 Misdemeanor and Public Nuisance

- (A) A person shall not violate any other provision of this rule or of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*
- (B) Violation of any provision of this rule is a misdemeanor and each day's continuance of the violation is a separate offense.
- (C) Any person who violates any provision of this rule is subject to the penalties under the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*
- (D) Pollution of any waters of the State in violation of any provision of this rule is a public nuisance and may be enjoined and abated as provided by law.

CHAPTER 4 : REPEALER, SEVERABILITY, AND EFFECTIVE DATE

Rule 1.401 Repealer

All rules and parts of rules promulgated by the Arkansas Pollution Control and Ecology Commission that are in conflict with this rule are repealed to the extent of the conflict.

Rule 1.402 Severability

The provisions of this rule are severable. If any part of this rule is declared invalid or unenforceable by a court, the remainder of the rule will continue to be valid and enforceable.

Rule 1.403 Effective Date

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

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

RULE NO. 1

PREVENTION OF POLLUTION BY OIL FIELD WASTE



**Approved by the Arkansas Pollution Control & Ecology Commission
September 27, 2024**

EXHIBIT C

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CHAPTER 1 : GENERAL PROVISIONS

Rule 1.101 Title

This rule shall be known by and may be cited as “Rule No. 1: Prevention of Pollution by Oil Field Waste.”

Rule 1.102 Authority

The legal authority for this rule is the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*

Rule 1.103 Purpose

The purpose of this rule is to prevent any oil field waste, including without limitation salt water, from entering any water of the State.

Rule 1.104 Applicability

This rule applies to crude oil and gas production facilities capable of generating oil field waste.

CHAPTER 2 : DEFINITIONS

Rule 1.201 Definitions

As used in this rule:

“**DEQ**” or “**Division**” means the Division of Environmental Quality or its successor, unless otherwise specified.

“**OGC**” means the Oil and Gas Commission or its successor.

“**APC&EC**” means the Arkansas Pollution Control and Ecology Commission or its successor, unless otherwise specified.

“**Class II Fluids**” is defined by the Oil and Gas Commission (OGC) and means:

“(A) Produced water and/or other fluids brought to the surface in connection with drilling, completion or fracture treatments, workover or recompletion and plugging of oil, natural gas, Class II or wells that are required to be permitted as water supply wells by the OGC; enhanced recovery operations; or natural gas storage operations, or

(B) Produced water and/or other fluids from (A) above, which prior to re-injection have been used on site for purposes integrally associated with well drilling, completion or fracture treatments, workover or recompletions or plugging oil, natural gas, Class II or wells that are required to be permitted as water supply wells by the OGC; enhanced recovery operations; natural gas storage operations; or chemically treated or altered to the extent necessary to make them usable for purposes integrally related to well drilling, completion, workover or recompletions or plugging oil, natural gas, Class II or wells that are required to be permitted as water supply wells by the OGC; enhanced recovery operations; natural gas storage operations, or commingled with fluid wastes resulting from fluid treatments outlined above, provided the commingled fluid wastes do not constitute a hazardous waste under the Resource Conservation and Recovery Act, or

(C) Waste fluids from gas plants (including filter backwash, precipitated sludge, iron sponge, hydrogen sulfide and scrubber liquid) which are an integral part of oil and gas production operations; and waste fluids from gas dehydration plants (including glycol-based compounds and filter backwash), unless the gas plant or gas dehydration plant wastes are classified as hazardous under the federal Resource Conservation and Recovery Act.”

“Director” means the Director of the Division of Environmental Quality or the Director’s designee, unless otherwise specified.

“Oil field waste” means salt water, other Class II Fluids, crude oil, waste oil, oil sludge, oil water emulsion, or oil bearing mixtures of any kind associated with an oil or gas well, oil or gas production facilities, or disposal systems.

“Person” means any state agency, municipality, governmental subdivision of the state or the United States, public or private corporation, individual, partnership, association, or other entity.

“Pollution” means contamination or other alteration of the physical, chemical, or biological properties of any waters of the state, or discharge of any liquid, gaseous, or solid substance in any waters of the state as will, or is likely to, render the waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wild animals, birds, fish, or other aquatic life.

“Waters of the State” means all streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, that are contained within, flow through, or border upon this state or any portion of the state.

CHAPTER 3 : DISPOSAL OF OIL FIELD WASTE

Rule 1.301 Discharge of Oil Field Waste Prohibited

(A) A person who possesses or controls any oil or gas well as contractor, owner, lessee, agent manager, or in any other capacity, shall not allow any oil field waste to be discharged onto the ground or escape in any other manner that results in the flow of oil field waste into any waters of the State, whether by natural drainage, seepage, overflow, or otherwise.

(B) All oil field waste shall be confined or disposed of in a manner that will prevent the discharge or flow of that waste into any waters of the State.

Rule 1.302 Disposal of Salt Water

Disposal of salt water shall be accomplished by subsurface discharge through a disposal well regulated by OGC or other disposal methods approved by DEQ.

Rule 1.303 Surface Disposal Prohibited

Unless otherwise permitted by OGC General Rules or by the approval of both the Directors of DEQ and OGC, surface disposal of oil field waste in earthen pits is prohibited.

Rule 1.304 Misdemeanor and Public Nuisance

(A) A person shall not violate any other provision of this rule or of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*

(B) Violation of any provision of this rule is a misdemeanor and each day's continuance of the violation is a separate offense.

(C) Any person who violates any provision of this rule is subject to the penalties under the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*

(D) Pollution of any waters of the State in violation of any provision of this rule is a public nuisance and may be enjoined and abated as provided by law.

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