

ARKANSAS REGISTER

Transmittal Sheet

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



Secretary of State
Mark Martin
State Capitol, Suite 026
Little Rock, Arkansas 72201-1094
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www.sos.arkansas.gov



For Office
Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Pollution Control & Ecology Commission

Department Arkansas Department of Environmental Quality

Contact Kevin White E-mail White@adeq.state.ar.us Phone 501-682-0962

Statutory Authority for Promulgating Rules Ark. Code Ann. §8-4-101 et seq

Rule Title: Regulation No. 1, Prevention of Pollution by Oil Field

Waste; Docket No. 18-005-R, Minute Order No. 18-25

Intended Effective Date _____ Date _____

(Check One)

- | | | |
|--|---------------------------------|-----------------|
| <input type="checkbox"/> Emergency (ACA 25-15-204) | Legal Notice Published | <u>06/28/18</u> |
| <input type="checkbox"/> 30 Days After Filing (ACA 25-15-204) | Final Date for Public Comment | <u>08/16/18</u> |
| <input type="checkbox"/> Other <u>10 Days After Filing</u>
(Must be more than 30 days after filing date.) | Reviewed by Legislative Council | <u>10/15/18</u> |
| | Adopted by State Agency | <u>10/26/18</u> |

Electronic Copy of Rule submitted under ACA 25-15-218 by:

Contact Person _____ E-mail Address _____ Date _____

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 the Arkansas Administrative Procedures 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

11/07/18
Date

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

REGULATION NO. 1

**PREVENTION OF POLLUTION
BY OIL FIELD WASTE**



FILED
AR 10000 DIV.
2018 NOV -7 PM 4:20
MARK MARTIN
SECRETARY OF STATE
STATE OF ARKANSAS

Approved by the Arkansas Pollution Control & Ecology Commission

October 26, 2018

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CHAPTER 1 : GENERAL PROVISIONS

Reg. 1.101 Title

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

Reg. 1.102 Authority

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

Reg. 1.103 Purpose

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

Reg. 1.104 Applicability

This regulation applies to any surface facility associated with a disposal system for oil field waste.

CHAPTER 2 : DEFINITIONS

Reg. 1.201 Definitions

As used in this regulation:

“ADEQ” or “Department” means the Arkansas Department of Environmental Quality or its successor, unless otherwise specified.

“AOGC” means the Arkansas 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 Arkansas Oil and Gas Commission (AOGC) 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 [AOGC]; 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 [AOGC]; 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 [AOGC]; 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 Arkansas 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 Arkansas Department 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 Arkansas 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 [AOGC] 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 regulation.

“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

Reg. 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.

Reg. 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 Arkansas Oil and Gas Commission (AOGC);
- (2) The AOGC 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 AOGC.

Reg. 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 ADEQ:

- (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 Department 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.

Reg. 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 regulation.

Reg. 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 regulation.
- (B) If a proper permit application has been made, the well may be operated pending final action by ADEQ.
- (C) The operator of the disposal system shall post at the facility the location for the AOGC permitted disposal well or AOGC permitted commercial disposal well and ADEQ disposal system permit number.

Reg. 1.306 Disposal of Salt Water

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

Reg. 1.307 Surface Disposal Prohibited

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

Reg. 1.308 Misdemeanor and Public Nuisance

- (A) A person shall not violate any other provision of this regulation 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 regulation is a misdemeanor and each day's continuance of the violation is a separate offense.
- (C) Any person who violates any provision of this regulation 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 regulation is a public nuisance and may be enjoined and abated as provided by law.

CHAPTER 4 : REPEALER, SEVERABILITY, AND EFFECTIVE DATE

Reg. 1.401 Repealer

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

Reg. 1.402 Severability

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

Reg. 1.403 Effective Date

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

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Transmittal Sheet

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Secretary of State
Mark Martin
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Little Rock, Arkansas 72201-1094
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www.sos.arkansas.gov



For Office
Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Pollution Control & Ecology Commission

Department Arkansas Department of Environmental Quality

Contact Kevin White E-mail White@adeq.state.ar.us Phone 501-682-0962

Statutory Authority for Promulgating Rules Ark. Code Ann. §8-4-101 et seq

Rule Title: Regulation No. 1, Prevention of Pollution by Oil Field

Waste; Docket No. 18-005-R, Minute Order No. 18-25

Intended Effective Date
(Check One)

Date

Emergency (ACA 25-15-204)

Legal Notice Published 06/28/18

30 Days After Filing (ACA 25-15-204)

Final Date for Public Comment 08/16/18

Other 10 Days After Filing
(Must be more than 30 days after filing date.)

Reviewed by Legislatice Council 10/15/18

Adopted by State Agency 10/26/18

Electronic Copy of Rule submitted under ACA 25-15-218 by:

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 the Arkansas Administrative Procedures 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

11/07/18
Date

FILED
AR REGISTER DIV.
2018 NOV -7 PM 4:20
SEC. MARK MARTIN
STATE OF ARKANSAS

ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION

101 EAST CAPITOL

SUITE 205

LITTLE ROCK, ARKANSAS 72201

PHONE: (501) 682-7890

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RECEIVED

NOV 7 2018

BUREAU OF
LEGISLATIVE RESEARCH

November 7, 2018

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

RE: Regulation No 1, Prevention of Pollution by Oil Field
Waste; Docket No. 18-005-R; Minute Order No. 18-25 - **FINAL**
FILING.

Dear Ms. Davis:

I am enclosing the following for filing with your office:

1. One (1) hard copy of the amendment to Regulation No 1, Prevention of Pollution by Oil Field Waste.
2. One (1) copy of Commission Minute Order No. 18-25
3. One (1) copy 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,

A handwritten signature in cursive script that reads "Charles Moulton".

Charles Moulton
Administrative Law Judge

Enclosures

ARKANSAS STATE LIBRARY



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

Documents Services • Arkansas State Library
One Capitol Mall • Little Rock, AR 72201-1094
501-682-2326 Phone; 501-682-1532 FAX

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For Office Use Only		
Effective Date:		Classification Number:
Name of Agency: Arkansas Department of Environmental Quality		
Contact Person: Kevin White		Telephone: (501) 682-0962
Statutory Authority for Promulgating Rules: Ark. Code Ann. §8-7-501 et. seq.		
Title of Rule: Regulation 1 Prevention of Pollution by Oil Field Waste; Docket No. 18-005-R; Minute Order 18-25		
Rule Status	Effective Date Status	Effective Date
<input type="checkbox"/> New Rule/Regulation	<input type="checkbox"/> Emergency	
<input type="checkbox"/> Amended Rule/Regulation	10 Days after filing	November 17, 2018
<input type="checkbox"/> Repealed Rule/Regulation	<input type="checkbox"/> Other	
<input type="checkbox"/> Order	<input type="checkbox"/> Repealed	
<input type="checkbox"/> Emergency Rule/Regulation	Adopted by State Agency	
<input type="checkbox"/> Rule above is proposed and will be replaced by final version <input checked="" type="checkbox"/> Financial and/or Fiscal Impact Statement Attached		
<h3>Certification of Authorized Officer</h3> <p>I hereby certify that the attached rules were adopted in compliance with Act 434 of 1967 as amended.</p> <p>Signature: <u><i>Charles Mouton</i></u> Date: <u>November 7, 2018</u></p> <p>Title: <u>Administrative Law Judge</u></p>		

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT: Motion to Adopt
Amendments to Regulation No. 1**

MINUTE ORDER NO. 18- 25

Docket No. 18-005-R

PAGE 1 OF 1

After the public comment period that included public notice and a public hearing; and pursuant to Governor and legislative approval, the Arkansas Pollution Control and Ecology Commission hereby grants ADEQ's Motion to Adopt Amendments to Regulation No. 1: Prevention of Pollution by Oil Field Waste.

PROMULGATED THIS 26th DAY OF OCTOBER 2018 BY ORDER OF THE
ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION.

COMMISSIONERS

<u><i>LB recuse</i></u>	L. Bengal	<u><i>[Signature]</i></u>	B. Holland
<u><i>CC</i></u>	C. Colclasure	<u><i>[Signature] 10/26/18</i></u>	D. Melton
<u><i>JSF</i></u>	J. Fox	<u><i>[Signature]</i></u>	S. Moss, Jr.
<u><i>MJ</i></u>	M. Freeze	<u><i>[Signature]</i></u>	W. Stites
<u><i>[Signature]</i></u>	C. Gardner	<u><i>[Signature]</i></u>	G. Wheeler
<u><i>MMA</i></u>	M. Goggans	<u><i>[Signature]</i></u>	B. White

SUBMITTED BY: Caleb Osborne PASSED: 10/26/18
R. Reynolds - Chair *RECUSED*