

ARKANSAS REGISTER

Transmittal Sheet

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



Secretary of State

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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 1, "Prevention of Pollution by Oil Field Waste"

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

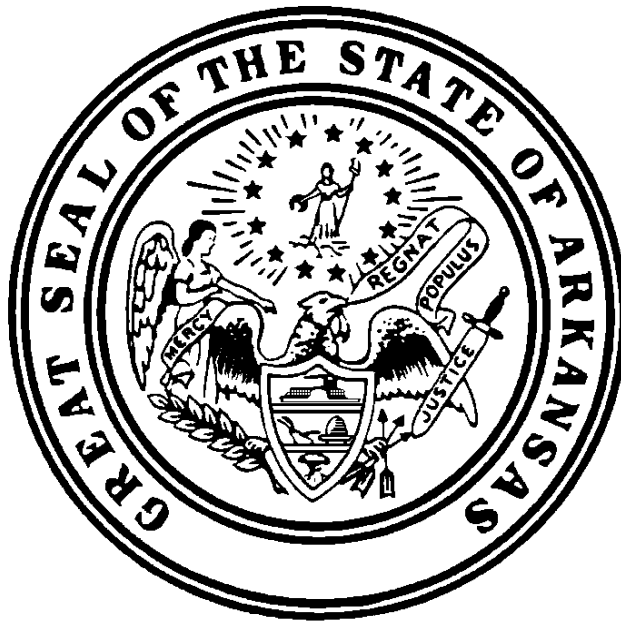
Title

12/13/2021
Date

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

REGULATION NO. 1

PREVENTION OF POLLUTION BY OIL FIELD WASTE



Approved by the Arkansas Pollution Control & Ecology Commission
October 26, 2018

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CHAPTER 1 : GENERAL PROVISIONS

Regule. 1.101 Title

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

Regule. 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.*

Regule. 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.

Regule. 1.104 Applicability

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

CHAPTER 2 : DEFINITIONS

Regule. 1.201 Definitions

As used in this regulation:

“**ADEQ**” or “**Departmentivision**” means the **Arkansas Departmentivision** 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~~ ~~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 ~~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 [~~A~~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 ~~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

Regule. 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.

Regule. 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 (~~A~~OGC);
- (2) The ~~A~~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 ~~A~~OGC.

Regule. 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 ~~A~~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 ~~Department~~~~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.

Regule. 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~~.

Regule. 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.

Regule. 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.

Regule. 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.

Regule. 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

Regule. 1.401 Repealer

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

Regule. 1.402 Severability

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

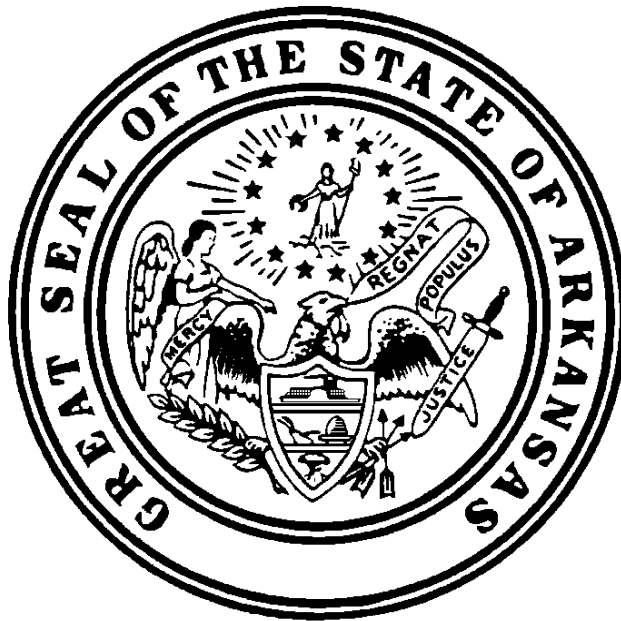
Regule. 1.403 Effective Date

This ~~reguulatione~~ 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
October 26, 2018**

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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 facility associated with a disposal system for 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 1.306 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 1.307 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 1.308 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**

**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