

RULE A-5 - ENFORCEMENT PROCEDURES

- a) Definitions:
- 1) “Commission” shall mean the ~~full~~ Arkansas Oil and Gas Commission, ~~consisting of nine members,~~ on which the Director serves as secretary, but is a non-voting member.
 - 2) “Director” shall mean the Commission Director of Production and Conservation.
 - 3) “Regulated Entity” shall mean all operators, owners, producers or persons subject to Commission regulatory authority ~~in accordance with Ark. Code Ann. § 15-71-110 or § 15-76-302.~~
 - 4) “UIC” shall mean the Underground Injection Control program of the Federal Safe Drinking Water Act.
- b) Any regulated entity engaged in the drilling, operation or plugging of any production, injection, or other well or drill hole regulated by the Commission; or the operation of any crude oil or gas production or injection facility; or the operation of any natural gas line or crude oil flowline regulated by the Commission; or transporter by tank truck of any oilfield production or completion fluid; or seismic activity; or any other activity regulated by the Commission, is subject to this rule for violation of any oil, gas and/or brine statutes, or any rule, regulation, ~~order,~~ or permit condition of the Commission.
- c) In accordance with Ark. Code Ann. § 15-72-103(c) or § 15-76-303(c), any person knowingly and willfully aiding or abetting any other person in the violation of any statute relating to the conservation of oil, gas and/or brine, or the violation of any provision of the state oil, gas and/or brine statutes, or any rule, regulation, order, or permit condition, shall be subject to the same penalties as are prescribed herein for the regulated entity.
- d) Notice of Non-Compliance
- 1) A Notice of Non-Compliance may be issued, ~~prior to the issuance of a Notice of Violation as specified in subparagraph (e) below,~~ when any regulated entity is in non-compliance with any requirement of the Arkansas oil, gas and/or brine statutes, or rules, regulations, orders, or any permit condition, and:
 - A) That the non-compliance was not caused by the regulated entity’s deliberate action;
 - B) That any action necessary to abate the non-compliance was commenced immediately and was or will be completed within a specified date certain, as established by the Director, or his or her designee, not to exceed thirty (30) days from the date of the determination that the regulated entity was determined to be in non-compliance; and
 - C) That the non-compliance has not caused and cannot reasonably be expected to cause significant environmental harm or damage to property.

- 2) The notice of non-compliance shall be documented in writing and, delivered via first class mail to the regulated entity or to the regulated entity's representative as reported on the AOGC Form 1 Organization Report. The written notification shall indicate the nature and circumstances of the non-compliance, and the time within which and the means by which the non-compliance is to be abated.
 - 3) If abatement was not completed as specified in the written notification, the Director, or his or her designee, may issue a formal Notice of Violation in accordance with subparagraph (e) below.
 - 4) The provisions of this subparagraph (d), shall not apply to the following types of incidents, which may require a Notice of Violation to be issued in accordance with subparagraph (e) below:
 - A) ~~Commencing~~ Conducting any regulated activity specified in paragraph (b) above prior to issuance or re-issuance of the appropriate Commission permit or authority;
 - B) Operating an annular or casing injection/disposal well or a well with pressure on the annulus;
 - C) Failure to maintain required performance bond or pay annual well fees;
 - D) Failure to establish mechanical integrity on any UIC well prior to operation, or failure to repair any UIC well following failure of mechanical integrity;
 - E) Commencing any work or activity on a well or its related production facility or well site that has been placed in the Abandoned and Orphan Well Plugging Program;
 - F) Failure to provide emergency response for a crude oil or saltwater spill;
 - G) Improper discharge or disposal of produced fluids; or
 - H) Operating a well in violation of spacing requirements or permit conditions.
- e) Notice of Violation(s)
- 1) A Notice of Violation may be issued, by the Director or his or her designee, when any regulated entity is in violation of any requirements of the Arkansas oil, gas, and/or brine statutes, or rules, regulations, orders, or any permit conditions of the Commission. Unless otherwise determined by the Commission after notice and a hearing, A-a regulated entity shall not be held responsible by the Commission for violations of oil, gas and/or brine statutes, or rules, regulations, ~~orders~~ or permit conditions of the Commission in the absence of the issuance of an underlying Notice of Violation.
 - 2) The Notice of Violation shall be in writing and contain:

- A) A statement regarding the nature of the violation, including a citation to the specific section of the oil, gas and/or brine statutes, or any rule, regulation, order or permit condition of the Commission alleged to have been violated;
 - B) The suggested action needed to abate the violation including any appropriate remedial measures to prevent future violations;
 - C) The time within which the violation should be abated; and
 - D) A notice of any civil penalties, as specified in subparagraph g) below, the Director will request to be issued by the Commission.
 - E) A notice of any civil penalties for violations of natural gas line regulations under United States Department of Transportation, Office of Pipeline Safety jurisdiction in accordance with appropriate federal regulation specified in 49 CFR 190.223, the Director will request to be issued by the Commission.
- 3) The Notice of Violation may include a well, lease, or unit cessation requirement for the following types of violations:
- A) Violation of production allowable;
 - B) Failure to maintain required well specific performance bond;
 - C) Drilling or operating, without a Commission permit or permit transfer, a well required to be permitted or transferred;
 - D) Operating a well that has been determined to be abandoned by the Commission;
 - E) Failure to plug a leaking well or a well ordered to be plugged by the Commission;
 - F) Operating an annular or casing injection/disposal well;
 - G) Operating a UIC Class II or V well with a failed mechanical integrity test;
 - H) Operating a UIC Class II or V well with pressure on the annulus indicating tubing and/or casing failure;
 - I) Failure to provide emergency response or remediate a crude oil or produced water spill; ~~or~~
 - J) Improper disposal or discharge of produced fluids; or
 - K) Any other violation for which a cessation requirement is authorized by an oil, gas and/or brine statute, or rule, regulation, order or permit condition.

- 4) The Notice of Violation may also include a state-wide cessation requirement for the following types of violations:
 - A) Failure to maintain required blanket financial assurance as specified in General Rule B-2;
 - B) Failure to pay annual well fees as specified in General Rule B-2; ~~or~~
 - C) Failure to pay any monies due the Abandoned and Orphaned Well Plugging Fund as specified in General Rule G-1; or
 - D) Failure to comply with the provisions of General Rule B-42, or General Rule E-3.
 - E) Any other violation for which a state-wide cessation requirement is authorized by an oil, gas and/or brine statute, or rule, regulation, order or permit condition.
- 5) The Director, or his or her designee, shall send via certified mail the Notice of Violation to the regulated entity, or the regulated entity's representative as reported on the AOGC Form 1 Organization Report, charged with the violation(s), or provide personal delivery of a copy of the notice to the regulated entity, or the regulated entity's representative.
- 6) The regulated entity charged with the violation(s) may request a Director's Review of the Notice of Violation and provide the Director, in writing, any information in mitigation of the violation(s) on or before thirty (30) calendar days of the mailing or personal delivery of the original Notice of Violation, unless a shorter time period is specified in the Notice of Violation for instances where there is a condition that creates an imminent danger to the health or safety of the public or threatens significant environmental harm or damage to the property. Such written information may include a proposed alternative to the required action needed to abate the violation(s). Upon receipt of such information from the regulated entity, the Director, shall conduct a review.
- 7) During the review, the Director may consider any of the following criteria in reaching a Final Director's Decision regarding the violation(s):
 - A) The regulated entity's history of previous violations, including violations at other locations and under other permits;
 - B) The seriousness of the violation, including any irreparable harm to the environment or damage to property;
 - C) The degree of culpability of the regulated entity; and
 - D) The existence of any additional conditions or factors in aggravation or mitigation of the violation, including information provided by the regulated entity.

- 8) Upon completion of the review, the Director shall issue a Final Director's Decision to:
 - A) affirm the violation; or
 - B) vacate the violation; or
 - C) amend or modify the type of violation and abatement requirements specified in the violation; or
 - D) establish probationary or permanent modification or conditions to any underlying permit related to the violation, which may include special monitoring or reporting requirements; or
 - E) enter into a settlement agreement to extend the amount of time provided to complete remedial actions necessary to abate the violations or reduce the amount of the requested assessed civil penalty.
- 9) The Final Director's Decision shall be delivered to the regulated entity, or the regulated entity's representative, as reported on the AOGC Form 1 Organization Report, via first class mail. The Final Director's Decision may be appealed to the Commission by filing an application in accordance with General Rule A-2, A-3, and other applicable hearing procedures. The application to appeal the Final Director's Decision is required to be received by the Director within thirty (30) days of the mailing of the Final Director's Decision. The application shall state the reason for the appeal and shall be scheduled to be heard by the Commission in accordance with General Rule A-2, A-3, and other applicable hearing procedures.
- 10) A Notice of Violation for which a Director's Review has not been requested, shall become a final administrative decision of the Commission thirty (30) days following the mailing of the Notice of Violation.
- 11) A Final Director's Decision not appealed to the Commission within thirty (30) days of mailing of the Final Director's Decision shall become a final administrative decision of the Commission.
- 12) All violations specified in a Notice of Violation(s) which have become a final administrative decision in accordance with subparagraph e) 10), a Final Director's Decision which has become a final administrative decision of the Commission in accordance with subparagraph e) 11), or by Order of the Commission, shall be fully abated within the time frame specified in the original Notice of Violation, Final Director's Decision, or Order of the Commission. No further permits or authorities shall be issued to the regulated entity until all outstanding violations specified in a Notice of Violation which has become a final administrative decision in accordance with subparagraph e) 10), a Final Director's Decision which has become a final administrative decision of the Commission in accordance with subparagraph e) 11), or by Order of the Commission have been fully abated.

f) In addition to the issuance of a Notice of Violation(s), the Director may initiate further enforcement proceedings, as provided for in statute, as follows:

- 1) Assessment of a civil penalty as provided in Ark. Code Ann. § 15-71-114, § 15-72-103, § 15-72-202, or § 15-76-303;
- 2) The revocation of a certificate of clearance on a state-wide basis, as provided for in Ark. Code Ann. § 15-71-110 (11);
- 3) The filing of a civil complaint in a court of competent jurisdiction in the County where the violation occurred, as provided for in Ark. Code Ann. § 15-72-108 or § 15-76-304;
- 4) The filing of a criminal complaint in any court of competent jurisdiction, as provided for in Ark. Code Ann. § 15-71-114, § 15-72-104 or § 15-76-303.

g) Civil Penalties

- 1) The Director shall determine whether to request the assessment of civil penalties based on failure to comply with the applicable abatement requirements for violations issued under subparagraphs (g) (2) and (3) below. The Director shall determine whether to request the assessment of civil penalties for violations issued under subparagraphs (g) (4) and (5) below. If a civil penalty is requested by the Director, the Director or his designee may file an application, in accordance with General Rule A-2, A-3, and other applicable hearing procedures, to request the issuance of the requested civil penalty. The Director's requested penalty shall be computed as provided in subparagraphs (g) (2) through (45) below. However, the Commission is not bound by the Director's request, or the amounts provided below, and may impose civil penalties of up to the maximum amounts permitted by law.
- 2) Administrative violations, defined as failure to file required reports and forms and to provide required notices (excluding spill notice), including, but not limited to regulated activities such as, the failure to file production and well reports or other reports required by Commission rules, regulations, orders or permit conditions; failure to notify the Commission before the setting of surface casing, or the plugging of a well; failure to maintain required performance bond in force for the wells under permit; or pay annual well fees within the specified time. The Director may request the assessment of up to \$1000 per administrative violation and up to \$1000 per day for each day the violation remains unabated after the specified compliance date. The per administrative violation civil penalty request shall be calculated as follows:
 - A) No previous violation of the same rule: \$250. One previous violations of the same rule: \$500. Two or more previous violations of the same rule: \$1000. The fourth and each subsequent violation of the same rule shall be considered a significant violation in accordance with subparagraph g) 4) below.

- B) The time frame used for determining previous violations shall be limited to the regulated entity's violation record for the preceding three full calendar years before the issuance of the violation.
- 3) Operating violations, defined as failure to maintain compliance with Commission rules on well drilling and operation, and production facility, pipeline and seismic operations and/or commencing operations requiring a permit prior to issuance or re-issuance of the required permit or authority. These operations include, but are not limited to regulated activities such as, operating a well or natural gas pipeline system without the proper permit or transfer of ownership, failure to maintain a well or crude oil flow line in a leak-free condition, failure to comply with non-jurisdictional natural gas pipeline requirements, failure to notify of a spill occurrence, failure to maintain containment dikes, or operating an Exploration and Production Fluid Transportation System without a proper permit. Multiple incidents of the same violation against a regulated entity on the same occasion shall not be considered separate violations. The Director may request the assessment of up to \$2500 per operating violation and up to \$2500 per day for each day the violation remains unabated after the specified compliance date, with the exception that operating violations as specified in Ark. Code Ann. § 15-76-303 are limited to a maximum of \$1,000 per operating violation. The per operating violation civil penalty shall be calculated as follows:
- A) No previous violation of the same rule \$500. One previous violation of the same rule, \$750; two or more previous violations of the same rule, \$1000. The fourth and each subsequent violation of the same rule shall be considered a significant violation in accordance with subparagraph g) 4) below.
- B) The time frame used for determining previous violations shall be limited to the regulated entity's violation record for the preceding three full calendar years before the issuance of the violation; plus
- C) If the violation had a low degree of probability to cause environmental impact to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife, add \$250; or, if the violation had a high degree of probability to cause environmental impact to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife, add \$500; or, if the violation caused environmental impact to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife, add \$1000, or
- D) If the violation created a hazard to the safety of any person, such as the contamination of a potable water well or emission of hydrogen sulfide gas, add \$2000.
- 4) Except as limited in Ark. Code Ann. § 15-76-303, significant violations may result in a request by the Director or his or her designee, of a civil penalty of up to \$2500 per violation and up to \$2500 per day for each day of the violation for the following types of violations: failure to comply with United States Department of Transportation, Office of Pipeline Safety jurisdictional natural gas line requirements, failure to comply with the provisions of General Rule A-7,

failure to comply with well spacing provisions, operating a UIC well without a proper permit, operating an annular or casing injection/disposal well, operating a UIC well prior to establishing mechanical integrity, operating a UIC well with a failed mechanical integrity test, operating a UIC well with pressure on the annulus, failure to provide emergency response or remediate a crude oil or produced water spill, or the improper disposal or discharge of produced fluids. The per violation civil penalty shall be computed as follows:

- A) An initial amount of \$1000; plus
- B) One or more previous violations of the same type: add \$500 per violation; plus
- C) If the violation caused environmental impact to surface water, ground water or wildlife: add \$1000, or if the violation created a hazard to the safety of any person, such as the contamination of a potable water well or emission of hydrogen sulfide gas: add \$1500.
- D) The time frame used for determining previous violations shall be limited to the regulated entity's violation record for the preceding three full calendar years before the issuance of the violation.

5) The Director may request any amount in civil penalties authorized by applicable federal law for violations of the United States Department of Transportation, Office of Pipeline Safety jurisdictional natural gas line requirements.

- h) All civil penalties assessed and paid to the Commission shall be deposited in the Commission operating fund. Additionally, all civil penalties assessed and paid, for violations specified in Ark. Code Ann. § 15-72-202 shall be turned into the general fund of the county where the violation occurred to be used on roads, bridges, and highways at the discretion of the county court.

RULE B-1 - APPLICATION TO DRILL A PRODUCTION WELL

~~Before any person, firm or corporation shall spud in and begin the actual drilling of any well in search of oil and/or gas in the State of Arkansas, such person, firm or corporation shall file with the Oil and Gas Commission its an application in such form as the Commission shall require for a permit to drill said well. The application shall be accompanied by the sum of Three Hundred Dollars (\$300.00), as the Commission shall prescribe as the fee for granting of a permit. [Order Reference Number 154-2000-11(8) authorized the Commission to increase the fee for a permit to drill from \$150.00 to \$300.00 effective January 1, 2001.] The permit so issued by the Commission shall be in such form as it may by its rules and regulations prescribe, and the number of said permit shall at all times be prominently displayed upon the derrick used in drilling of the well.~~

a) Definitions:

- 1) "Production Well" means a well drilled, deepened, or re-entered after plugging, for the production of oil and/or gas or brine; or a well drilled, deepened or re-entered after plugging for a water supply for use in connection with an enhanced oil recovery project.
- 2) "Deepen" for a cased well means an operation whereby a well is drilled to a measured depth below the cement casing shoe. For an open hole completion, "Deepen" means an operation whereby a well is drilled below the original measured depth of the well.
- 3) "Drill" means the commencement of an operation to either set conductor pipe or the moving in a drilling rig capable of drilling to a depth to set the requisite amount of surface casing and spudding the well, if conductor pipe is not used.
- 4) "Permit Holder" means the person to whom the permit is issued and is responsible for all regulatory requirements relative to the production well.
- 5) "Re-enter" means an operation whereby access to a previously plugged wellbore is re-established for any purpose including replugging.

b) Permit Application Procedures for a Permit to Drill, Deepen or Re-enter a Production Well

- 1) No person shall drill, deepen, or re-enter a plugged production well, without a permit. A copy of the permit shall be posted on site during drilling, deepening, or re-entering operations.
- 2) The Permit Holder shall notify the appropriate Commission Regional Office by telephone, or other approved method, a minimum of twenty-four (24) hours prior to commencement of drilling, deepening, or re-entering operations. Commission staff may conduct site inspections as deemed necessary and to witness the setting of surface casing.
- 3) No production well may be drilled at a surface location other than that specified on the permit, except that if a Permit Holder has commenced drilling operations and the production well is lost due to adverse drilling conditions prior to surface

casing being set, the Permit Holder may request an amendment of the permit without a fee for the new location, provided the production well remains on the same surface owners' property where the production well was originally permitted. The Director may approve the commencement of drilling operations prior to the filing of an amended permit. Movement of the production well location off the original surface owners' property, or after surface casing has been set, requires the filing of a new permit application, along with a new permit fee and plat. Drilling may not commence prior to the issuance of a new permit.

- 4) Application for a permit to drill, deepen or re-enter a plugged production well shall be made on forms prescribed by the Director. The application shall be executed under penalties of perjury, accompanied by a non-refundable permit fee of \$300.00; and the permit shall not be issued until any required financial assurance in accordance with General Rule B-2 is submitted and approved.
- 5) If the application does not contain all of the required information or required documents, the Director, or his designee, shall notify the applicant in writing. The notification shall specify the additional information or documents necessary for an evaluation of the application, and shall advise the applicant that the application will be deemed denied unless the information or documents are received within sixty (60) days following the date of mailing or personal delivery of the notification.
- 6) Permits shall automatically expire six (6) months from the date of issuance, unless commencement of the drilling, deepening or re-entry of plugged production well operations authorized by the permit has occurred, which are to be continued with due diligence, but not to exceed 1 year from the date of commencement of the drilling, deepening or re-entry of plugged production well operations authorized by the permit, at which time the production well shall be plugged, production casing set, or a new permit application, along with a new permit fee and plat, must be filed.
- 7) Permits for the drilling, deepening or re-entry of plugged production well are not transferable prior to the completion of drilling operations and the setting of production casing.
- 8) The permit application to drill, deepen or re-enter a plugged production well shall include at a minimum:
 - A) The proposed name of the production well.
 - B) The surveyed location and ground elevation of the production well. A survey is not required for a deepened production well, or a re-entered plugged production well, if the original production well location was surveyed and shown on the original production well permit application. If the application is for a horizontal production well, the surface location and proposed bottom hole location of the lateral portion of the horizontal production well shall be shown. If applicable, a Form 25 must be submitted for horizontal production wells where the costs and production are to be shared between drilling units in accordance with General Rule

B-43 or B-44, or a Form 5 must be submitted for a location exception in accordance with General Rule B-40.

C) A plat showing:

- i) The exact location of the production well proposed to be drilled, deepened or re-entered; an outline of the proposed drilling unit and/or leasehold, whichever is applicable; and the distance from the production well to the nearest section lines, drilling unit lines and or lease lines, whichever is applicable; and
- ii) If the production well is located within a controlled oil or gas field, the plat shall also include the location of all producing wells completed or producing within the same formation in the drilling unit and/or leasehold; or

D) The name of the drilling contractor.

E) The proposed depth of the production well, and the name of the deepest geologic formation to be tested.

9) The application for a permit to drill, deepen or re-enter a plugged production well shall be signed by a person authorized to sign for such owner as specified on the Organizational Report filed in accordance with General Rule B-13.

10) The applicant must be authorized to do business in the State of Arkansas, and by filing an application, the applicant irrevocably waives, to the fullest extent permitted by law, any objection to a hearing before the Commission or in a court of competent jurisdiction in Arkansas; and

11) If the applicant satisfies the requirements of all applicable statutes and this Rule, a permit shall be issued, unless:

A) The applicant has falsified or otherwise misstated any material information on or relative to the permit application;

B) No further permits or authorities may be issued in accordance with General Rule A-5.

c) Production Well Drilling Permit Revocation Procedures

1) The Director may revoke a production well drilling permit if the Permit Holder fails to meet permit conditions as specified in the production well drilling permit, the production well permit was issued in error, or the Permit Holder falsified or otherwise misstated any material information in the application form.

2) The Director shall notify the Permit Holder of the production well drilling permit in writing. Following the revocation notice the Permit Holder is required to plug the production well. The Permit holder shall have thirty (30) days from the date of the production well drilling permit to appeal the Director's Decision to revoke the production well drilling permit in accordance with General Rule A-2, A-3

and other applicable hearing procedures. Drilling or production may not commence or continue during the appeal process. A revocation of a production well drilling permit for which an appeal has not been filed, shall become a final administrative decision of the Commission thirty (30) days following the date of the revocation.

RULE B-3 - SPACING OF WELLS

- a. For purposes of this rule and with respect to all established field rules, exploratory drilling units, wildcat wells, and in uncontrolled areas, the term well location shall be defined as follows:
 - (1) For the purpose of well drilling permit issuance, well location is defined as the proposed bottom hole location in a vertical or directionally drilled well or the estimated productive portion of a lateral in a horizontal well, projected to the surface. For purposes of assigning an API number the well site location shall be considered the actual surface location of the well.
 - (2) For the purpose of well setback provisions, except in uncontrolled areas, well location is defined as the actual physical location of the completed interval in the well, projected to the surface, as follows:
 - A. In a vertically drilled well without a directional survey, the well location is the surface location. In a vertically drilled well, the well location is the location of the perforated interval of the well bore, projected vertically to the surface;
 - B. In a directionally drilled well, the well location is the location of the midpoint of the perforated interval of the producing formation, as calculated from the directional survey, projected vertically to the surface;
 - C. In a horizontally drilled well, the well location is the entire perforated length of the lateral section of the well bore, as shown on a directional survey, projected vertically to the surface.
- b. The spacing of wells in oil and gas fields established by Commission Order, shall be governed by field rules for that particular field, adopted after notice and hearing.
- c. The spacing of wells in other areas designated as prospective of oil and gas production shall be governed by General Rule adopted after notice and hearing.
- d. The well location for a well drilled for oil or gas production in an exploratory drilling unit established by Commission Order shall not be located closer than 280 feet from the drilling unit boundary, except that wells drilled in exploratory drilling units established by General Rule B-43 or General Rule B-44, shall be governed by the well setback provisions of General Rule B-43 or General Rule B-44 respectively.
- e. The following applies to all wildcat well locations not drilled in exploratory drilling units:
 - (1) The well location for a wildcat well drilled for oil or gas production purposes, within an area not covered by Field Rules or General Rule B-43 or B-44, shall not be located closer than 280 feet from a quarter, quarter division line within a governmental section.
 - (2) The well location for a wildcat well, drilled for the purposes of oil or gas production, within an area subject to Field Rules, but proposed to be drilled to a

geologic formation for which Field Rules have not been established shall be subject to the set back provisions specified in e (1) above.

- f. The well location for a well drilled for oil or gas production purposes, and completed in pools in field(s) where Field Rules do not exist for these uncontrolled pools, shall not be located closer than 280 feet from the nearest mineral lease line.
- g. The well location for an injection well drilled or ~~completed~~ converted for enhanced recovery purposes shall not be located closer than 280 feet from a unitized boundary line. The well location for a ~~disposal well~~ Class II Disposal or Class II Commercial Disposal Well drilled or ~~completed~~ converted pursuant to General Rule ~~C-7 H-1~~ shall be located no closer than 280 feet from: (i) the drilling unit boundary, (ii) ~~or no closer than 280 feet from~~ the mineral lease line if such well is located outside a drilling unit and in an uncontrolled pool or field where production exists on the lease, or (iii) the surface property line of the surface where the Class II Disposal or Class II Commercial Disposal Well is located in all other areas, without written consent of the adjoining surface property owner(s).
- h. The well location for wells drilled for the purposes of water supply for purposes of enhanced oil recovery are subject to all the provisions of this rule with the exception of the set back provisions for well location. No production of hydrocarbons will be allowed from a water supply well.
- i. The Commission may, after notice and hearing, grant exceptions to the rule, or otherwise provide exceptions by General Rule or order, provided such exceptions will create neither waste nor hazards conducive to waste. No well drilled in violation of this rule without special permit obtained in the manner prescribed in said rule and no well drilled under such a special permit, which does not conform to the terms of such special permit in all respects, shall be permitted to produce either oil or gas and any such well so drilled in violation of said rule or in violation of a permit granted under an exception to such rule shall be plugged.

MARK-UP

RULE B-32 - VACUUM PUMPS PROHIBITED

- a) The use of vacuum pumps or other devices for the purpose of putting a vacuum on any gas or oil-bearing stratum is prohibited except in fields using vacuum pumps on January 1, 1939, unless otherwise approved by the Commission ~~may upon application permit the use of vacuum pumps in fields which are practically depleted~~ or in accordance with subparagraph b) below.
- b) Administrative Approval. The Director or his designee is authorized to approve an application for administrative approval of the use of vacuum pumps or other devices for the purpose of putting a vacuum on any gas or oil bearing stratum if the following conditions are met:
- 1) The application provides proof that the field is practically depleted or the use of vacuum pumps or other devices for the purpose of putting a vacuum on any gas or oil-bearing stratum is otherwise necessary for the prevention of waste.
 - 2) The application includes detailed plat maps indicating current well locations in all included drilling units or leases in uncontrolled pools or fields.
 - 3) Notice has been given to all owners, as defined by Ark. Code Ann. (1987) § 15-72-102(9) and no objections were received by the Director in accordance with subparagraph b) 6) below.
 - 4) Each such application is submitted on a form prescribed by the Director, and includes the name and address of each owner, as defined in Ark. Code Ann. (1987) § 15-72-102(9), within each drilling unit in which applicant seeks approval to use the vacuum pump or other devices for the purpose of putting a vacuum on any gas or oil-bearing stratum.
 - 5) Concurrently with the filing of such application, the applicant shall send to each owner specified in subparagraph b) 4) above a notice of the application filing and verify such mailing by affidavit, setting out the names and addresses of all owners, as defined by Ark. Code Ann. (1987) § 15-72-102(9), and the date(s) of mailing.
 - 6) Any owner, as defined by Ark. Code Ann. (1987) § 15-72-102(9), noticed in accordance with subparagraph b) 5) above shall have the right to object to the granting of such application within fifteen (15) days after the receipt of the application by the Commission. Each objection must be made in writing and filed with the Director or his designee. If a timely written objection is filed as herein provided, then the applicant shall be promptly furnished a copy and such application shall be denied. If the application is denied under this subparagraph, the applicant may file an application for hearing in accordance with General Rules A-2 and A-3, and other applicable hearing procedures.
 - 7) An application may be referred to the Commission for determination when the Director or his designee deems it necessary that the Commission make such determination for the purpose of protecting the correlative rights of all parties, in order to prevent waste, or for any other reason. Promptly upon such determination, and not later than fifteen (15) days after receipt of the application, the Director or his designee shall give the applicant written notice, citing the reason(s) for referral to the full Commission for determination, and the application shall be denied. If the application is denied under this subparagraph,

the applicant may file an application for hearing in accordance with General Rules A-2 and A-3, and other applicable hearing procedures.

- 8) If the Director has not notified the applicant of the determination to refer the application to the Commission within the fifteen (15) day period in accordance with the foregoing provisions, and if no objection is received at the office of the Commission within the fifteen (15) days as provided for in subparagraph b) 6), the application shall be approved.

**RULE H-1 - CLASS II DISPOSAL AND CLASS II COMMERCIAL DISPOSAL WELL PERMIT
APPLICATION PROCEDURES**

a) Definitions:

- 1) "Class II Disposal Well"-- means:
 - 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 Commission 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.
- 2) "Class II Commercial Disposal Well"-- means 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.
- 3) "Class II Fluids" 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 and natural gas wells, Class II or wells that are required to be permitted as water supply wells by the Commission; 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 to oil and natural gas well drilling, completion, or fracture treatments, workover or recompletion and plugging of oil and natural gas wells, Class II or wells that are required to be permitted as water supply wells by the Commission; enhanced recovery operations; or natural gas storage operations, or chemically treated or altered to the extent necessary to make them usable for purposes integrally related to oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations, or natural gas storage operations, or commingled with fluid wastes resulting from fluid treatments outlined above, and including any other exempted oil and gas related fluids under the Resource Conservation and Recovery Act, 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.

- 4) “Confining layer” means a geological formation, group of formations, or part of a formation that is capable of limiting fluid movement above an injection zone. It is composed of rock layers that are impermeable or distinctly less permeable than the injection zone beneath it. There may be multiple confining layers above an injection zone.
 - 5) “USDW” means Underground Source of Drinking Water which is defined in Title 40, Code of Federal Regulations (40 CFR) Section 144.3, as an aquifer or its portion which:
 - A) Supplies any public water system (see 40 CFR); or
 - B) Contains a sufficient quantity of groundwater to supply a public water system (see 40 CFR) and currently supplies drinking water for human consumption; or
 - C) Contains fewer than 10,000 mg/l total dissolved solids (see 40 CFR); and
 - D) Which is not an exempted aquifer (see 40 CFR)
- b) No person shall drill, deepen, re-enter, recomplate or operate any well for use as a Class II Disposal or Class II Commercial Disposal Well or inject into any well, without ~~a-the applicable~~ permits from the Commission, application for which shall be made on forms prescribed by the Director. Permits are valid only for the Permit Holder stated on the permit, and shall remain valid only with ongoing compliance with established operating requirements specified in General Rule H-2 or H-3, except that permits to drill, deepen, or re-enter shall automatically expire six (6) months from the date of issuance, unless commencement of the drilling, deepening or re-entry of plugged well operations authorized by the permit has occurred, which are to be continued with due diligence, but not to exceed one (1) year from the date of commencement of the drilling, deepening or re-entry of plugged well operations authorized by the permit, at which time the well shall be plugged, injection casing set, or a new permit application, along with a new permit fee and plat, must be filed. Failure to comply with the operating requirements in General Rule H-2 or H-3 may result in revocation of the Class II Disposal Well or Class II Commercial Disposal Well permit in accordance with subparagraph q) below.
- 1) Authority to conduct an injectivity test, step rate test or trial injection test prior to issuance of a permit may be approved as follows:
 - A) An injectivity test, step rate test or trial injection test of less than twelve (12) hours duration may be approved by the Director upon review of the well construction to determine well mechanical integrity for the protection of the USDW’s and oil and gas resources during the test. The Director shall establish the protective parameters of the test, require the submittal of any information or test data deemed necessary and may require the witnessing by Commission staff of the test.
 - B) An Applicant may request approval from the Commission, by filing an application in accordance with General A-2 and A-3 and other applicable hearing

procedures, of an injectivity test, step rate test or trial injection test of twelve (12) hours or more in duration.

- 2) No Class II Disposal or Class II Commercial Disposal Well may be drilled at a surface location other than that specified on the permit, except that if a permit holder has commenced drilling operations and the Class II Disposal or Class II Commercial Disposal Well is lost due to adverse drilling conditions prior to surface casing being set, the permit holder may request an amendment of the permit without a fee for the new location, provided the Class II Disposal or Class II Commercial Disposal Well remains on the same surface owners property where the Class II Disposal or Class II Commercial Disposal Well was originally permitted and all other aspects of the permit request remain the same. Movement of the Class II Disposal or Class II Commercial Disposal Well location off the original surface owners' property, or after surface casing has been set, will require the filing of a new permit application, along with a new permit fee and plat. Drilling may not commence prior to the issuance of a new permit.
 - 3) Permits to recomplete or operate shall automatically expire one year from the date of issuance, unless commencement of the operations authorized by the permit has occurred, or a new permit application, along with a new permit fee has been filed.
 - 4) The entity or person to whom the permit is issued shall be called the Permit Holder and shall be responsible for all regulatory requirements relative to the Class II Disposal or Class II Commercial Disposal Well.
 - 5) Upon issuance of a permit, a copy of the permit shall be displayed at the site where the Class II Disposal or Class II Commercial Disposal Well is being drilled for review by Commission staff.
 - 6) Permits to drill, deepen, or re-enter a Class II Disposal or Class II Commercial Disposal Well may only be issued if the location complies with General Rule B-3.
- c) The application to drill, deepen, re-enter, recomplete or operate a Class II Disposal or Class II Commercial Disposal Well shall include at a minimum:
- 1) The information required by subparagraph (h) below, for the existing or proposed well and any additional information deemed necessary by the Director for the protection of USDWs; and
 - 2) Accompanied by a permit fee in the amount of \$300.00 if the Class II Disposal or Class II Commercial Disposal Well is drilled, deepened, or re-entered; and
 - 23) Accompanied by a non-refundable fee of \$100.00 for a Class II Disposal Well or \$500.00 for a Class II Commercial Disposal Well to recomplete or operate the Class II Disposal or Class II Commercial Disposal Well; and
 - 34) Accompanied by the required financial assurance in accordance with General Rule B-2; and
 - 45) Accompanied by a Form 1 Organizational Report in accordance with General Rule B-13; and

- 56 Be executed under penalties of perjury; and
- 67) If the applicant is a corporation, limited liability company, limited liability partnership or other business entity, it must be incorporated, organized, or authorized to do business in the State of Arkansas, and by filing an application, the applicant irrevocably waives, to the fullest extent permitted by law, any objection to a hearing before the Commission or in a court of competent jurisdiction in Arkansas; and
- 78) If the applicant is an individual, partnership, or other entity that is not a resident of Arkansas, the applicant must be authorized to do business in Arkansas, and by filing an application, the applicant irrevocably waives, to the fullest extent permitted by law, any objection to a hearing before the Commission or in a court of competent jurisdiction in Arkansas; and
- 9) Proof that the Class II Disposal or Class II Commercial Well location complies with General Rule B-3.
- d) No person shall inject into USDWs or be issued a permit to inject into USDWs unless an aquifer exemption has been granted in accordance with US Environmental Protection Agency procedures.
- e) Unless otherwise approved by the Commission, no person shall inject into a well which does not have at a minimum, five hundred (500) feet for a Class II Disposal Well or seven hundred-fifty (750) feet for a Class II Commercial Disposal Well, of confining layers between the base of the lowermost USDWs and the top of the injection interval, with no individual confining layer being less than 50 feet in thickness. A lesser amount of confining layer(s) may be approved, provided the Applicant provides substantial information as to the integrity of the confining layers to inhibit the upward migration of the injection fluids so as not to endanger the lowermost USDW in the area of the well.
- f) If the application does not contain all of the required information or documents, the Director shall notify the Applicant in writing. The notification shall specify the additional information or documents necessary for an evaluation of the application and shall advise the Applicant that the application will be deemed denied unless the information or documents are submitted within sixty (60) days following the date of notification.
- g) Applications for a Class II Disposal Well shall contain the names of all permit holders who are to utilize the proposed disposal well.
- h) Contents of Application
- 1) A specification as to the type of Class II well being permitted as a Class II Disposal Well or a Class II Commercial Disposal Well.
 - 2) The Applicant shall provide the name, address, phone, fax and e-mail (if available) of the local or on-site supervisory or field personnel responsible for the disposal well.
 - 3) If the well is not located within the boundaries of an operating oil and gas leasehold or drilling unit, the Applicant shall provide documentation, in the form of a surface use agreement or an affidavit of a surface use agreement, indicating the Applicant's right to drill and to operate the proposed disposal well. If the well is located within the

boundaries of an operating oil and gas leasehold or drilling unit, and the Applicant is someone other than the operator of the leasehold or drilling unit, the Applicant shall provide documentation, in the form of a surface use agreement, or an affidavit of a surface use agreement, indicating the Applicant's right to drill and to operate the proposed disposal well.

- 4) A survey plat of the location and ground elevation of the proposed disposal well or if the application is for an existing well, the well name and permit number of the existing well. A new survey is not required for a well to be converted or deepened well or a plugged well to be re-entered, if the original well location was surveyed, a copy of which shall be submitted with the application.
- 5) The name, geologic description and the approximate top and bottom elevation, from sub-sea, of the formation (indicating the perforated or open hole interval) into which fluid will be injected and the geologic description and top and bottom elevation, from sub-sea, of the above confining layers, in the proposed or existing disposal well. If an existing well is to be converted, a geophysical log of the well shall be submitted showing the above information. If for a proposed well, an induction log from a well in the immediate vicinity of the proposed disposal well shall be submitted. If the geologic name of the interval is unclear include any additional geological evidence such as a cross section, structure or isopach map that may be necessary to adequately define the proposed injection interval.
- 6) A well bore diagram of the proposed or existing well showing casing for the injection well, indicating from the well head to total depth of the well, all casings and cementing of casings, any obstructions within well, all plugs set, tubing and packer setting depth, and all perforations and or open hole intervals. If application is for an existing well, a cement bond log (CBL) shall be submitted with the application, or if submitted after the application is filed, the CBL shall be submitted prior to commencement of operations as a condition of the permit.
- 7) The proposed daily amounts to be injected, the source and the type of fluid to be injected, including a standard laboratory analysis representative of the various types of proposed disposal fluids, indicating chloride, pH, specific gravity, total dissolved solids (TDS) and total percent hydrocarbon (TPH). The sample shall be obtained and analyzed no earlier than one (180) days prior to the date of filing of the application.
- 8) The maximum injection pressure.
 - A) The Director shall determine the maximum permitted injected pressure, measured at the wellhead, by multiplying the results of the formula below by ninety percent (90%):
 - i) A maximum fracture gradient not to exceed 1.1 psi/ft (x) depth to injection formation (-) weight of fluid column (specific gravity of injection fluid) (+) injection tubing friction loss in Ashley, Bradley, Calhoun, Columbia, Hempstead, Lafayette Miller, Nevada, Ouachita, and Union counties for injection into formations below the Midway Shale Formation; or

- ii) A maximum fracture gradient not to exceed 1.0 psi/ft (x) depth to injection formation (-) weight of fluid column (specific gravity of injection fluid) (+) injection tubing friction loss in all other counties for injection into formations below the Fayetteville Shale Formation in the areas covered by General Rule B-43 (c) and (d), General Rule B-44, and the portions of Franklin, Logan, Scott, Sebastian, and Yell Counties not covered by General Rule B-44; or
- iii) A maximum fracture gradient not to exceed 0.73 psi/ft (x) depth to injection formation (-) weight of fluid column (specific gravity of injection fluid) (+) injection tubing friction loss for all other formations and/or counties.

The following calculation is included only as an example, and for informational and demonstrative purposes only. For purposes of this example, assume the well is in Columbia County, the total depth to the injection formation is 2,500 feet, the specific gravity is 1.085, and the injection tubing friction loss is 250 psi. Using the formula provided above, the maximum permitted injection pressure for the well would be 1,642 psig, calculated as follows:

Step 1: $0.9 \times [(1.1 \text{ psi/ft} \times 2500 \text{ ft}) - [0.433 \text{ psi/ft} \times 2500 \text{ ft}] \times 1.085 \text{ (specific gravity)}] + 250 \text{ tubing friction loss}$

Step 2: $0.9 \times [2750 \text{ psi} - 1175 + 250 \text{ tubing friction loss}]$

Step 3: $0.9 \times [1825]$

Step 4: Result = 1642 psig

- B) An Applicant may request an increase in the maximum injection pressure specified in subparagraph h) 8) A) above, or appeal a Director's decision to issue a permit utilizing a fracture gradient less than the maximum fracture gradient specified in subparagraph h) 8) A) above, by filing an application in accordance with General A-2, A-3 and other applicable hearing procedures. Any increase in the maximum injection pressure may be granted if the Applicant presents sufficient evidence to justify the requested increased injection pressure will not initiate or propagate fractures in the overlying confining layer(s) that could enable the injection fluid or the fluid in the injection interval to leave the permitted injection intervals or cause movement of the injection fluid or formation fluids into USDWs.
- 9) A map showing:
- A) The surveyed location of the well proposed to be drilled, deepened or converted, showing distances to the nearest property or lease lines; and
 - B) The location of all plugged and unplugged wells, which penetrate the proposed injection interval, within the 1/2 mile radius from the proposed disposal well, and showing the status of each well as producing, shut-in, disposal, enhanced recovery, plugged and abandoned, or other status.

- 10) The Applicant shall submit evidence, where available, that all plugged and unplugged wells which penetrate the injection formation, within the ½ mile radius shown on the above plat in subparagraph h) 9) C), contain an adequate amount of cement and are constructed or plugged in a manner which will prevent the injection fluid and the fluid in the injection formation from entering USDWs. The types of evidence that will be considered acceptable include, but are not limited to: well completion reports, cementing records, well construction records, cement bond logs, tracer surveys, oxygen activation logs, and plugging records.
 - 11) The Applicant shall submit evidence and/or information showing that the proposed injection interval or formation is not a USDW.
 - 12) The Applicant shall submit information as to the depth (subsea) of the fresh water supply in the nearest known private water well and in the nearest known public water system water well.
 - 13) If the application is for a Class II UIC Commercial Disposal Well, a listing of all previous and current violations of any statute, rule, regulation, permit condition, or order of the Commission, the Arkansas Department of Environmental Quality, the Arkansas Pollution Control and Ecology Commission, or any other state or federal environmental regulatory agency, including those of other states, regarding oil or gas related activities.
- i) Notice of the application shall be given by the Applicant by one (1) publication in a legal newspaper having a general circulation in the county, or in each county, if there shall be more than one, in which the one-half mile radius from the proposed disposal well is situated, and by mailing via certified mail, a copy of the application to each permit holder of all permitted, drilling or producing wells within a one-half mile radius of the proposed disposal well. Such notice shall be published or mailed no more than thirty (30) days, prior to the date on which the application is filed with the Commission. The cost of such notice and mailing of the application shall be paid for by the Applicant. Attached to the application shall be copies of the return mail receipts and a proof of publication of the application from the newspaper.
 - j) If notice is for a commercial disposal well, in addition to compliance with subparagraph i) above, the commercial disposal well application shall also be sent via certified mail, to the County Judge of the county where the well is located and to the landowner (surface owner) where the well is located. In addition, the public notice should be large font and surrounded by a printed border to highlight the published notice.
 - k) Objections received by the Director, must be received by the Director within fifteen (15) days after the publication date of the notice and the date of mailing to all parties specified in subparagraphs i) and j) above.
 - l) If an objection is received the application shall be denied. If the application is denied under this section, the Applicant may request to have the application referred to the Commission for determination, in accordance with General Rules A-2 and A-3, and other applicable hearing procedures, except that no additional filing fee is required.
 - m) If an objection is not received by the Director and the application is deemed complete, the permit shall be issued following the required notice period specified in subparagraph i) above, unless the Director deems it necessary, for the purpose of protecting USDWs or oil and gas resources, that

the application may be referred to the Commission for determination, and no additional filing fee is required from the applicant.

- n) If the application does not satisfy the requirements of this Rule, the application shall be denied. If the application is denied under this section, the Applicant may request to have the application referred to the Commission for determination, in accordance with General Rules A-2 and A-3, and other applicable hearing procedures.
- o) If the applicant satisfies the requirements of all applicable statutes and this Rule, a permit shall be issued, unless:
 - 1) The applicant has falsified or otherwise misstated any material information on or relative to the permit application; or
 - 2) For purposes of Class II Commercial Disposal Wells, the applicant:
 - A) Has an owner, officer, director, partner, or member or manager of a limited liability company, or other person with an interest in the entity exceeding 5%;
 - i) That has failed to abate an outstanding violation of the oil and gas statutes or rules, regulations, or comply with an orders of the Commission as specified in a final administrative decision of the Commission; or
 - ii) For which funds have been obligated and remain outstanding from the Plugging and Restoration Fund to plug wells, under General Rule G-1 or G-2; or
 - iii) Who is delinquent in payment of any annual well fees under General Rule B-2; or
 - B) Was an owner, officer, director, partner, or member or manager of a limited liability company, or other person with an interest exceeding 5%;
 - i) That has failed to abate an outstanding violation of the oil and gas statutes or rules, regulations, or comply with an orders of the Commission as specified in a final administrative decision of the Commission; or
 - ii) For which funds have been obligated and remain outstanding from the Plugging and Restoration Fund to plug wells, under General Rule G-1 or G-2; or
 - iii) Who is delinquent in payment of any annual well fees under General Rule B-2; or
 - C) Is a Permit Holder or an owner, officer, director, partner, or member or manager of a limited liability company, or other person with an interest exceeding 5%;
 - i) That has failed to abate an outstanding violation of the oil and gas statutes or rules, regulations, or comply with an orders of the

Commission as specified in a final administrative decision of the Commission; or

- ii) For which funds have been obligated and remain outstanding from the Plugging and Restoration Fund to plug wells, under General Rule G-1 or G-2; or
- iii) Who is delinquent in payment of any annual well fees under General Rule B-2; or

D) The Director determines that the applicant, or an owner, officer, director, partner, or member or manager of a limited liability company, or other person with an interest exceeding 5% in the applicant, has a history of violating an oil and gas statute, rule, regulation, permit condition or order of the Commission, the Arkansas Department of Environmental Quality, the Arkansas Pollution and Ecology Commission, or any other state or federal environmental regulatory agency, including those of other states, regarding oil or gas related activities, which pose a potential danger to the environment and public health and safety. In making the determination, the Director may consider:

- i) The danger to the environment and public health and safety if the applicant's proposed activity is not conducted in a competent and responsible manner; and
- ii) The degree to which past and present oil and gas related activities directly bear upon the reliability, competence, and responsibility of the applicant.

3) If a permit is not issued in accordance with subparagraph o) 2) above, the Applicant may request to have the permit application referred to the Commission for determination, in accordance with General Rules A-2 and A-3, and other applicable hearing procedures, except that no additional filing fee is required.

p) The Commission retains jurisdiction to determine zones suitable for disposal injection based on the porosity, permeability, fluid capacity, structure, geology and overall suitability of the zone as a disposal injection interval with respect to protection of USDWs and oil and gas resources.

q) Class II Disposal or Class II Commercial Disposal Well Drilling Permit or Transfer Revocation Procedures

1) The Director may revoke a Class II Disposal or Class II Commercial Disposal Well permit or transfer approval if the Permit Holder fails to meet permit conditions as specified in the Class II Disposal or Class II Commercial Disposal Well permit or transfer approval, the Class II Disposal or Class II Commercial Disposal Well permit or transfer approval was issued in error, or the Permit Holder falsified or otherwise misstated any material information in the application form.

2) The Director shall notify the Permit Holder of the Class II Disposal or Class II Commercial Disposal Well permit or transfer revocation in writing. Following the revocation notice the Permit Holder is required to plug the Class II Disposal or Class II Commercial Disposal Well. The Permit holder shall have thirty (30) days from the date

of the Class II Disposal or Class II Commercial Disposal Well permit or transfer revocation to appeal the Director's Decision to revoke the Class II Disposal or Class II Commercial Disposal Well permit or transfer approval in accordance with General Rule A-2, A-3 and other applicable hearing procedures. Operations may not commence or continue during the appeal process. A revocation of a Class II Disposal or Class II Commercial Disposal Well permit or transfer approval for which an appeal has not been filed, shall become a final administrative decision of the Commission thirty (30) days following the date of the revocation.

r) Class II Disposal or Class II Commercial Disposal Well Transfer Procedures

1) Definitions

A) "Current Permit Holder" means the individual or entity required to hold the permit or to whom the permit was issued and who is the owner of the right to operate said Class II Disposal or Class II Commercial Disposal Well(s), possesses the full rights and responsibilities for operating the Class II Disposal or Class II Commercial Disposal Well(s) in accordance with applicable Arkansas law and has the current obligation to plug said Class II Disposal or Class II Commercial Disposal Well(s), who is the assignor, transferor or seller (whether voluntary or involuntary) of the Class II Disposal or Class II Commercial Disposal Well(s).

B) "New Permit Holder" means the individual or entity acquiring the Class II Disposal or Class II Commercial Disposal Well(s) and the right to operate said Class II Disposal or Class II Commercial Disposal Well(s), obtains the full rights and responsibilities for operating the Class II Disposal or Class II Commercial Disposal Well(s) in accordance with applicable Arkansas law and/or rule, regulation, or order of the Commission, whom will obtain the obligation to plug said Class II Disposal or Class II Commercial Disposal Well(s), and who as owner or operator in accordance with applicable Arkansas law and/or rule, regulation, or order of the Commission is required to hold the permit.

C) "Transfer" means any assignment, devise, release, transfer, takeover, buyout, merger, sale, conveyance, or other transfer of any kind, whether voluntarily or involuntarily.

2) The provisions of this subparagraph apply to all transfers of the interest of the individual or entity required to hold and to whom the Class II Disposal or Class II Commercial Disposal Well transfer approval is issued (Permit Holder), including but not limited to:

A) a change of ownership of the right to drill and/or operate said Class II Disposal or Class II Commercial Disposal Well(s), along with the full rights and responsibilities for operating the Class II Disposal or Class II Commercial Disposal Well(s) and the obligation to ultimately plug said Class II Disposal or Class II Commercial Disposal Well(s); or

B) a change in the designation of the owner or operator under an operating or other similar agreement; or

- C) a change pursuant to the action of the owners of separate interests who designate an owner to be Permit Holder; or
 - D) a change required by the appointment, by a court of competent jurisdiction, of a trustee or a receiver to exercise custody and control over the Class II Disposal or Class II Commercial Disposal Well(s), including the right to drill and/or operate said well(s) along with the full right and responsibilities for operating the well(s).
- 3) The provisions of this subparagraph shall not apply to the transfer of working interests not affecting the rights or responsibilities of the Permit Holder.
 - 4) The provisions of this subparagraph shall not apply to transfers of Class II Disposal or Class II Commercial Disposal Well(s) abandoned or orphaned in accordance General Rule G-1 or G-2. Transfer of Class II Disposal or Class II Commercial Disposal Wells deemed abandoned or orphaned are subject to the transfer provisions in General Rule G-3.
 - 5) Notification of a transfer shall be given to the Director, or his designee, by the Current Permit Holder, on a form prescribed by the Director, of the transfer of any Class II Disposal or Class II Commercial Disposal Well or any Class II Disposal or Class II Commercial Disposal Well required to be permitted within thirty (30) days after the effective date of the transfer.
 - 6) A separate form shall be completed for each lease, Class II Disposal or Class II Commercial Disposal Well, or other unit transferred.
 - 7) The notification shall be signed by the Current Permit Holder and the New Permit Holder, or by authorized representatives specified on the Organizational Report filed in accordance with General Rule B-13, except as follows:
 - A) In lieu of the signature of the Current Permit Holder, the New Permit Holder may submit a court order or other legal document evidencing ownership of the lease or unit to be transferred in the event that the Current Permit Holder cannot be located or refuses to sign the notification of transfer form.
 - B) In lieu of the signature of the New Permit Holder, the Current Permit Holder may submit documentation evidencing transfer of the ownership of the Class II Disposal or Class II Commercial Disposal Well, lease, or unit in the event the New Permit Holder refuses to sign the notification of transfer form.
 - 8) A New Permit Holder may operate Class II Disposal or Class II Commercial Disposal Wells covered by the Class II Disposal or Class II Commercial Disposal Well transfer request, until such time as the transfer request has been approved or denied by the Director or his designee, provided the request was submitted within thirty (30) days of the actual transfer of the Class II Disposal or Class II Commercial Disposal Well. However, Class II Disposal or Class II Commercial Disposal Wells may not be operated by the New Permit Holder, until a Class II Disposal or Class II Commercial Disposal Well transfer request is approved, if the request was received by the Director, or his designee, more than thirty (30) days after the actual transfer of the Class II Disposal or Class II Commercial Disposal Well.

- 9) A New Permit Holder that acquires the right to operate a Class II Disposal or Class II Commercial Disposal Well(s) pursuant to a transfer shall apply for and must receive transfer approval from the Director, or his designee, prior to operating the Class II Disposal or Class II Commercial Disposal Well(s).
- 10) Prior to the Director, or his designee, approving the transfer request, the New Permit Holder shall provide the required financial assurance, if applicable, in accordance with General Rule B-2, and file the required organizational report, if applicable, in accordance with General Rule B-13.
- 11) A transfer to a New Permit Holder may be denied by the Director, or his designee, if the New Permit Holder meets any of the conditions specified in subparagraph o) above.
- 12) The New Permit Holder shall be responsible for all regulatory requirements relative to all Class II Disposal or Class II Commercial Disposal Wells and all other surface production facilities in existence at the time of the transfer related to the Class II Disposal or Class II Commercial Disposal Wells. The New Permit Holder shall not be responsible for regulatory requirements relative to spills of crude oil or other production fluids which occurred prior to the date of the transfer, unless the New Permit Holder has otherwise agreed with the Current Permit Holder.
- 13) If any Class II Disposal or Class II Commercial Disposal Well, or any lease or other unit associated with the Class II Disposal or Class II Commercial Disposal Well, is in violation at the time of the transfer request to the New Permit Holder, the transfer request shall be denied pending abatement of all violations by the Current Permit Holder. However, if the New Permit Holder, after being notified of the violation(s), agrees in writing to the transfer approval including conditions to abate all violations, the transfer may be approved by the Director, or his designee. Failure to abate the violations within the time period specified by the Director or his designee may result in revocation of the transfer approval in accordance with subparagraph q) above, and/or other applicable enforcement actions in accordance with General Rule A-5.
- 14) The Current Permit Holder is not responsible for any regulatory violation caused by the actions of the New Permit Holder during the permit transfer process, after notice is given to the Director, or his designee, by the Current Permit Holder of the pending transfer if the transfer is approved. However, if the transfer is denied by the Director or his designee, the Current Permit Holder assumes all responsibility for the violations caused by the New Permit Holder. Nothing in this subsection shall affect the contractual rights and obligations between the person or entity transferring the Class II Disposal or Class II Commercial Disposal Well(s) and the person or entity acquiring the Class II Disposal or Class II Commercial Disposal Well(s).
- 15) The transfer approval pursuant to this subparagraph shall not affect the rights of the Commission, or any obligation or duty of the Current Permit Holder arising under any applicable Arkansas laws, or rules, regulations, or orders of the Commission. Any cause of action accruing or any action or proceeding which has commenced, whether administrative, civil or criminal, may be instituted or continued without regard to the transfer approval.
- 16) The Director shall notify the Current and New Permit Holder of the transfer approval or denial in writing. Following the approval or denial of the transfer approval request, the

Current or New Permit holder shall have thirty (30) days from the date of the approval or denial to appeal the Director's Decision in accordance with General Rule A-2, A-3 and other applicable hearing procedures. A transfer request approval or denial, for which an appeal has not been filed, shall become a final administrative decision of the Commission thirty (30) days following the date of the approval or denial.