



**DRAFT**

6-14-83

REGULATIONS

FOR THE

FEE SYSTEM

FOR ENVIRONMENTAL PERMITS

ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY

AND ECOLOGY

STATE OF ARKANSAS

DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY

\*\*\*\*\*

REGULATIONS FOR DEVELOPMENT AND IMPLEMENTATION

OF A PERMIT FEE SYSTEM

FOR ENVIRONMENTAL PERMITS ISSUED

BY THE DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY

---

SECTION 1. PURPOSE. It is the purpose of these regulations to develop and implement a system of fees for permits issued by the Department of Pollution Control and Ecology pursuant to the provisions of the Water and Air Pollution Control Act (Act 472 of 1949, as amended, Ark. Stats. 82-1901 et. seq.) and/or the Solid Waste Management Act (Act 237 of 1971, Ark. Stats. 82-2701 et. seq.). These fees were authorized by Act 817 of 1983 and will be used to defray administrative costs of issuance, renewal, inspection, modification, and monitoring associated with these permits.

SECTION 2. SHORT TITLE. These regulations shall be known and may be cited by the short title "Permit Fee Regulations".

SECTION 3. DEFINITIONS. All terms used in these regulations, unless the context otherwise requires or unless specifically defined in the enabling legislation, or in Federal regulations adopted by reference for program management, shall have their usual meaning. In addition, for purposes of these regulations, the following definitions apply:

ANNUAL REVIEW FEE

The fee authorized by the enabling Act to be submitted upon the anniversary date for issuance of permits required by Act 472 of 1949, as amended, and/or Act 237 of 1971, except that the first annual review fee for newly constructed facilities will not be due until completion of the first year of operation.

COMMISSION

The Commission on Pollution Control and Ecology

DEPARTMENT

The Arkansas Department of Pollution Control and Ecology

DIRECTOR

The executive head and active administrator of the Arkansas Department of Pollution Control and Ecology

FACILITY

An activity or operation within a specific geographic location including property contiguous thereto. A facility may consist of several treatment, storage, or disposal operational units. For purposes of these permit fee regulations, a facility shall be considered to be all property, facilities, or operations owned, leased, or operated by a single entity, whether a municipal or county government, corporation, partnership, or sole proprietorship in the same geographical area, forming an integral part

of the same activity or operation, whether or not such activity or operation lies within the boundaries of a city or county. For purposes of permit fee assessment only, such property, facilities, or operations shall be considered as a single facility if they are regulated by a common state or federal permit within each permit category, or if future such consolidation of multiple permits can be realized within the scope of applicable permitting regulations, and the facilities or operations are under the supervision of a single plant manager/superintendent.

FILING FEE

That portion of the initial permit application fee that is non-refundable, and is used to defray the costs associated with the clerical and administrative tasks prior to technical review of the application.

INITIAL FEE

That fee authorized by the enabling Act to be submitted with all applications for permits issued under the authority of Act 472 of 1949, as amended, and/or Act 237 of 1971, and includes a non-refundable filing fee as described in these regulations.

MODIFICATION FEE

That fee authorized by the enabling Act to be submitted for modifications of any existing or future permit required by Act 472 of 1949, as amended, and/or Act 237 of 1971, such modification being either at the request of the applicant or as required by the laws of the State of Arkansas or the regulations of the Arkansas Department of Pollution Control and Ecology.

RENEWAL PERMIT

A permit which is issued to a facility upon expiration of an existing permit.

RENEWAL PERMIT FEE

That fee charged for a renewal permit, as described in these regulations.

REISSUED PERMIT

For purposes of these permit fee regulations, a renewal permit shall be considered as a "reissued permit" when, at the time of permit renewal, there are no significant modifications necessary to the expiring permit, and there is no significant increase in the rate of emissions or effluent flow, such determinations to be made by the Department of Pollution Control and Ecology.

SIGNIFICANT PERMIT REVISION

A revision of a permit due to anticipated facility expansions, production increase,

or process modifications which will result in new, different, or significant increases in the rate of permitted allowable emissions or pollutant discharge.

SECTION 4. APPLICABILITY. Permit fees established by these regulations shall be applicable to all water permits, including no-discharge and/or closed system permits, issued under the provisions of the Water and Air Pollution Control Act (Act 472 of 1949, as amended), all air permits issued under the Water and Air Pollution Control Act (Act 472 of 1949, as amended) or any Federal Water or Air permit program where permitting authority has been delegated to the Department, and all solid waste disposal permits issued under the provisions of the Solid Waste Management Act (Act 237 of 1971) and the Solid Waste Disposal Code. Facilities operating under the provisions of "Permits by Rule" or "Authorization by Rule" will be exempted from these regulations until such time that the facility submits an application for an individual permit within each applicable permit category.

SECTION 5. MAXIMUM FEES. The following maximum fees shall be effective per permit category (Air, Water, or Solid Waste) per facility:

Initial Application and Renewal Fee	\$2500
Annual Review Fee or Reissued Permit Fee	\$1000
Permit Modification Fee	\$1000

SECTION 6. RETROACTIVITY. The "Initial Application Fee" as defined above shall not be enforced retroactively against water, air, or solid waste activities that hold valid permits as of the effective date of these regulations. However, as of the effective date of these regulations, all permit holders shall be liable for permit modification fees, and for annual review fees as of the anniversary date(s) of their permits(s).

Initial permit application fee will be calculated for each facility based upon design or permitted capacities, flows or emission rates for the appropriate permit category. The annual permit review fee will then be assessed at the rate of 40% of the calculated initial fee, such annual fee not to exceed \$1000 nor be less than \$50 per facility per permit category.

SECTION 7. PERMIT FEE PAYMENT. Applicable permit fees shall be paid by cash or check payable to the Department for deposit in the State Treasury. Initial permit fees and permit modification fees shall be submitted with the application or request for modification, as applicable, and the initial permit or modification shall not be issued until such fee is received by the Department. Annual fees shall be due within 30 days of the anniversary date of the permit and permittees shall normally be sent a bill for the required annual review fee. The annual review fee shall not be assessed during the years in which the initial permit application fee or the permit renewal fee is assessed. A permitted facility failing or refusing to pay the annual review fee in a timely manner shall be subject to a late payment charge as established in these regulations. Continued refusal to pay the required fees after a reasonable notice shall constitute grounds for revocation of the permit or other legal action by the Department, as appropriate. No late fee shall be assessed until 30 days after the permittee has been notified by the Department that the annual fee is due.

SECTION 8. REFUNDS. Except for the filing fee, fees submitted for an initial permit or permit renewal are refundable in the event that a permit or renewal permit is subsequently denied or the request is withdrawn by the applicant. However, 60% of the initial permit fee may be withheld at the discretion of the Department to cover the reasonable administrative

and technical review costs incurred in the review process. (The remaining 40% of the initial permit fee is reserved to cover the monitoring and inspection activities during the first year of operation, and therefore refunded in the event a permit or renewal permit is not issued).

SECTION 9. SOLID WASTE FEES. Due to the unique requirements for a preliminary site survey (Pre-site) of a proposed solid waste management facility prior to the submission of a permit application, the initial fee for solid waste permits is composed of two parts, i.e. (1) the pre-site investigation fee, and (2) the fee based on design volume of the facility. The pre-site investigation fee shall be a fixed amount as established in these regulations and will help to recover the costs of the preliminary engineering site survey conducted by the various regulating agencies in association with this Department. This pre-site fee shall be non-refundable, and shall be paid prior to the conduct of the pre-site investigation. Upon finding of site suitability based on the pre-site, or at the owner's risk if the site is judged to be non-suitable and the owner continues to seek a permit for the site, the remainder of the initial fee, not to exceed a total of \$2500, including the pre-site fee, shall be paid as specified in SECTION 7, and shall be subject to the refund provisions of SECTION 8 above.

SECTION 10. FEE SCHEDULE. The following permit fee schedule shall be applicable to the affected permit programs in the State of Arkansas. Permit fees determined with this schedule shall be the maximum fees for each particular category.

- a. Filing Fee. The first \$25 of the initial permit fee; non-refundable in the event the permit is denied, or the application is otherwise withdrawn.
- b. Water Permit Initial Fee. Fees shall be assessed on the basis of design flow or permitted flow in million of gallons per day

(mgd) and type of flow, as follows:

(1) Domestic, Municipal or Industrial without toxic/priority pollutants limited in the permit, as defined in 40 CFR 122., Appendix D

$$\text{INITIAL PERMIT FEE} = \$150 + 235 Q$$

where  $Q$  = effluent flow in mgd

(2) Industrial (with priority pollutants)

$$\text{INITIAL PERMIT FEE} = \$150 + 940 Q$$

where  $Q$  = effluent flow in mgd

(3) Non-Contact Cooling Water or Uncontaminated Storm Run-off

$$\text{INITIAL PERMIT FEE} = \$150 + 23.5 Q$$

where  $Q$  = discharge flow in mgd

(4) No discharge and/or Closed Systems required to be permitted under Act 472 of 1949, as amended, and any regulations promulgated thereto.

$$\text{INITIAL PERMIT FEE} = \$150$$

(5) Initial Permit Fees referred to in sub-sections b (1), (2), (3), and (4) above shall not total more than \$2500 per facility.

c. Air Permit Initial Fee. Fees shall be assessed on the basis of the permitted allowable emission rate of the predominant pollutant in tons per year (tpy), with an additional factor (A) for type of permit. When a control technology is specified rather than an emission rate, the fee will be based on the Department's estimate of the emission rate. Total initial permit fees shall not exceed \$2500 per facility. The formula for determination of the initial air permit fee is:

$$\text{INITIAL PERMIT FEE} = \$150 + 9.4Q + A$$

where  $Q$  = allowable emission rate (tpy) of predominant pollutant

and  $A$  = additional factor for permit type as follows:

in the event that more than one factor applies to a permit, only the highest factor will apply)

SIP -----	\$250
NSPS-----	\$750
NESHAPS-----	\$750
PSD-----	\$1410

- d. Solid Waste Initial Permit Fee. Fees shall be assessed on the basis of volume of waste to be disposed of in the facility in units of 1000 cubic yards. Fees are applicable to all classes of facilities permitted under Act 237 of 1971, and any regulations promulgated thereto. Fees are comprised of a fixed pre-site investigation fee and a variable fee based on design volume, the total not to exceed \$2500 per facility.

INITIAL PERMIT FEE = PRE-SITE FEE + DESIGN VOLUME FEE

For CLASS I, II, AND III LANDFILLS:

INITIAL FEE = \$150 + 2.35V (V = design volume in 1000's of cubic yards)

For CLASS IV LANDFILLS:

INITIAL FEE = \$75 + 1.17V (V = design volume in 1000's of cubic yards)

- e. Annual Review Fee and Permit Modification Fee. The annual review fee and permit modification fees for all categories of permits in Section 10a. through d. above shall be assessed at the rate of 40% of the calculated initial permit fee, such annual fee or permit modification fees not to exceed \$1000 per facility per permit category per year, nor be less than \$50. Annual review fees authorized by Act 817 of 1983 shall be applicable to all existing permits on the effective date of these regulations, except that the first annual fee shall be due 12 months following the next anniversary of the current permit issuance date, and annually thereafter.

For facilities possessing more than one permit in each permit category, the annual review fee shall be due on the anniversary date of the permit with the latest issuance date in the calendar year.

- f. Permit Renewal Fee. If a permit issued under the authority of the enabling legislation contains an expiration date and is consequently subject to renewal not later than the date of expiration, the permit renewal fee shall be assessed using the following guidelines:
- (1) If, at the time of renewal,
    - (a) significant permit revisions (as defined in Section 3) to the existing permit are requested by the applicant; or
    - (b) significant permit revisions are required to comply with new or revised state or federal laws and/or regulations;the renewal permit shall be considered the same as an initial permit for purposes of these permit fee regulations.
  - (2) If, at the time of renewal, there is no significant revision to the permit, and there is no significant increase in the rate of permitted allowable emissions or effluent flow, the renewal permit shall be considered as a "reissued permit" for purposes of these regulations, and subject to a fee equal to the annual review fee for the facility.
- g. Late Payment Charge. A late payment charge shall be assessed to facilities failing to pay the annual review fee within 30 days of the billing date, and shall be assessed at the rate of 10% of the annual review fee per month (or fraction thereof) that the fee is late.

$$\text{LATE PAYMENT CHARGE} = 10\% \text{ of ANNUAL REVIEW FEE (x) \# MONTHS LATE}$$

SECTION 11. REVISION OF FEES. The Department shall undertake a biennial re-evaluation of the permit fee schedule as contained in SECTION 10 above within 60 days of receiving its approved budget for the next biennium. The study shall reflect the current needs of the Department to perform essential permitting, compliance, and monitoring activities, the resources available, the balance of the permit fee fund from the previous biennium, anticipated state and federal appropriations, and any other factors deemed relevant to the study by the Department. Any changes to the permit fee schedule resulting from such studies shall be effective only after opportunity for public comment and/or public hearing and approval by the Commission and by the Governor of the State.

SECTION 12. SEVERABILITY. If any provisions of these regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these regulations which can be given effect with the invalid provision or application, and to this end provisions of these regulations are declared to be severable.

SECTION 13. EFFECTIVE DATE. These permit fee regulations shall be in full force and effect as of