

# **ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION**

## **Regulation No. 9**



## **Permit Fee Regulations**

**Approved by the Arkansas Pollution Control and  
Ecology Commission on January 28, 2005**

**REGULATION NO. 9**  
**PERMIT FEE REGULATIONS**  
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## **CHAPTER 1: TITLE**

### **Reg.9.101 Title**

This regulation shall be known by and may be cited by the short title “Regulation No. 9: Permit Fees.”

### **Reg.9.102 Purpose**

It is the purpose of this regulation to develop and implement a system of fees for permits issued by the Arkansas Department of Environmental Quality pursuant to the provisions of the Water and Air Pollution Control Act (Act 472 of 1949, as amended, A.C.A. §8-4-101 et seq.) or the Solid Waste Management Act (Act 237 of 1971, as amended, A.C.A. §8-6-201 et seq.). Act 817 of 1983, as amended, Act 1254 of 1993, as amended, and Act 1052 of 1999 (A.C.A. § 8-1-101 et seq.) authorize the collection and enforcement of these fees and authorize their use to defray the costs of operating the Department.

### **Reg.9.103 Applicability**

Permit fees established by this regulation shall be applicable to all water permits, including no-discharge and closed system permits, issued under the provisions of the Water and Air Pollution Control Act, as amended, all air permits issued under the Water and Air Pollution Control Act, as amended, or any federal water or air permit program where permitting authority has been delegated to the Department (unless fees for such a program are otherwise provided by law), and all solid waste disposal permits issued under the provisions of the Solid Waste Management Act, as amended, and the Solid Waste Management Code. Facilities operating under the provisions of the “Permits by Rule” or “Authorization by Rule” will be exempted from this regulation until such time that the facility submits an application for an individual permit within each applicable permit category.

### **Reg.9.104 Severability**

If any provision of this Regulation or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect other provisions or applications of this Regulation which can be given effect without the invalid portion or application, and to this end the provisions of this Regulation are declared to be severable.

## CHAPTER 2: DEFINITIONS

All terms used in this regulation, 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 this regulation, the following definitions apply:

**“Administrative Permit Amendment”** means a minor change or permit revision which is not typically considered a permit modification, as defined by applicable statutes or regulations, or a minor modification which does not require public notice and opportunity for comment. For example, typographical corrections or revisions, or other changes initiated by the Department, might be considered administrative permit amendments. Some minor changes requested by the permittee may also qualify as administrative permit amendments. For purposes of Chapter 5, administrative permit amendments are defined in Regulations 18, 19, and 26. The Director, in his discretion, may decide whether a revision would be considered an administrative amendment. No fee will be charged for administrative permit amendments.

**“Annual Fee”** means the fee required to be submitted upon the facility-specific annual invoice date for a permit issued pursuant to the Water and Air Pollution Control Act, as amended, or the Solid Waste Management Act, as amended.

**“Commission”** means the Arkansas Pollution Control and Ecology Commission.

**“Confined Animal Operation”** means any lot or facility where livestock or fowl have been, are, or will be stabled or confined and fed or maintained, and where crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any significant portion of the lot or facility.

**“Department”** means the Arkansas Department of Environmental Quality (ADEQ) or its successor.

**“Director”** means the Director of the Arkansas Department of Environmental Quality or his designated representative.

**“Discretionary Major Facility”** means an industrial facility discharging wastewater under the terms of a National Pollutant Discharge Elimination System (NPDES) permit that does not meet the numerical rating criteria as an NPDES non-municipal major facility, but which is designated as a major permittee by the Department or the U.S. Environmental Protection Agency (EPA). Such facilities are assigned an Major Rating Code (MRAT) greater than 500.

**“Facility”** means an activity or operation within a specific geographical location including property contiguous thereto. A facility may consist of several manufacturing, treatment, storage, or disposal operational units. For purposes of this permit fee regulation, a facility shall be considered to be all property, facilities, or operations owned, leased, or operated by a single entity, whether a municipal, county, or state government, corporation, partnership, or proprietorship in the same geographical area, forming an integral part of the same activity or operation, whether or not such activity lies within the boundaries of the 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 in the 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

**“Initial Fee”** means the fee which is required by law to be submitted with all applications for permits issued pursuant to the Water and Air Pollution Control Act, as amended, and the Solid Waste Management Act, as amended, and which must be received by the Department prior to the issuance of such a permit.

**“Major Municipal Facility”** means a publicly owned treatment works (POTW) with a design flow or daily average flow of 1.0 million gallons per day (mgd) or greater, or a POTW designated as a major facility by the Department or EPA.

**“Modification Fee”** means the fee required by law to be submitted for modification of any existing or future permit required by the Water and Air Pollution Control Act, as amended, or the Solid Waste Management Act, as amended, such modification being either at the request of the permittee or as required by law or regulation. The fee may vary depending upon whether the permit modification or renewal is considered to be a minor or major modification, as defined in applicable statutes or regulations, or otherwise determined by the Director.

**“Non-Municipal Major Facility”** means a facility subject to the National Pollution Discharge Elimination System (NPDES) whose status is determined following completion of an NPDES Permit Rating Worksheet (current version) in which points are allocated on the basis of toxic pollutant potential, permitted flow or the ratio of wastewater to stream flow volume, conventional pollutants mass loadings, public health impacts (including proximity to drinking water supplies and potential for human health toxicity), and water quality factors. Additional points can be assessed for certain steam electric power plants or for separate storm sewers serving a population greater than 100,000. The total points accumulated is known as the Major Rating Code or MRAT, which is the numeric total of ranking points assigned to non-municipal facilities and used to delineate them as a major or minor facility. Currently, a facility with an MRAT of eighty (80) points or more is designated as a “non-municipal major” facility. Additionally, EPA or the Department may designate an NPDES permittee as a “discretionary major” facility. Once an MRAT for a major facility is calculated and approved by EPA, the Department may recommend increases or decreases to an MRAT, but only EPA is authorized to change an individual permittee’s MRAT or designation as a “major” facility.

**“Non-Part 70 Permit”** means an air permit that is issued pursuant to a regulation other than Part 70 of Title 40 of the Code of Federal Regulations (40 CFR Part 70).

**“Part 70 Permit”** means an air permit that is issued pursuant to 40 CFR Part 70.

**“Renewal Permit”** means a permit issued to a facility upon expiration of an existing permit. A modification fee may be assessed, depending upon whether the renewal is considered to be a minor or major modification, as defined in applicable statutes or regulations, or otherwise determined by the Director.

## **CHAPTER 3: PERMIT FEE PAYMENT**

### **Reg.9.301      Permit Fee Payment**

**(A)      Fee Calculation**

The applicant may calculate the initial permit application fee or permit modification fee and include it with the permit application, or the applicant may request that the Department calculate the fee after reviewing the application and forward an invoice to the applicant for payment.

**(B)      Fee Payment**

Applicable permit fees shall be paid by check or money order payable to the Department for deposit in the State Treasury. The permit will not be issued until such fee is received by the Department.

**(C)      Annual Fee Payment**

Annual fees shall be due forty-five (45) days after the first day of the month in which the Permittee is billed for the required annual fee. Failure to receive this bill does not relieve the Permittee from liability for the annual fee, but late charges will not be assessed until forty-five (45) days after the Permittee has been notified that the annual fee is due. The Director may waive annual fees or a portion thereof, for new facilities which are not in operation, unless such waiver is otherwise prohibited by State or Federal law.

**(D)      Failure to Pay Annual Fees**

A permitted facility failing or refusing to pay the annual 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 legal action by the Department, which may result in revocation of the permit. When payment of fees is made by check which is subsequently returned due to insufficient funds, all review work on the particular application will immediately cease until the fee is paid in cash or by money order.

**(E)      First Annual Fee Payment**

The annual fee shall be assessed upon the facility-specific annual invoice date. The Department shall credit the first annual fee, on a prorated basis, if the initial fee for the permit was assessed within 12 months of the first annual fee for the permit. The Department may credit the annual fee, on a prorated basis, if a modification fee for the permit was assessed within 12 months of the annual fee for the permit.

**(F)      Annual Fee Late Payment Charge**

A late payment charge shall be assessed to facilities failing to pay the annual fee within forty-five (45) days of the billing date, and shall be assessed at the rate of ten percent (10%) of the annual fee.

**LATE PAYMENT CHARGE = TEN PERCENT (10%) OF ANNUAL FEE**

**Reg.9.302      Refunds**

Except for pre-site investigation fees and interim authority or variance application fees as described in Chapters 6 and 7, up to forty percent (40%) of a fee submitted pursuant to this regulation is refundable in the event that the request for the permit action for which the fee was submitted is withdrawn by the applicant prior to the final permit decision. The Director shall retain as much of the above-cited forty percent (40%) as he in his sole discretion, determines is necessary to cover the reasonable administrative and technical review costs incurred in the review process.

## CHAPTER 4: WATER PERMIT FEES

**WATER PERMIT FEES.** The following permit fee schedule shall be applicable to the affected water permit programs in the state of Arkansas.

### **Reg.9.401      Maximum Water Permit Fees**

The following maximum fees for water permits, including construction permits and initial, annual, renewal and modified permits, shall apply to each such permit issued by the Department. Actual permit fees will be calculated and assessed in accordance with the provisions of this section.

(A)      Construction Permits

Construction permits issued pursuant to the Water and Air Pollution Control Act, as amended, for construction, alteration, or modification, or any combination thereof, of a treatment system shall not exceed \$500 per permit.

(B)      NPDES and UIC Program Permits

Permits issued under the National Pollutant Discharge Elimination System (NPDES) and the Underground Injection Control (UIC) Programs.

(1)      Initial and Annual .....\$30,000

(2)      Modification of Permit

          (a)      Major Modification .....\$10,000

          (b)      Minor Modification\* .....\$1,000

NOTE:   \*      Minor modifications for NPDES and UIC permits are restricted to those as defined in 40 CFR 122.63 and 144.41, respectively.

(C)      Non-NPDES “No-Discharge” Permits .....\$500

(D)      Short Term Activity Authorizations

Fees for Short Term Activity Authorizations under the provisions of Regulation No. 2: Water Quality Standards shall not exceed \$200.

### **Reg.9.402      General Provisions**

(A)      Construction Permits

All applicants for construction permits required by A.C.A. § 8-4-217(b) shall be assessed a fee of \$500 for each permit or modification thereto, except for liquid animal waste management systems which will be assessed a fee of \$200 for each permit or modification thereto. Construction permit fees shall be in addition to any water permit fees required in Sections 9.403, 9.404, and 9.405 below.



(B) Permits Fees

Permit fees (initial, annual, or modification) shall be required for each water permit, as described below.

(C) Inactive Status Fees

The owner or operator of a hog farm that has been issued a permit under Regulation No. 5, Liquid Animal Waste Management Systems, shall not pay an annual fee if the permit is placed on inactive status by the Department. An NPDES or non-NPDES permit may be placed on inactive status if the owner's or operator's contract with the integrator has been terminated by the integrator. To obtain inactive status, the owner or operator must submit a written request to the Department seeking inactive status and provide the Department with a copy of the integrator's letter terminating the contract. The Department shall notify the owner or operator that the permit has been placed on inactive status. The owner or operator will not pay an annual fee during the time the permit is on inactive status. A permit that is placed on inactive status may remain on inactive status for a maximum of two (2) years following the date of contract termination. The owner or operator must comply with all permit conditions in order for the permit to remain on inactive status. Failure to comply with permit condition may result in the possible repayment of the annual fees, in addition to any assessed penalties. If the permit has not been reactivated at the end of the two (2) year period, the owner or operator must file a closure plan with the Department. The owner or operator must reactivate the permit if the owner or operator begins operating the hog farm and shall notify the Department within thirty (30) days after the owner or operator begins operating the hog farm that the permit is being reactivated.

**Reg.9.403 Fees for Permits Issued Under the National Pollutant Discharge Elimination System (NPDES) Permits.**

(A) Non-Municipal Major Facilities

(1) All facilities classified as Non-Municipal Major Facilities, as defined in Chapter 2, with a Major/Minor Permit Rating (MRAT) equal to or greater than 100, except for Discretionary Major Facilities [see Section 9.403(A)(2)], are subject to fees as follows:

(a) Initial Fee	\$15,000
(b) Annual Fee	\$15,000
(c) Modification Fee	
(1) Major.....	\$5,000
(2) Minor* .....	\$1,000

- (2) Non-Municipal Major Facilities with MRAT less than 100 and Discretionary Major Facilities are subject to fees as follows:

(a) Initial Fee	\$11,000
(b) Annual Fee	\$11,000
(c) Modification Fee	
(1) Major.....	\$5,000
(2) Minor* .....	\$1,000

(B) Major Municipal Facilities

All Major Municipal Facilities, as defined in Chapter 2, are subject to fees as follows:

- (1) Initial and annual fees shall be calculated as follows:

$$\text{Fee} = \$5,000 + 900 Q' \text{ (mgd)}$$

where  $Q' = \text{Design flow (Q)} - 1 \text{ mgd}$

- (2) Modification Fee

(a) Major .....	\$5,000
(b) Minor* .....	\$1,000

(C) Minor Municipal and Non-Municipal Facilities

(1) Facilities without toxics, priority pollutants, or hazardous substances, as defined in 40 CFR 122, Appendix D, Tables II, III, and V, or Whole Effluent Toxicity (WET) limits, limited in the permit:

- (a) Initial and annual fees shall be calculated as follows:

$$\text{Fee} = \$200 + 5600 X Q \text{ (mgd)}$$

with Maximum Fee = \$10,000

- (b) Modification Fee

(1) Major .....	\$2000
(2) Minor* .....	\$1000

(2) Facilities with toxics, priority pollutants or hazardous substances, as defined in 40 CFR 122, Appendix D, Tables II, III and V, or Whole Effluent Toxicity (WET) limits, limited in the permit:

- (a) Initial and annual fees shall be calculated as follows:

$$\text{Fee} = \$200 + 21500 \times Q(\text{mgd})$$

**with Maximum Fee = \$15,000**

(b) Modification Fee

(1) Major .....\$2000

(2) Minor\* .....\$1000

(3) Non-contact cooling water (including discharges from power plants not subject to fees described in 9.403(A) above) and non-contaminated storm water discharges:

(a) Initial and annual fees shall be calculated as follows:

$$\text{Fee} = \$200 + 700 \times Q(\text{mgd})$$

**with Maximum Fee = \$10,000**

(b) Modification Fee

(1) Major .....\$2000

(2) Minor\* .....\$1000

(4) Aquatic animal production facilities (fish hatcheries, etc.) with flow-through systems shall be subject to the following fees:

(a) Initial and Annual \$2,500

(b) Modification

(1) Major \$2,000

(2) Minor\* \$500

(5) Variable Discharge (i.e., storm water and land clearing not addressed in Subsection 9.403(C), sand and gravel operations, mining, etc.)

(a) Initial and Annual \$300

(b) Modification

(Major and Minor) \$300

\*Minor modifications to NPDES permits are restricted to those defined in 40 CFR 122.63

**Reg.9.404 NPDES General Permits**

- (A) In lieu of the fee schedules described above, and except as provided in Subsection 9.404(B) below, permittees authorized to discharge wastewater under an NPDES general permit issued by the Department shall be subject to an annual fee as described below. The initial fee shall be remitted with the Notice of Intent NOI) for coverage under the applicable general permit. Until a Notice of Termination (NOT) is submitted to and approved by the Department, the Permittee shall be billed annually thereafter by the Department on the anniversary date of coverage.

General Permit Number & Name

ARG010000 (Concentrated Animal Feedlot-Liquid Animal Waste Disposal)	\$400
ARG590000 (Concentrated Animal Feedlot-Dry Litter Disposal)	\$100
ARG040000 (Coal Mining)	\$400
ARG160000 (Sanitary Landfill Runoff)	\$400
ARG340000 (Bulk Petroleum Storage)	\$400
ARG550000 (Individual Treatment Unit)	\$200
ARG640000 (Water Plant Backwash Filters)	\$400
ARG670001 (Pipeline Hydrostatic Testing)	\$200
ARG750000 (Car/Truck Wash Facilities)	\$200
ARG790000 (Ground Water Clean-up)	\$500
ARG190000 (Laundromats)	\$200
ARR000000(Storm Water - Mfg)	\$200
ARR150000(StormWater- Construction)	\$200
ARR040000 (Storm Water – MS4 Phase II)	\$200
ARG500000 (Sand and Gravel)	\$200

- (B) Homeowners covered under general permit ARG550000 (Individual Treatment Units) are exempt from fees required herein.

**Reg.9.405 Fees for Non-NPDES Permits.**

- (A) Salt Water Disposal
- |                              |       |
|------------------------------|-------|
| (1) Initial Fee .....        | \$250 |
| (2) Annual Fee .....         | \$250 |
| (3) Modification Fee * ..... | \$250 |
- (B) Confined Animal and Small Commercial Septic Tank Systems (<5000 gpd)

- |     |                    |       |
|-----|--------------------|-------|
| (1) | Initial Fee        | \$200 |
| (2) | Annual Fee         | \$200 |
| (3) | Modification Fee * | \$200 |
- (C) Commercial or industrial (non-agricultural, non-UIC, commercial septic tank systems) (> 5000 gpd)
- |     |                          |       |
|-----|--------------------------|-------|
| (1) | Initial Fee .....        | \$500 |
| (2) | Annual Fee .....         | \$500 |
| (3) | Modification Fee * ..... | \$500 |
- (D) Industrial sludge application (i.e. food processing, reserve pit, hatchery systems, etc.)
- |     |                          |       |
|-----|--------------------------|-------|
| (1) | Initial Fee .....        | \$500 |
| (2) | Annual Fee .....         | \$500 |
| (3) | Modification Fee * ..... | \$500 |
- (E) Publicly Owned Treatment Works (POTW) Non-NPDES with Land Application of Wastewater
- |     |                          |       |
|-----|--------------------------|-------|
| (1) | Initial Fee .....        | \$500 |
| (2) | Annual Fee .....         | \$500 |
| (3) | Modification Fee * ..... | \$500 |

NOTE: \* Defined as a ten percent (10%) or greater change in application or storage volumes or a change in the method of application or disposal

**Reg.9.406 Fees for Underground Injection Control (UIC) Permits (Injection well classifications are defined in 40 CFR 144.6.)**

- (A) Class I, III and IV
- |     |                   |          |
|-----|-------------------|----------|
| (1) | Initial Fee       | \$15,000 |
| (2) | Annual Fee        | \$15,000 |
| (3) | Modification Fee  |          |
|     | (a) Major .....   | \$10,000 |
|     | (b) Minor * ..... | \$1,000  |

\* Minor modifications are limited to those actions defined in 40 CFR 144.41.

- (B) Class V

(1)	Initial Fee	\$500
(2)	Annual Fee	\$500
(3)	Modification Fee	\$500

#### **Reg.9.407 Administrative Permit Amendments**

There shall be no fee charged for minor water permit modifications involving only administrative amendments or revisions to a permit. For purposes of this Chapter, minor modifications are restricted to those defined in 40 CFR 122.63 or 40 CFR 144.41. The Director, in his discretion, may decide whether a minor modification is considered to be an administrative amendment.

## CHAPTER 5: AIR PERMIT FEES

### AIR PERMIT FEES.

#### Reg.9.501      **Applicability**

The air permit fees contained in this section are applicable to (1) non-part 70 permits, (2) part 70 permits, and (3) general permits.

#### Reg.9.502      **Terms Used in Fee Formulas**

- (A) **\$/ton factor** is \$16/ton until September, 1994, after which time it shall be increased annually by the percentage, if any, by which the federal Consumer Price Index exceeds that of the previous year. The Director may, after considering the factors contained in §9.801 of this regulation, decide not to increase the \$/ton factor in a year when the fee fund has a balance greater than 150% of the amount of money expended from that fund in the previous year.
- (B) **tons/year predominant air contaminant** is the permitted emission rate of the most predominant air contaminant (other than carbon monoxide). The maximum value shall be no greater than 4,000 tons/year per facility.
- (C) **tons/year chargeable emissions** is the sum of the permitted emission rates of all air contaminants (other than carbon monoxide). The maximum value per air contaminant shall not exceed 4,000 tons/year per facility.

#### Reg.9.503      **Initial Fees**

Initial fees shall be assessed according to the following formulas:

- (A) Non-part 70 permits

**initial fee = \$/ton factor x tons/year predominant air contaminant**

Provided, however, no initial fee shall be less than \$500 except for general permits issued to Non-part 70 sources.

- (B) Part 70 permits

- (1) Permits issued to part 70 sources already holding an active air permit not issued pursuant to Department Regulation #26:

**initial fee =    [\$/ton factor x tons/year chargeable emissions]  
                         - amount of last annual air permit fee invoice**

Provided, however, that no initial fee shall be less than \$1,000.

- (2) Permits issued to part 70 sources which do not hold an active air permit:

**initial fee = \$/ton factor x tons/year chargeable emissions**

Provided, however, that no initial fee shall be less than the \$/ton factor x 100.

**Reg.9.504      Annual Fees**

Annual fees shall be assessed according to the following formulas:

- (A) Non-part 70 permits

**annual fee = \$/ton factor x tons/year predominant air contaminant**

Provided, however, that no annual fee shall be charged for a permit in which the tons/year predominant air contaminant is less than 10 tons/year.

- (B) Part 70 permits

**annual fee = \$/ton factor x tons/year chargeable emissions**

Provided, however, that no annual fee shall be less than the \$/ton factor x 100.

**Reg.9.505      Modification Fees**

Modification and renewal fees for air permits shall be assessed according to the following formulas:

- (A) Non-part 70 permits

**modification fee = \$/ton factor x tons/year net emissions increase of predominant air contaminant**

However, no modification fee shall be less than \$400, or more than the \$/ton factor x 4,000.

- (B) Part 70 permits

- (1) For each non-minor permit modification or each renewal permit involving a non-minor permit modification:

**fee = \$/ton factor x tons/year net emission increase of chargeable emissions**

However, no fee shall be less than \$1,000 or more than the \$/ton factor x 4,000.

- (2) \$500 for each minor permit modification or each renewal permit involving only a minor permit modification.



**Reg.9.506          Administrative Permit Amendments and Renewal Permits**

There shall be no fee charged for administrative permit amendments or renewal permits not involving a permit modification, as such are defined in Regulation 26: Arkansas Operating Air Permit Program, Regulation 19: State Implementation Plan for Air Pollution Control, or Regulation 18: Arkansas Air Pollution Control Code, as applicable.

**Reg.9.507          General Permits**

In lieu of the fee schedules described above, sources which qualify for a general permit issued by the Department shall be subject to an initial fee of \$200.00 and annual fee of \$200.00 thereafter.

## **CHAPTER 6: SOLID WASTE PERMIT FEES**

### **SOLID WASTE PERMIT FEES.**

#### **Reg.9.601      Maximum Amount of Solid Waste Permit Fee Collections**

In accordance with A.C.A. § 8-1-103, the total amount of fees for solid waste management facility permits shall be calculated to generate revenues in any fiscal year not to exceed 4.25 times the total amount collected from Class 1 and Class 3 landfills in fiscal year 1992-93, provided that the total fee revenues cannot exceed one and one-quarter (1.25) times the total amount collected from solid waste permit fees in fiscal year 1994-95. Further, should the amount of permit fees levied on or received from permit holders exceed the amount specified above in a fiscal year, the over-collections may be retained by the Department to be used to reduce permit fees in subsequent years by relative amounts.

#### **Reg.9.602      Fee Categories**

Separate fees for the Initial fees (Pre-Application and Application), Annual Fees, Modification Fees, Permit Transfer Fees, and Post Closure Fees will be assessed for each applicable permit category. For purposes of assessing fees, permit categories include the following types of solid waste management facilities: Class 1, Class 3C (Commercial), Class 3N (Non-Commercial), Class 3T (Tire), and Class 4 Landfills; Transfer Stations, Composting Facilities and Solid Waste Material Recovery Facilities; provided, however, fees for a Solid Waste Material Recovery Facility will not be assessed where limited recycling and material recovery activities occur at a Transfer Station site. Solid waste management facilities, subject to the permit fees as set forth in this regulation, are further defined and regulated under Regulation No. 22: Solid Waste Management.

#### **Reg.9.603      Initial Fees**

Due to the unique requirements for a preliminary site survey (pre-site), which may include a geotechnical site review, 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., (A) the pre-application fee, and (B) the application fee. The pre-application fee 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 nonrefundable and shall be paid prior to conducting the pre-site investigation. Upon a finding of site suitability based on the pre-site investigation, or at the owner's risk if the site is judged to be unsuitable and the owner continues to seek a permit for the site, the initial fee shall be paid as specified in Chapter 3. These fees are applicable to all types of facilities permitted under the Solid Waste Management Act, as amended, and any regulations promulgated thereto.

##### **(A)      Pre-Application Fees**

- |     |  |         |
|-----|--|---------|
| (1) | Class 1, Class 3C, Class 3N, Class 3T .....      | \$2,000 |
| (2) | Class 4 .....                                    | \$1,000 |
| (3) | Transfer Stations, Composting, Material Recovery |         |

Facilities.....	\$450
-----------------	-------

(B) Application Fees

(1) Class 1, Class 3C.....	\$10,000
(2) Class 3N, Class 3T.....	\$5,000
(3) Class 4.....	\$1,000
(4) Transfer Stations, Composting, Material Recovery Facilities.....	\$450

**Reg.9.604 Annual Fees**

Annual Fees are payable in accordance with Chapter 3 and are assessed for each calendar year that the solid waste management facility is in operation. For all solid waste management facilities, subject to fees named herein, annual fees are assessed each calendar year until the solid waste management facility stops receiving waste and the Department places the facility in post-closure status under Regulation No. 22: Solid Waste Management. No partial year refund of annual fees will be made.

(A) Class 1 .....	\$6,000
(B) Class 3C.....	\$5,000
(C) Class 3N, Class 3T .....	\$3,000
(D) Class 4 .....	\$500
(E) Transfer Stations, Composting, Material Recovery Facilities.....	\$450

**Reg.9.605 Modification Fees**

(A) Class 1 (Capacity Increase Modification or Major Modification) .....	\$4,000
(B) Class 1 (Subtitle “D” Upgrade or Minor Modification).....	\$3,000
(C) Class 3C, Class 3N, Class 3T .....	\$2,000
(D) Class 4 .....	\$1,000
(E) Transfer Stations, Composting, Material Recovery Facilities.....	\$450

**Reg.9.606 Permit Transfer Fees**

(A) (A) Class 1, Class 3C, Class 3N, Class 3T, Class 4 .....	\$1,000
(B) (B) Transfer Stations, Composting, Material Recovery Facilities .....	\$500

**Reg.9.607 Post Closure Fees**

Post Closure Fees are assessed annually throughout the post closure period for each permit category subject to post closure monitoring.

Class 1, Class 3C, Class 3N, Class 3T, Class 4 .....	\$500
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**Reg.9.608 Administrative Permit Amendments**

For purposes of this Chapter, there shall be no fee charged for minor permit modifications involving only administrative permit amendments or corrections.

## **CHAPTER 7: VARIANCES OR INTERIM AUTHORITY REQUESTS**

### **Reg.9.701      Processing Fee**

In accordance with A.C.A. § 8-4-230(a)(3), as amended, there shall be an initial processing fee of two hundred dollars (\$200.00) assessed for all requests for variances from the requirements of any permit issued by the Department, or any interim authority request to construct or operate during the permit application review and issuance process. The fee shall not be required for a request for an extension of any existing variance or interim authority.

### **Reg.9.702      Fees Non-Refundable**

If a variance or interim authority request is denied, the processing fee is non-refundable.

## **CHAPTER 8: ADMINISTRATIVE PROCEDURES**

### **Reg.9.801      Department Review of Fees**

The Department shall undertake a biennial re-evaluation of the permit fee schedule as contained in this regulation within 60 days of receiving its approved budget for the next biennium. The evaluation shall reflect the current needs of the Department to perform essential permitting, compliance, enforcement and monitoring activities; the resources available; the balance of the permit fee fund from the previous biennium; anticipated state and federal appropriations; status of delegation of federal programs; and any other factors deemed relevant to the study by the Department.

### **Reg.9.802      Appeals**

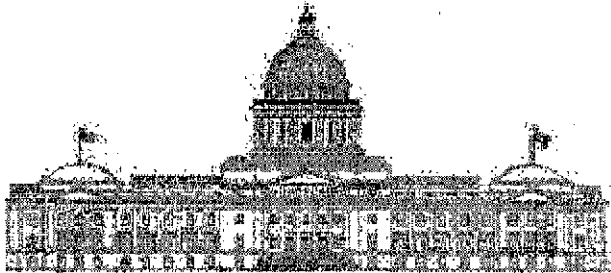
If any applicant/permittee disagrees with the Department's decision on an assessment of fees, the applicant/permittee may appeal such decision in accordance with the applicable provisions of the Water and Air Pollution Control Act or the Solid Waste Management Act and Regulation No. 8.

### **Reg.9.803      Effective Date**

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

# ARKANSAS REGISTER

## Transmittal Sheet



Charlie Daniels  
Secretary of State  
State Capitol Room 026  
Little Rock, Arkansas 72201-1094  
(501) 682-3527

For Office Use Only:	
Effective Date _____	Code Number _____
Name of Agency <u>Arkansas Department of Environmental Quality</u>	
Department <u>Arkansas Pollution Control and Ecology Commission</u>	
Contact <u>Michael Bonds</u>	E-mail <u>bonds@adeq.state.ar.us</u> Phone <u>(501) 682-0750</u>
Statutory Authority for Promulgating Rules <u>Ark. Code Ann. § 8-1-101</u>	

**Rule Title:** Regulation No. 9, Air Permit Fees; Docket No. 04-010-R; Minute Order No. 05-02

Intended Effective Date

☐ Emergency

☒ 10 Days After Filing

☐ Other \_\_\_\_\_

Legal Notice Published .....

Final Date for Public Comment .....

Reviewed by Legislative Council .....

Adopted by State Agency .....

Date

09/26/04

11/12/04

11/30/04

01/28/05

☒ Electronic Copy of Rule Provided (per Act 1648 of 2001)

☐ Electronic Copy of Rule to be e-mailed from: \_\_\_\_\_

Contact Person

Email Address

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with Act 434 of 1967 As Amended.

*Michael O'Malley*  
\_\_\_\_\_  
Signature

(501) 682-7890

omalley@adeq.state.ar.us

Phone Number

E-mail Address

Administrative Hearing Officer

Title

02/04/05

Date

ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION

101 EAST CAPITOL

SUITE 205

LITTLE ROCK, ARKANSAS 72201

PHONE: (501) 682-7890

FAX: (501) 682-7891



**RECEIVED**

FEB 04 2005

BUREAU OF  
LEGISLATIVE RESEARCH

February 4, 2005

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

Re: Regulation No. 9, (Air Permit Fees); Docket No. 04-010-R

Dear Ms. Davis:

I am enclosing the following for filing with your office:

1. Two (2) hard copies of the amendment to Regulation No. 9, (Air Permit Fees).
2. Two (2) copies of Minute Order No. 05-02
3. Two (2) copies of the Financial Impact Statement.

Please provide written confirmation of your receipt of these materials by file-marking the enclosed copy of this letter and returning it to me.

Thank you for your assistance in this matter.

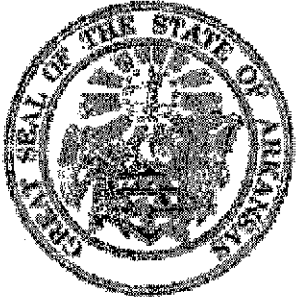
Respectfully,

A handwritten signature in black ink that reads "Michael O'Malley".

Michael O'Malley  
Administrative Hearing Officer

Enclosures

# ARKANSAS STATE LIBRARY



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

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

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DOCUMENTS SERVICES  
2005 FEB -4 PM 3:15  
ARKANSAS STATE LIBRARY

For Office Use Only

Effective Date:

Classification Number:

Name of Agency: Arkansas Department of Environmental Quality

Contact Person: Mike Bonds

Telephone: (501) 682-0750

Statutory Authority for Promulgating Rules: Ark. Code Ann. § 8-1-101

Title of Rule: Regulation No. 9 – Air Permit Fees; Docket No. 04-010-R; Minute Order No. 05-02

Rule Status	Effective Date Status	Effective Date
<input type="checkbox"/> New Rule/Regulation	<input type="checkbox"/> Emergency	
<input checked="" type="checkbox"/> Amended Rule/Regulation	<input checked="" type="checkbox"/> 10 Days after filing	February 14, 2005
<input type="checkbox"/> Repealed Rule/Regulation	<input type="checkbox"/> Other	
<input type="checkbox"/> Order	<input type="checkbox"/> Repealed	
<input type="checkbox"/> Emergency Rule/Regulation	Adopted by State Agency	

☐ Rule above is proposed and will be replaced by final version

☒ Financial and/or Fiscal Impact Statement Attached

### Certification of Authorized Officer

I hereby certify that the attached rules were adopted in compliance with Act 434 of 1967 as amended.

Signature:

*Michael O'Malley*

Date: 02/04/05

Title: Administrative Hearing Officer, Arkansas Pollution Control & Ecology Commission

1/14/99



ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION

LOCATION - Adoption of  
Revisions to Regulation  
No. 9

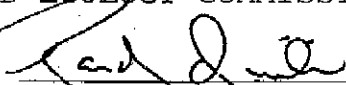
Docket No. 04-010-R

MINUTE ORDER NO. 05 - 02

PAGE 1 OF 1

Pursuant to public notice and hearing, and in consideration of the public comments received, the Arkansas Pollution Control and Ecology Commission hereby adopts changes to Regulation No. 9, Permit Fees.


PROMULGATED THIS 28th DAY OF January 2005, BY ORDER OF THE  
ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

BY:   
Randy Quillin, Chair

ATTEST:

  
Marcus C. Devine, Director

APPROVED:

  
Mike Huckabee, Governor

COMMISSIONERS

<u>BA</u>	B. Ackerman
<u>LB</u>	L. Bengal
<u>SH</u>	S. Henderson
<u>CM</u>	C. McGrew
<u>RQ</u>	R. Quillin
<u>DS</u>	D. Samples
<u>TS</u>	T. Schueck

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<u>LS</u>	L. Sickel
<u>WT</u>	W. Thompson
	E. Valdez
<u>BW</u>	B. White
<u>RY</u>	R. Young

  
R. Quillin, Chair

SUBMITTED BY Michael Bonds: PASSED: January 28, 2005