

Exhibit A:

Regulation 1

SECOND REVISED MARKUP DRAFT

Change in response to Oral Public Comment received on July 26, 2018:

1. Changed the title of Chapter 1 to “General Provisions.”

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

REGULATION NO. 1

~~REGULATION FOR THE PREVENTION OF POLLUTION
BY SALT WATER AND OTHER OIL
FIELD WASTES WASTE PRODUCED BY WELLS IN ALL
FIELDS OR POOLS~~



Effective Date: March 16, 1993

**Submitted to the Arkansas Pollution Control and Ecology Commission
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CHAPTER 1 : GENERAL PROVISIONS

Reg. 1.101 Title

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

Reg. 1.102 Authority

1. This regulation is promulgated to the authority contained in Act 472 of the Acts of Arkansas for 1949. The legal authority for this regulation is the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*

Reg. 1.103 Purpose

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

Reg. 1.104 Applicability

2. This regulation shall apply applies to all oil and gas wells any surface facility associated with a disposal system for oil field waste in “all existing fields or pools.”.

CHAPTER 2 : DEFINITIONS

3. ~~The following words or phrases, unless the context clearly indicates otherwise, shall have the meanings ascribed to them as follows:~~

Reg. 1.201 Definitions

As used in this regulation:

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

“AOGC” means the Arkansas Oil and Gas Commission or its successor.

“APC&EC” means the Arkansas Pollution Control and Ecology Commission or its successor, unless otherwise specified.

“Class II Well” means a well in which Class II Fluids are injected.

“Class II Fluids” is defined by the Arkansas Oil and Gas Commission (AOGC) and means:

“(A) Produced water and/or other fluids brought to the surface in connection with drilling, completion or fracture treatments, workover or recompletion and plugging of oil, natural gas, Class II or wells that are required to be permitted as water supply wells by the [AOGC]; enhanced recovery operations; or natural gas storage operations, or

(B) Produced water and/or other fluids from (A) above, which prior to re-injection have been used on site for purposes integrally associated with well drilling, completion or fracture treatments, workover or recompletions or plugging oil, natural gas, Class II or wells that are required to be permitted as water supply wells by the [AOGC]; enhanced recovery operations; natural gas storage operations; or chemically treated or altered to the extent necessary to make them usable for purposes integrally related to well drilling, completion, workover or recompletions or plugging oil, natural gas, Class II or wells that are required to be permitted as water supply wells by the [AOGC]; enhanced recovery operations; natural gas storage operations, or commingled with fluid wastes resulting from fluid treatments outlined above, provided the commingled fluid wastes do not constitute a hazardous waste under the Resource Conservation and Recovery Act, or

(C) Waste fluids from gas plants (including filter backwash, precipitated sludge, iron sponge, hydrogen sulfide and scrubber liquid) which are an integral part of oil and gas production operations; and waste fluids from gas dehydration plants (including glycol-based compounds and filter backwash), unless the gas plant or gas dehydration plant wastes are classified as hazardous under the federal Resource Conservation and Recovery Act.”

“Commercial disposal well” means a “Class II Commercial Disposal Well” defined by the Arkansas Oil and Gas Commission as:

“a permitted Class II well in which Class II Fluids are injected, for which the Permit Holder receives deliveries of Class II Fluids by tank truck from multiple oil and gas well operators, and either charges a fee at the disposal well facility or purchases the Class II Fluids at the source for subsequent transport to the disposal well facility for the specific purpose of disposal of the delivered Class II Fluids.”

“Director” means the Director of the Arkansas Department of Environmental Quality or the Director’s designee, unless otherwise specified.

“Disposal system” means a system for disposing of oil field waste.

“Disposal well” means a “Class II Disposal Well” defined by the Arkansas Oil and Gas Commission as:

- “(A) A permitted Class II well in which Class II Fluids are injected into zones not productive of oil and gas, and brine used to produce bromine, within the field boundary established by an order of the [AOGC] for the production of liquid hydrocarbons or brine used to produce bromine, where the well is located or will be located, for the purpose of disposal of those fluids; or
- (B) A permitted Class II well in which Class II Fluids are injected into a zone or zones which are not commercially productive of dry gas, within the same common source of supply, where the well is located or will be located, for the purpose of disposal of those fluids.”

“High volume disposal system” means a disposal system with an on-site storage capacity of greater than 1000 barrels of oil field waste.

“Oil field waste” means salt water, other Class II Fluids, crude oil, waste oil, oil sludge, oil water emulsion, or oil bearing mixtures of any kind associated with an oil or gas well, oil or gas production facilities, or disposal systems.

~~(a) “Person” means any state agency, municipality, governmental subdivision of the state or the United States, public or private corporation, individual, partnership, association, or other entity.~~

~~(b) “Oil Field Wastes” shall include salt water discharged from any oil or gas well lease, crude oil, waste oil, oil sludge, oil water emulsion, or oil bearing mixtures of any kind.~~

~~(c) “Pollution” means the contamination of any waters of the State so as to create a nuisance or render such waters unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial, agricultural or recreational use, or to livestock, wild animals, bird, fish or other aquatic life contamination or other alteration of the physical, chemical, or biological properties of any waters of the state, or discharge of any liquid, gaseous, or solid substance in any waters of the state as~~

will, or is likely to, render the waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wild animals, birds, fish, or other aquatic life.

(d) **~~“Department”~~** means the Arkansas Department of Pollution Control and Ecology.

(e) **~~“Disposal System”~~** means a system for disposing of wastes, including oil field wastes.

~~“Surface Facility”~~ means all on-site facilities and equipment associated with a disposal system installed or used by the permittee to achieve compliance with this regulation.

(f) **~~“Waters of the State”~~** means all streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, that are contained within, flow through, or border upon this state or any portion of the state ~~underground water and all streams and lakes, including all rivers and lakes bordering on the State, marshes, watercourses, drainage systems and other bodies of water, natural or artificial, public or private, of such character that the pollution thereof may create a nuisance or be either actually or potentially harmful or detrimental to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, or recreational use, or to livestock, wild animals, bird, fish or other aquatic life.~~

(g) **~~“New Existing fields or pools”~~** means any oil and gas field and/or pools pool found, brought in, established after July 1, 1957, or currently in use.

(h) **~~“Commission”~~** means the Arkansas Pollution Control and Ecology Commission.

CHAPTER 3 : DISPOSAL OF OIL FIELD WASTE

Reg. 1.301 Discharge of Oil Field Waste Prohibited

~~4.(A) No person having possession or control of~~ A person who possesses or controls any oil or gas well in a any existing field or pool, either as contractor, owner, lessee, agent manager, or in any other capacity, shall not allow any salt water or other oil field wastes waste produced by such well to escape or be discharged onto to the ground, or escape in any other manner which that results in the flow of said wastes oil field waste into any the waters of the State, whether by natural drainage, seepage, overflow, or otherwise. It shall be the duty of such person to confine all such salt water and other oil field wastes or dispose of same in such manner as will prevent their discharge or flow into any of the waters of the State.

(B) All oil field waste shall be confined or disposed of in a manner that will prevent the discharge or flow of that waste into any waters of the State.

Reg. 1.302 Permit by Rule

A person who operates any surface facility associated with a disposal well that is not a surface facility associated with a commercial disposal well or a high volume disposal system shall be deemed to have a permit by rule for the purposes of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 et seq., if the following conditions are met:

- (1) The disposal well is permitted as a disposal well in accordance with the rules promulgated by the Arkansas Oil and Gas Commission (AOGC);
- (2) The AOGC disposal well permit number and the location for the permitted disposal well is posted at the facility; and
- (3) The person who operates the disposal well is in compliance with all applicable rules promulgated by AOGC.

Reg. 1.303 Disposal System Permits

~~5.(A) No~~ A person shall not hereafter operate any surface facility associated with a oil or gas commercial disposal well or high volume disposal system in Arkansas well in a new any existing field or pool which produces any salt water or other oil wastes, unless such the person shall have has first submitted to ADEQ:

- (1) plans Plans and specifications for a disposal system adequate to prevent the discharge or flow of said oil field waste wastes into any of the waters of the State; and
- (2) an An application for a permit to install and operate such the disposal system .

(B) The Department shall grant or deny such the permit under such the terms and conditions as it may prescribe for the prevention of pollution of the waters of the State. Application for a permit shall be made within thirty (30) days after any such well shall have first produced any such wastes.

Reg. 1.304 Violation of Permit Prohibited

~~6. No~~ A person shall not thereafter operate any permitted disposal system oil or gas well in violation of the terms and conditions of a disposal the permit for such well or without having applied for and obtained a disposal permit, as required by Section 5 hereof this regulation. Any well for which proper permit application or NOC has been made may be operated pending final action thereon by the Department. Upon receipt of permit, the operator of the well shall post at the site of the well or tank battery the location and the permit number.

Reg. 1.305 Permit Required

(A) A person shall not operate any disposal system without having applied for the appropriate disposal permit or fulfilled all requirements for the permit by rule as required by this regulation.

(B) If a proper permit application has been made, the well may be operated pending final action by ADEQ.

(C) The operator of the disposal system shall post at the facility the location for the AOGC permitted disposal well or AOGC permitted commercial disposal well and ADEQ disposal system permit number.

~~7. Any increase in the volume of salt water or other oil field wastes produced by any well for which a disposal permit has theretofore been issued shall be promptly reported to the Department.~~

Reg. 1.306 Disposal of Salt Water

~~8. Wherever possible, disposal~~ Disposal of salt water shall be accomplished by subsurface discharge through a disposal wells well regulated by AOGC or other disposal methods approved by ADEQ. ~~to underground horizons below the fresh water level, such wells to be drilled, cased, cemented, equipped, and operated so that no fresh water horizon shall be polluted and in accordance with the rules and regulations of the Arkansas Oil and Gas Commission.~~

Reg. 1.307 Surface Disposal Prohibited

9. Unless otherwise permitted by AOGC General Rules and Regulations or by the approval of both the Directors of ADEQ and AOGC, Surface surface disposal of oil field waste salt water and other liquid wastes in earthen pits is prohibited. will not be approved unless such pits are underlaid by tight soil such as heavy clay or hardpan, or are lined with asphalt or other water tight material and are of sufficient size to assure adequate disposal of the volume of waste to be impounded therein. Where the soil under an underground pit is porous and closely underlaid by gravel or sand stratum, impounding of salt water or other liquid wastes therein will not be allowed. An application for a permit to use disposal pits must show that such pits will adequately dispose of the wastes to be impounded therein. When the use of storage pits has been approved, they shall be so constructed and maintained as to prevent escape of wastes therefrom, whether by seepage or otherwise. Storage pits shall be protected from surface waters by dikes and drainage ditches and no siphons or openings shall be placed in the walls or dikes that would permit the escape of the wastes. Freeboard shall never be less than twelve (12) inches, measured from the lowest point of the top of the dike.

Reg. 1.308 Misdemeanor and Public Nuisance

~~10.~~(A) A person shall not violate any other provision of this regulation or of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 et seq.

(B) Violation of any provision of this regulation ~~shall be~~ is a misdemeanor and each day's continuance of ~~such~~ the violation ~~shall constitute~~ is a separate offense.

(C) Any person who violates any provision of this regulation is subject to the penalties under the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 et seq.

(D) Pollution of any waters of the State in violation of any provision of this regulation ~~shall constitute~~ is a public nuisance and may be enjoined and abated as ~~such as~~ provided by law.

~~11. All pits or holding basins associated with oil/gas exploration or production in Arkansas, regardless of being active, abandoned, reserve or workover pits, which are located within the 100-year flood plain of any stream, (as designated on Flood Hazard Boundary maps developed by the U.S. Department of Housing and Urban Development, Federal Insurance Administration) shall be closed within 48 months of the effective date of this revision to the regulation, according to the pit closure guidelines established by this agency.~~

CHAPTER 4 : REPEALER, SEVERABILITY, AND EFFECTIVE DATE

Reg. 1.401 Repealer

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

Reg. 1.402 Severability

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

Reg. 1.403 Effective Date

~~12. — This regulation shall become effective on March 16, 1993.~~

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