

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO  
REGULATION NO. 9,  
FEE REGULATION

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DOCKET NO. 07-\_\_\_\_-R

PETITION TO INITIATE RULEMAKING FOR REGULATION NO. 9, FEE REGULATION

The Arkansas Department of Environmental Quality (hereinafter “the Department”), for its  
Petition to Initiate Rulemaking to Amend Regulation No. 9, states:

1. The Arkansas Department of Environmental Quality have issued draft general permits for the authorization to land apply drilling fluids (Permit No. 00000-WG-LA) and for the authorization to construct, operate, and close the pits associated with oil and gas exploration and production (Permit No. 00000-WG-P).

Regulation No. 9, Fee Regulation, must be revised to include a permit fee for these two new general permits. In addition, Reg. 9.404 is being revised to include existing Water Division general permits not currently listed in the section and to remove general permits ARG010000, Concentrated Animal Feedlot Liquid Animal Waste Disposal, and ARG590000, Concentrated Animal Feedlot Dry Litter Disposal, which are no longer being issued. Reg. 9.404 is also being amended to state that any miscellaneous general permits that are not specifically listed in the regulation will be subject to an initial fee not to exceed \$500 and an annual fee not to exceed \$500.

2. Regulation No. 9 will also be amended to clarify Section 9.507. The language concerning general air permits is being amended to clarify that a \$200.00 initial fee will be required at the time of the submission of the Notice of Intent (“NOI”)

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to the Department and the applicant will be charged a \$200.00 annual fee thereafter until the Department receives a Notice of Termination (“NOT”) from the applicant. Reg. 9.507 will also be revised to state that Non-part 70 General Permits in which the tons/year predominant air contaminant is less than 10 tons per year will not be assessed or billed an annual fee. These amendments are intended to provide clarification of the applicable fee structure.

3. Regulation No. 9 is also being revised to add the language in Section 9.609. This section applies to solid waste general permits and states that the Department will assess a \$900.00 initial fee to be remitted with the NOI, a \$450.00 annual fee, a \$450.00 modification fee, and a \$450.00 permit transfer fee. In addition, if a solid waste general permit is revised, no additional initial fee will be required if the facility has maintained coverage under the existing general permit.
4. The proposed revisions to Regulation No. 9 cover general permits issued by the Water, Air and Solid Waste Divisions at the Arkansas Department of Environmental Quality. A summary of the proposed changes to Regulation Number 9 include the following:
  - a. Page 1 of the Table of Contents, strike through the word ~~NPDES~~;
  - b. Page 1 of the Table of Contents, add Reg.9.609 General Permits 6-3;
  - c. Page 4-5, in the title of 9.404, strike through ~~NPDES~~;
  - d. Page 4-5, in Section Reg.9.404(A), strike through ~~n-NPDES~~,  
~~ARG010000 (Concentrated Animal Feedlot-Liquid Animal Waste Disposal)~~ \$400, ~~ARG590000 (Concentrated Animal Feedlot-Dry Litter Disposal)~~ \$100;

- e. Page 4-5, in Section Reg.9.404(A), add Water Division, initial fee and an, When general permits are revised, no additional initial fee will be required to be submitted if the currently permitted facility has maintained coverage under the existing general permit, 00000-WG-P (Oil and Gas Drilling Pits) \$300, 00000-WG-LA (Land Application of Drilling Fluids) \$500, 0000-WG-CW (Carwash) \$200, 0000-WG-WR (Wastewater Treatment Plant Residuals) \$500, 0000-WG-SW (Salt Water Disposal) \$250, and 0000-WG-AW (Confined Animal) \$200;
- f. Page 4-5, in Section Reg.9.404(A), tab \$200 for general permit ARG500000 and add parentheses around the term (Aggregate Facilities);
- g. Page 4-5, in Section Reg.9.404(C) add Miscellaneous general permits not specifically mentioned above that are issued by the Water Division shall be subject to an initial fee not to exceed \$500 and an annual fee not to exceed \$500;
- h. Page 5-1, in Section Reg.9.502(A), add Reg.9.901 and strike Reg.9.801;
- i. Page 5-3, in Section Reg.9.507, strike through ~~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;~~
- j. Page 5-3, in Section Reg.9.507, add:

(A) In lieu of the fees schedules above, and except as provided in 9.507(B) below, sources which qualify for a General Air Permit issued pursuant to APC&EC Reg. Nos. 18, 19, or 26 shall be subject to an Initial Fee and Annual Fee as described below:

(1) The Initial Fee of \$200.00 shall be remitted with the Notice of Intent (NOI) for coverage under the applicable General Permit.

(2) Until a Notice of Termination (NOT) is submitted and approved by the Department, the Permittee shall be billed \$200.00 annually thereafter on the anniversary date of coverage.

(3) When general permits are revised, no additional initial fee will be required to be submitted if the currently permitted facility has maintained coverage under the existing general permit.

(B) The following General Permit holders shall not be assessed or billed an Annual Fee:

(1) Non-part 70 General Permits in which the tons/year predominant air contaminant is less than 10 tons per year.

- k. Page 6-2, in Section 9.603(B)(5), strike through ~~General Permit \$900~~;
- l. Page 6-2, in Section 9.604(F), strike through ~~General Permit \$450~~;
- m. Page 6-2, in Section 9.606(C), strike through ~~General Permit \$450~~;
- n. Page 6-3, in Section Reg.9.609, add:

(A) In lieu of the fees schedules above in 9.603 through 9.606, solid waste management facility permit applicants which qualify for a General Solid Waste Permit shall be subject to an Initial Fee, an

Annual Fee, a Modification Fee and a Permit Transfer Fee as described below:

(1) An Initial Fee of \$900.00 shall be remitted with the Notice of Intent (NOI) for coverage under the applicable solid waste General Permit.

(2) Until the Permittee notifies the Department to terminate its solid waste General Permit and the permit is voided, the Permittee shall be billed an Annual Fee of \$450.00 annually thereafter on the anniversary date of coverage.

(3) An application for the modification of an existing solid waste General Permit shall be accompanied by a \$450.00 permit Modification Fee.

(4) An application for the transfer of an existing solid waste General Permit shall be accompanied by a \$450.00 permit Transfer Fee.

(5) When solid waste General Permits are revised, no additional initial fee will be required to be submitted if the currently permitted facility has maintained coverage under the existing General Permit.

5. Jamie Ewing, attorney for ADEQ, and/or Mary Leath, Chief Deputy Director, will be available to answer questions concerning this proposed rulemaking. A version of the regulation showing the proposed changes is attached as Exhibit "A" and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as Exhibit "B", a copy of a financial impact statement for the proposed

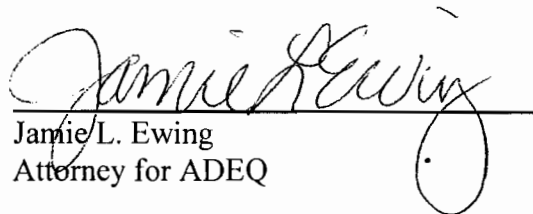
revision is attached as Exhibit "C", a memo regarding the Department's compliance with Act 143 of 2007 is attached as Exhibit "D", and a copy of the Economic Impact/Environment Benefit Analysis is attached as Exhibit "E," all of which are hereby incorporated by reference. A proposed minute order is attached as Exhibit "F" and is hereby incorporated by reference.

WHEREFORE, the ADEQ requests that the Commission adopt the proposed Minute Order, and initiate the rulemaking on Regulation No. 9.

Respectfully submitted,

ARKANSAS DEPARTMENT OF  
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By:

  
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