

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS**  
**WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

**DEPARTMENT/AGENCY:** Arkansas Department of Environmental Quality

**DIVISIONS:** Water Division

**DIVISION DIRECTOR:** Steve Drown, Division Chief, Water Division

**CONTACT PERSON:** Mary Leath

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**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis  
Subcommittee on Administrative Rules and Regulations  
Arkansas Legislative Council  
Bureau of Legislative Research  
Room 315, State Capitol  
Little Rock, AR 72201

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- 1. What is the short title of this rule? Fee Regulation
- 2. What is the subject of the proposed rule? This rule affects permit fees for certain general permits issued by the Water, Air, and Solid Waste Divisions of the Arkansas Department of Environmental Quality.

- 3. Is this rule required to comply with federal statute or regulations? Yes \_\_\_\_\_ No X \_\_\_\_\_

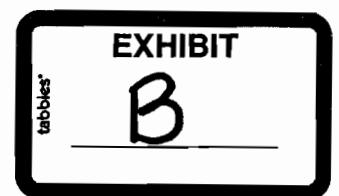
If yes, please provide the federal regulation and/or statute citation.

- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes \_\_\_\_\_ No X \_\_\_\_\_

If yes, what is the effective date of the emergency rule? \_\_\_\_\_

When does the emergency rule expire? It remains in effect until revised.

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes \_\_\_\_\_ No X \_\_\_\_\_



5. Is this a new rule? Yes \_\_\_\_\_ No X If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes \_\_\_\_\_ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes X No \_\_\_\_\_ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

See summary on Page 3-4 of this questionnaire.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

Arkansas Water and Air Pollution Control Act, A.r.k. Code Ann. § 8-4-101 *et seq.*

7. What is the purpose of this proposed rule? Why is it necessary?  
This proposed revision to Regulation No. 9 is necessary to update and clarify fee schedules for general permits issued by the Water, Air and Solid Waste Divisions of ADEQ.

8. Will a public hearing be held on this proposed rule? Yes X No \_\_\_\_\_  
If yes, please complete the following:

Date: The week of November 5, 2007. The exact date will be determined by ADEQ's Public Outreach and Assistance Division.

Time: The exact time will be determined by ADEQ's Public Outreach and Assistance Division.

Place: Commission Room, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas.

9. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
The period for receiving all written comments shall conclude ten (10) business days after the public hearing pursuant to Regulation No. 8, Part 3, Section 3.2.3. The projected date for the close of public comment period will be approximately November 20, 2007.

10. What is the proposed effective date of this proposed rule? (Must provide a date.)

10 days after filing with the Arkansas Secretary of State, the State Library and the Bureau of Legislative Research.

11. Do you expect this rule to be controversial? Yes \_\_\_\_\_ No X If yes, please explain.

12. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.  
None at this time.

## **SUMMARY OF PROPOSED AMENDMENTS**

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.

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") 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.

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.

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, 00000-WG-CW (Carwash) \$200, 00000-WG-WR (Wastewater Treatment Plant Residuals) \$500, 00000-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.