

**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: Steven Drown, Division Chief, Water Division

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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**

- 1. What is the short title of this rule?
Regulation No. 34, State Water Permit Regulation
- 2. What is the subject of the proposed rule?
This proposed rule is establishes a permit by rule for the construction, operation and closure of pits associated with drilling oil and gas wells.
- 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? _____
Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes _____ No _____

EXHIBIT B

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

As stated above, this proposed rule establishes a permit by rule for the construction, operation and closure of pits associated with drilling oil and gas wells. The permit by rule is promulgated in conjunction with Arkansas Oil and Gas Commission Rule B-17. Pit owners and operators that comply with Rule B-17, as adopted by the Oil and Gas Commission on October 28, 2010, shall be deemed to have a permit by rule for purposes of the Arkansas Water and Air Pollution Control Act.

Does this repeal an existing rule? Yes No If yes, a copy of the repealed rule is to be included with your completed questionnaire.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? 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."

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

The Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 *et seq.*, including but not limited to Ark. Code Ann. §8-4-203(l).

7. What is the purpose of this proposed rule? Why is it necessary?

This is a new regulation intended to provide a permit by rule to cover wastes that are not discharged into waters of the State but are stored, disposed, or discharged in a manner that, if unregulated, will cause, or are likely to cause, pollution to waters of the State. At the present time, the regulation will only contain provisions relating to the construction, operation and closure of pits associated with the drilling of oil and gas wells. The Arkansas Department of Environmental Quality ("ADEQ") initially regulated this activity by issuing a general permit under its statutory permitting authority found in the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 *et seq.* This general permit was appealed to the Union County Circuit Court. As a result of that appeal, ADEQ was approached by the Arkansas Oil and Gas Commission ("AOGC") about promulgating joint rules that would encompass the provisions of ADEQ's general permit and provide consistency in the regulatory efforts of both agencies. As a result, AOGC promulgated Rule B-17. APC&EC Regulation No. 34, State Water Permit Regulation, will incorporate the provisions of Rule B-17 by reference.

This regulation is intended to prevent pollution of the waters of the State, protecting a valuable resource for the citizens of Arkansas. Also, this regulation will create consistency in the permitting programs authorizing an activity regulated by both ADEQ and AOGC, as Reg. 34 provides that facilities will be deemed to have a permit by rule if they comply with the requirements of AOGC Rule B-17.

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

<u>Date/Time</u>	<u>Location</u>
Janurary 25, 2010	ADEQ Headquarters, 5301 Northshore Drive, North Little Rock

EXHIBIT B

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. 8.806(B). The projected date for the close of public comment period will be approximately June 10, 2010.
10. What is the proposed effective date of this proposed rule? (Must provide a date.)
Final promulgation of the rule is anticipated on May 27, 2011. The rule will become effective 10 days after filing with the Arkansas Secretary of State, the State Library and the Bureau of Legislative Research, which is anticipated to be June 3, 2011.
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.
Arkansas Oil and Gas Commission
South Arkansas Oil Producers