

## **Title 8. Environmental Law**

### **Chapter I. Arkansas Pollution Control and Ecology Commission, Department of Energy and Environment**

#### **Subchapter C. Water Quality**

#### **Part 27. State Water Permit Rule**

#### **Subpart 1. General Provisions**

##### **8 CAR § 27-101. Purpose.**

It is the purpose of this part to adopt standards applicable to the storage, discharge, or disposal of any waste which, if unregulated, will cause pollution of waters of the state or result in wastes being placed in a location where it is likely to cause pollution of the waters of the state. These standards are intended to protect public health and the environment and prevent, control, or abate pollution.

##### **8 CAR § 27-102. Authority.**

Pursuant to the Arkansas Water and Air Pollution Control Act, Arkansas Code § 8-4-101 et seq., the Arkansas Pollution Control and Ecology Commission hereby promulgates this part.

##### **8 CAR § 27-103. Scope.**

(a) This part applies to all persons proposing to construct, alter, extend, or operate any storage, discharge, or disposal system that does not discharge directly to waters of the state, and the operation of which, if unregulated, will cause pollution of waters of the state or result in wastes being placed in a location where it is likely to cause pollution of the waters of the state.

(b) This part does not apply to:

(1) Liquid animal waste management systems regulated under the Arkansas Pollution Control and Ecology Commission rule, Liquid Animal Waste Management Systems, 8 CAR pt. 24;

(2) Underground injection control (UIC) facilities regulated under the Arkansas

Pollution Control and Ecology Commission rule, Arkansas Underground Injection Control Code, 8 CAR pt. 26; or

(3) Class II UIC wells permitted by the Oil and Gas Commission.

(c) This part also does not apply to:

(1) Storage or disposal systems permitted under Arkansas Pollution Control and Ecology Commission rules:

(A) Prevention of Pollution by Oil Field Waste, 8 CAR pt. 20; or

(B) Rule to Require a Disposal Permit for Real Estate Subdivisions in Proximity to Lakes and Streams, 8 CAR pt. 23;

(2) Storage, discharge, or disposal systems which have been issued any NPDES permit other than a stormwater permit; or

(3) Septic systems regulated by the Department of Health.

#### **8 CAR § 27-104. Definitions.**

The following definitions apply to this part:

(1) "Commission" means the Arkansas Pollution Control and Ecology Commission;

(2) "Director" means the Director of the Division of Environmental Quality, or his or her designee, unless the context dictates otherwise;

(3) "Discharge" means a discharge of any wastes in any manner which directly or indirectly permits such wastes to reach any of the waters of the state;

(4) "Disposal" means the final use of waste, including, but not limited to:

(A) Surface disposal;

(B) Subsurface disposal;

(C) Transport to a recycling or reuse facility; or

(D) Placement in a landfill, incinerator, or injection well;

(5) "Division" means the Division of Environmental Quality, or its successor;

(6) "Facility" or "system" means any site, including land or appurtenances thereto, or activity or operation that is subject to this part;

(7) "Industrial waste" means any liquid, gaseous, or solid waste substance

resulting from any process of industry, mining, manufacturing, trade, or business, or from the development of any natural resources;

(8)(A) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, oil, tar chemicals, and all other organic or inorganic substances, not including sewage or industrial waste which may be discharged into the waters of the state.

(B) "Any wastes" and "pollutants" include sewage, industrial wastes, or other wastes;

(9)(A) "Owner" or "operator" means any person (an individual, association, partnership, corporation, municipality, state, or federal agency) who has the primary management and ultimate decision-making responsibility over the operation of a facility or activity.

(B) The operator is responsible for ensuring compliance with all applicable environmental rules and regulations and conditions;

(10) "Person" means any:

(A) State agency;

(B) Municipality;

(C) Governmental subdivision of the state or the United States;

(D) Public or private corporation;

(E) Individual;

(F) Partnership;

(G) Association; or

(H) Other entity;

(11) "Sewage" means the water-carried waste products from residences, public buildings, institutions, or other buildings, including excrementitious or other discharge from the bodies of humans or animals, together with such groundwater infiltration and surface water as may be present;

(12) "Storage" means holding wastes prior to disposal in:

(A) An open pit or pond dug in the ground;

(B) Open tanks; or

(C) Other open vessel;

(13) "Waste" means industrial waste, sewage, or other wastes; and

(14) "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, which are contained within, flow through, or border upon this state or any portion of the state.

## **Subpart 2. Permit Requirements for Construction, Operation, and Closure of Pits Associated with Oil and Gas Wells and Brine Production and Injection Wells**

### **8 CAR § 27-201. Type of pits covered.**

Pits covered by this part shall include:

(1)(A) Circulation pit: a pit used during drilling where drilling fluids are circulated during drilling operations.

(B) The circulation pit may be part of the mud pit.

(C) Circulation pits may also refer to a series of open, aboveground tanks, usually made of steel;

(2)(A) Completion pit: a pit used for storage of completion flow-back fluid and drilling fluids or other materials which have been cleaned out of the well bore during the initial completion of a well.

(B) Circulation or mud pits may be used as completion pits when drilling operations conclude;

(3)(A) Emergency pit: a pit used for containing fluids at an operating well during an actual emergency and for a temporary period of time.

(B) Use of the emergency pit is necessitated due to unplanned operational issues, which may include but is not limited to:

(i) A temporary shutdown of a disposal well or fluid injection well or associated equipment;

(ii) Temporary overflow of saltwater storage tanks on a producing lease;

(iii) Gas flaring;

(iv) Cement circulation; or

(v) A producing well loading up with formation fluids;

(4)(A) Mud pit: a pit or series of pits used during drilling where fluids are mixed and circulated during drilling operations.

(B) Mud pits may also refer to a series of open, aboveground tanks, usually made of steel;

(5)(A) Reserve pit: a pit not part of the active circulation system, used to store drilling fluids or to contain fluids generated during drilling operations.

(B) Such fluids would include, but not be limited to:

(i) Cuttings;

(ii) Drilling fluids; and

(iii) Encountered water;

(6) Test pit: a pit constructed for use during a well test; and

(7) Workover pit: a pit used for storage of completion flow-back fluid, workover flow-back fluid, and other materials which have been cleaned out of the well bore during any subsequent completion or recompletion.

## **8 CAR § 27-202. Permit requirements for construction, operation, and closure of pits associated with oil and gas wells.**

(a) Owners or operators of all pits constructed during the drilling, completion, or testing of an oil, gas, or oil and gas production well (brine production and injection wells), Class II disposal well, and Class II commercial disposal well shall be deemed to have a permit by rule pursuant to Arkansas Code § 8-4-203(1), for the construction, operation, and closure of any pits covered under this part if the owner or operator is in full compliance with 15 CAR § 275-215, as adopted by the Oil and Gas Commission on October 28, 2010.

(b)(1) No discharge or wastes resulting from pit construction, operation, or closure

shall cause pollution of any of the waters of the state.

(2) No wastes resulting from pit construction, operation, or closure shall be placed in a location where it is likely to cause pollution of any waters of the state.

(c) Any owner or operator who constructs, operates, or closes a pit in violation of any provisions of this part may be subject to Division of Environmental Quality enforcement action under the provisions of the Arkansas Water and Air Pollution Control Act, Arkansas Code § 8-4-101 et seq., including the penalties provided in Arkansas Code § 8-4-103.

### **Subpart 3. [Reserved]**

### **Subpart 4. Administrative Procedures**

#### **8 CAR § 27-401. Penalty policy and administrative procedures.**

The provisions of the Arkansas Pollution Control and Ecology Commission rules, Civil Penalties, 8 CAR pt. 10, and Administrative Procedures, 8 CAR pt. 11, apply to this part.

#### **8 CAR § 27-402. Severability.**

If any provision of this part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this part which can be given effect with the invalid provision or application and, to this end, provisions of this part are declared to be severable.

### **Subpart 5. Effective Date**

#### **8 CAR § 27-501. Effective date.**

This part is effective ten (10) days after filing with the:

- (1) Secretary of State;
- (2) Arkansas State Library; and

(3) Bureau of Legislative Research.