

ARKANSAS POLLUTION CONTROL
and ECOLOGY COMMISSION

REGULATION NO. 34
State Water Permit Regulation



Approved by Arkansas Pollution Control and Ecology Commission
September 26, 2011

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Chapter 1 GENERAL PROVISIONS

Reg.34.101 Purpose

It is the purpose of this regulation 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.

Reg.34.102 Authority

Pursuant to the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.* (hereinafter “the Act”), the Arkansas Pollution Control and Ecology Commission (hereinafter the “Commission” or “APC&EC”) hereby promulgates this Regulation No. 34.

Reg.34.103 Scope

This regulation 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. This regulation does not apply to liquid animal waste management systems regulated under APC&EC Regulation 5 or underground injection control (UIC) facilities regulated under APC&EC Regulation 17 or Class II UIC wells permitted by the Arkansas Oil and Gas Commission. This regulation also does not apply to storage or disposal systems permitted under APC&EC Regulation 1 or Regulation 4 or to storage, discharge, or disposal systems which have been issued any NPDES permit other than a stormwater permit or to septic systems regulated by the Arkansas Department of Health.

Reg.34.104 Definitions

The following definitions apply to this Regulation:

“**ADEQ**” or “**Department**” means the Arkansas Department of Environmental Quality, or its successor.

“**Commission**” means the Arkansas Pollution Control and Ecology Commission.

“**Director**” means the Director of the Arkansas Department of Environmental Quality, or his or her designee, unless the context dictates otherwise.

“**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.

"Disposal" means the final use of waste, including, but not limited to, surface disposal, subsurface disposal, transport to a recycling or reuse facility, or placement in a landfill, incinerator, or injection well.

"Facility" or **"system"** means any site (including land or appurtenances thereto) or activity or operation that is subject to this regulation.

"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.

"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. The operator is responsible for ensuring compliance with all applicable environmental regulations and conditions.

"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. **"Any wastes"** and **"pollutants"** include sewage, industrial wastes, or other wastes.

"Person" means any state agency, municipality, governmental subdivision of the state or the United States, public or private corporation, individual, partnership, association, or any other entity.

"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.

"Storage" means holding wastes prior to disposal in an open pit or pond dug in the ground, in open tanks, or other open vessel.

"Waste" means industrial waste, sewage, or other wastes.

"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.

Chapter 2

PERMIT REQUIREMENTS FOR CONSTRUCTION, OPERATION, AND CLOSURE OF PITS ASSOCIATED WITH OIL AND GAS WELLS AND BRINE PRODUCTION AND INJECTION WELLS

Reg.34.201 Pits covered by this Regulation shall include:

- (A) Circulation Pit: A pit used during drilling where Drilling Fluids are circulated during drilling operations. The Circulation Pit may be part of the Mud Pit. Circulation Pits may also refer to a series of open, above-ground tanks, usually made of steel.
- (B) 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. Circulation or Mud Pits may be used as a Completion Pits when drilling operations conclude.
- (C) Emergency Pit: A pit used for containing fluids at an operating well during an actual emergency and for a temporary period of time. Use of the Emergency Pit is necessitated due to unplanned operational issues, which may include but is not limited to, a temporary shutdown of a disposal well or fluid injection well or associated equipment, temporary overflow of saltwater storage tanks on a producing lease, gas flaring, cement circulation, or a producing well loading up with formation fluids.
- (D) Mud Pit: A pit or series of pits used during drilling where fluids are mixed and circulated during drilling operations. Mud Pits may also refer to a series of open, above-ground tanks, usually made of steel.
- (E) Reserve Pit: A pit not part of the active circulation system, used to store Drilling Fluids or to contain fluids generated during drilling operations. Such fluids would include, but not be limited to, Cuttings, Drilling Fluids, and Encountered Water.
- (F) Test Pit: A pit constructed for use during a well test.
- (G) 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 re-completion.

Reg.34.202 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 Ark. Code Ann. §8-4-203(l), for the construction, operation, and closure of any pits covered under this Regulation if the Owner or Operator is in full compliance with Rule B-17, as adopted by the Arkansas Oil and Gas Commission on October 28, 2010.

- (B) No discharge or wastes resulting from pit construction, operation, or closure shall cause pollution of any of the waters of the state. 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 Regulation may be subject to ADEQ enforcement action under the provisions of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 et seq., including the penalties provided in Ark. Code Ann. § 8-4-103.

Chapter 3 RESERVED

Chapter 4 RESERVED

Chapter 5 RESERVED

Chapter 6 ADMINISTRATIVE PROCEDURES

Reg.34.601 Penalty Policy and Administrative Procedures

The provisions of APC&EC Regulation No. 7, Civil Penalties, and Regulation No. 8, Administrative Procedures, apply to this Regulation.

Reg.34.602 Severability

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

Chapter 7 EFFECTIVE DATE

Reg.34.701 Effective Date

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