

Final

RULE A-2 - GENERAL HEARING PROCEDURES

a) Execution and Filing

- 1) All applications, except for applications filed by the Director, shall be in writing and state the interests of the application and the general nature of the order requested. Fourteen copies of the application, including exhibits, shall be filed with the Commission Director's office located in Little Rock, Arkansas ("Director's Office"). The application shall be deemed filed when it is received by the Director's Office.
- 2) All fourteen (14) copies of the applications, including exhibits, except for those filed by the Director, must be received in the Directors Office at least twenty (20) days prior to the first day of regularly scheduled hearing. If the applicant or his/her representative files an electronic version (a .pdf file labeled by the assigned docket number) of the application, including exhibits, on an electronic storage device approved by the Director a minimum of twenty (20) days prior to the first day of the regularly scheduled hearing, the fourteen (14) copies of the applications, including exhibits must be received in the Director's office eighteen (18) days prior to the first day of the regularly scheduled hearing.
- 3) Every application shall be signed by the applicant or his/her representative and his/her address shall be stated thereon. The signature of the applicant or his/her representative constitutes a certificate by him/her that he/she has read the petition and that to the best of his/her knowledge, information and belief there is good ground to support the same.
- 4) Unless otherwise provided by General Rule of the Commission, each application, except for applications filed by the Director, shall be accompanied by a five hundred dollar (\$500.00) filing fee made payable to the Arkansas Oil and Gas Commission.
- 5) The applicant shall also submit a check payable to the Arkansas Oil and Gas Commission in an amount approved by the Commission, not to exceed two dollars (\$2.00) per name of persons named in the application, whose address are known as well as addresses for other persons that the applicant seeks to provide a copy of the order. The applicant shall also provide mailing labels for each person named in the application whose address is known, as well as any other person that the applicant seeks to provide a copy of the order. If the address of the person is unknown, the Applicant shall provide a statement to that affect. All mailing labels shall be provided within three (3) days after the date of the hearing.

- 6) If after the application is filed, and prior to the hearing date, the Director finds the application deficient relative to the requirements of subsections a) 1) through 4) above, the Director shall return the application to the applicant with a statement as to the deficiencies.
- 7) If after the application is filed, and prior to the hearing date, the Director determines that additional facts, data, records, or other information are necessary to fully evaluate the application, the Director may require the applicant to submit such necessary facts, data, records or other information.
- 8) Amendments may be filed at the time of the hearing. However, any amendments filed prior to the hearing date shall be submitted at least ten (10) days prior to the hearing date, and contain a written statement or a clear indication as to what the amendment is being amended. Any application that is substantially amended, as determined by the Commission, regardless of the time of the amendment, may be continued until the next hearing of the Commission.

b) Notice of Hearing

- 1) The Applicant shall prepare a notice of hearing which shall be issued in the name of the Arkansas Oil and Gas Commission. Such notice shall include a statement pertaining to the legal authority for the hearing; the name of the applicant; the legal description of the property or unit; a statement of the requested action; a listing of interested parties; the time, date and location of the hearing; the Commission assigned docket number; and the contact information of the Commission offices. The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting such entry of appearance in writing to the Hearing Officer or Director, and that thereafter such person shall be deemed a party of record in the proceeding.
- 2) Unless otherwise provided by the Brine Act found in Ark. Code Ann. § 15-76-201 *et. seq.* or General Rule of the Commission, the Applicant shall serve such notice in the following manner:
 - A) By mailing such notice by U.S. Postal service, first-class mail, directed to all interested parties at their last known addresses at least ten (10) days prior to the date of the hearing, but not more than thirty (30) days prior to the date of the hearing; and
 - B) By publication of such notice for at least one (1) day, with the notice appearing at least ten (10) days prior to the date of the hearing, but not more than thirty (30) days prior to the date of the hearing, in the newspaper of general circulation published in each county containing some portion of the land identified in the application.

c) Emergency Hearings

In the event an emergency is found to exist by the Commission which in its judgment requires the making, changing, renewal or extension of an order, special rule, or regulation, without first having a hearing, such emergency order shall have the same validity as if a hearing with respect to the same had been held after due notice. The emergency order permitted by this section shall remain in force until the date of the next regular Commission hearing set to be held after the emergency rule, regulation or order was issued, or sixty days from its effective date in accordance with the Brine Act found in Ark. Code Ann. § 15-76-307, and, in any event, it shall expire when any order made after due notice and hearing with respect to the subject matter of such emergency order becomes effective.

d) Pre-Hearing Conferences

- 1) Upon his/her own motion, or the motion of a party of record, the Hearing Officer, as designated by the Commission, may convene a meeting of the parties or their counsel in order to:
 - A) Simplify the factual and legal issues presented by the hearing request;
 - B) Receive stipulations, admissions of fact and the contents and authenticity of documents;
 - C) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
 - D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
- 2) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.

e) Hearings

- 1) Every hearing shall be held on a date and at a location established by the Commission, and conducted by a Hearing Officer designated by the Commission. The Hearing Officer shall take all necessary actions to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including but not limited to the following:

- A) To administer oaths and affirmations;
 - B) To receive relevant evidence;
 - C) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
 - D) To consider and rule upon procedural requests;
 - E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify; and
 - (F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record. The Hearing Officer may require that relevant documents be produced to any party of record on his/her own motion or for good cause shown on motion of any party of record.
- 2) Every person appearing shall enter his/her appearance by stating his/her name and address. Thereafter, such person shall be deemed a party of record.
 - 3) All participants in the hearing shall have the right to be represented by an attorney licensed to practice law in the State of Arkansas. An attorney appearing in a representative capacity in any proceeding hereunder shall file a written notice of appearance identifying his or her name, address and telephone number, and identifying the party represented.
 - 4) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.
 - 5) The Director, or his/her designee, may appear at any public hearing and shall have the opportunity to question parties or otherwise elicit such information as is necessary to reach a decision on the application.
 - 6) Preliminary Matters: Where applicable, the following shall be addressed prior to receiving evidence:
 - A) The applicant may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.
 - B) Rulings may be made by the Hearing Officer on any pending motions.

- C) Any other preliminary matters appropriate for disposition prior to presentation of evidence.
 - 7) Every hearing shall be conducted in accordance with the Commission's rules and applicable laws of this State.
- f) Evidence
- 1) Admissibility: A party shall be entitled to present his/her case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received, but the presiding Hearing Officer may exclude evidence which is irrelevant, immaterial or unduly prejudicial or repetitious. However, the erroneous ruling on the admissibility of evidence shall not of itself invalidate any rule, regulation or order.
 - 2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Commission's specialized knowledge.
 - 3) Order of Proof: The applicant shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Director or his/her designee, as well as any Commissioner may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.
 - 4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Commission's responsibility for an expeditious decision.
- g) Recording of Proceedings; Testimony
- The Commission shall provide a certified court reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Commission as such and included in the record.
- h) Postponement or Continuance of Hearing
- Any hearing may be postponed or continued for due cause by the Hearing Officer upon his/her own motion or upon the motion of a party to the hearing. A motion filed by a

party to the hearing shall set forth facts attesting that the request for continuance is not solely for the purpose of delay. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously. The Applicant may postpone or continue the hearing of an application for three consecutive regularly scheduled Commission meetings without prior approval of the Hearing Officer. After the third consecutive postponement, the application shall be dismissed, unless the Hearing Officer allows an exception for due cause, and the applicant shall be required to re-file in accordance with applicable General Rules in order for an application to be scheduled for a hearing.

i) Default

If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Commission may then proceed to make its decision in the absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Commission is notified of such situation on or before the scheduled pre-hearing conference or hearing, the Hearing Officer may continue or post-poner the pre-hearing conference or hearing. Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the parties' control.

j) Voting

- 1) In order for the Commission to adopt a motion approving an application as applied for, or as amended by either the applicant or a Commissioner, there must be:
 - A) A quorum present;
 - B) A majority of the votes cast must be in favor of the motion outlining the proposed order; and
 - C) At least five (5) votes cast must be in favor of the motion outlining the proposed order.
- 2) If a motion approving the application as applied for, or as modified by either the applicant or a Commissioner does not receive the votes required in subparagraphs i) A) through C) above, and no subsequent or substitute motion receives the votes required in subparagraphs i) A) through C) above, then the application shall be deemed to be denied by the Commission.
- 3) If an application is deemed to be denied by the Commission in accordance with subparagraph i) 2) above, the Commission shall enter an order of denial, which

may be appealed as a final decision under the Arkansas Administrative Procedures Act found in Ark. Code Ann. § 25-15-201 *et. seq.*

4) Nothing in this subparagraph shall limit the Commission's authority to continue any application for due cause.

k) Commission's Order--Final Administrative Decision

Within 30 days of the close of the hearing record, the Commission shall issue findings of fact, conclusions of law and final administrative decision of the Commission signed by the Director. The Commission shall have continuing jurisdiction for the purposes of enforcement, and/or modifications or amendments to the provisions of all orders. Any appeals shall be governed by the Administrative Procedures Act found in Ark. Code Ann. § 25-15-201 *et. seq.*

l) Notice of Order--Recordation

Within 30 days after an order has been issued, a copy of such order shall be mailed by the Commission to each interested party at his/her last known address or his/her attorney of record, and filed in accordance with the Administrative Procedures Act found in Ark. Code Ann. § 25-15-201 *et. seq.*

m) Official Record

In every case of adjudication, the official record shall be compiled in accordance with the Administrative Procedures Act found in Ark. Code Ann. § 25-15-201 *et. seq.*

Final

RULE A-5 - ENFORCEMENT PROCEDURES

- a) Definitions:
- 1) “Commission” shall mean the full Arkansas Oil and Gas Commission, consisting of nine members, on which the Director serves as secretary, but is a non-voting member.
 - 2) “Director” shall mean the Commission Director of Production and Conservation.
 - 3) “Regulated Entity” shall mean all operators, owners, producers or persons subject to Commission regulatory authority in accordance with Ark. Code Ann. § 15-71-110 or § 15-76-302.
 - 4) “UIC” shall mean the Underground Injection Control program of the Federal Safe Drinking Water Act.
- b) Any regulated entity engaged in the drilling, operation or plugging of any production, injection, or other well or drill hole regulated by the Commission; or the operation of any crude oil or gas production or injection facility; or the operation of any natural gas line or crude oil flowline regulated by the Commission; or transporter by tank truck of any oilfield production or completion fluid; or seismic activity; or any other activity regulated by the Commission, is subject to this rule for violation of any oil, gas and/or brine statutes, or any rule, regulation, order, or permit condition of the Commission.
- c) In accordance with Ark. Code Ann. § 15-72-103(c) or § 15-76-303(c), any person knowingly and willfully aiding or abetting any other person in the violation of any statute relating to the conservation of oil, gas and/or brine, or the violation of any provision of the state oil, gas and/or brine statutes, or any rule, regulation, order, or permit condition, shall be subject to the same penalties as are prescribed herein for the regulated entity.
- d) Notice of Non-Compliance
- 1) A Notice of Non-Compliance may be issued, prior to the issuance of a Notice of Violation as specified in subparagraph (e) below, when any regulated entity is in non-compliance with any requirement of the Arkansas oil, gas and/or brine statutes, or rules, regulations, orders, or any permit condition, and:
 - A) That the non-compliance was not caused by the regulated entity’s deliberate action;
 - B) That any action necessary to abate the non-compliance was commenced immediately and was or will be completed within a specified date certain, as established by the Director, or his or her designee, not to exceed thirty (30) days from the date of the determination that the regulated entity was determined to be in non-compliance; and

- C) That the non-compliance has not caused and cannot reasonably be expected to cause significant environmental harm or damage to property.
- 2) The notice of non-compliance shall be documented in writing and, delivered via first class mail to the regulated entity or to the regulated entity's representative as reported on the AOGC Form 1 Organization Report. The written notification shall indicate the nature and circumstances of the non-compliance, and the time within which and the means by which the non-compliance is to be abated.
 - 3) If abatement was not completed as specified in the written notification, the Director, or his or her designee, may issue a formal Notice of Violation in accordance with subparagraph (e) below.
 - 4) The provisions of this subparagraph (d), shall not apply to the following types of incidents, which require a Notice of Violation to be issued in accordance with subparagraph (e) below:
 - A) Commencing any regulated activity specified in paragraph (b) above prior to issuance of the appropriate Commission permit;
 - B) Operating an annular or casing injection/disposal well or a well with pressure on the annulus;
 - C) Failure to maintain required performance bond or pay annual well fees;
 - D) Failure to establish mechanical integrity on any UIC well prior to operation, or failure to repair any UIC well following failure of mechanical integrity;
 - E) Commencing any work or activity on a well or its related production facility or well site that has been placed in the Abandoned and Orphan Well Plugging Program;
 - F) Failure to provide emergency response for a crude oil or saltwater spill;
 - G) Improper discharge or disposal of produced fluids; or
 - H) Operating a well in violation of spacing requirements or permit conditions.
- e) Notice of Violation(s)
- 1) A Notice of Violation may be issued, by the Director or his or her designee, when any regulated entity is in violation of any requirements of the Arkansas oil, gas, and/or brine statutes, or rules, regulations, orders, or any permit conditions of the Commission. A regulated entity shall not be held responsible by the Commission for violations of oil, gas and/or brine statutes, or rules, regulations, orders or permit conditions of the Commission in the absence of the issuance of an underlying Notice of Violation.
 - 2) The Notice of Violation shall be in writing and contain:

- A) A statement regarding the nature of the violation, including a citation to the specific section of the oil, gas and/or brine statutes, or any rule, regulation, order or permit condition of the Commission alleged to have been violated;
 - B) The suggested action needed to abate the violation including any appropriate remedial measures to prevent future violations;
 - C) The time within which the violation should be abated; and
 - D) A notice of any civil penalties, as specified in subparagraph g) below, the Director will request to be issued by the Commission.
 - E) A notice of any civil penalties for violations of natural gas line regulations under United States Department of Transportation, Office of Pipeline Safety jurisdiction in accordance with appropriate federal regulation specified in 49 CFR 190.223, the Director will request to be issued by the Commission.
- 3) The Notice of Violation may include a well, lease, or unit cessation requirement for the following types of violations:
- A) Violation of production allowable;
 - B) Failure to maintain required well specific performance bond;
 - C) Drilling or operating, without a Commission permit or permit transfer, a well required to be permitted or transferred;
 - D) Operating a well that has been determined to be abandoned by the Commission;
 - E) Failure to plug a leaking well or a well ordered to be plugged by the Commission;
 - F) Operating an annular or casing injection/disposal well;
 - G) Operating a UIC Class II or V well with a failed mechanical integrity test;
 - H) Operating a UIC Class II or V well with pressure on the annulus indicating tubing and/or casing failure;
 - I) Failure to provide emergency response or remediate a crude oil or produced water spill; or
 - J) Improper disposal or discharge of produced fluids;
- 4) The Notice of Violation may also include a state-wide cessation requirement for the following types of violations:

- A) Failure to maintain required blanket financial assurance as specified in General Rule B-2;
 - B) Failure to pay annual well fees as specified in General Rule B-2; or
 - C) Failure to pay any monies due the Abandoned and Orphaned Well Plugging Fund as specified in General Rule G-1;
- 5) The Director, or his or her designee, shall send via certified mail the Notice of Violation to the regulated entity, or the regulated entity's representative as reported on the AOGC Form 1 Organization Report, charged with the violation(s), or provide personal delivery of a copy of the notice to the regulated entity, or the regulated entity's representative.
- 6) The regulated entity charged with the violation(s) may request a Director's Review of the Notice of Violation and provide the Director, in writing, any information in mitigation of the violation(s) on or before thirty (30) calendar days of the mailing or personal delivery of the original Notice of Violation, unless a shorter time period is specified in the Notice of Violation for instances where there is a condition that creates an imminent danger to the health or safety of the public or threatens significant environmental harm or damage to the property. Such written information may include a proposed alternative to the required action needed to abate the violation(s). Upon receipt of such information from the regulated entity, the Director, shall conduct a review.
- 7) During the review, the Director may consider any of the following criteria in reaching a Final Director's Decision regarding the violation(s):
- A) The regulated entity's history of previous violations, including violations at other locations and under other permits;
 - B) The seriousness of the violation, including any irreparable harm to the environment or damage to property;
 - C) The degree of culpability of the regulated entity; and
 - D) The existence of any additional conditions or factors in aggravation or mitigation of the violation, including information provided by the regulated entity.
- 8) Upon completion of the review, the Director shall issue a Final Director's Decision to:
- A) affirm the violation; or
 - B) vacate the violation; or
 - C) amend or modify the type of violation and abatement requirements specified in the violation; or

- D) establish probationary or permanent modification or conditions to any underlying permit related to the violation, which may include special monitoring or reporting requirements; or
 - E) enter into a settlement agreement to extend the amount of time provided to complete remedial actions necessary to abate the violations or reduce the amount of the requested assessed civil penalty.
- 9) The Final Director's Decision shall be delivered to the regulated entity, or the regulated entity's representative, as reported on the AOGC Form 1 Organization Report, via first class mail. The Final Director's Decision may be appealed to the Commission by filing an application in accordance with General Rule A-2, A-3, and other applicable hearing procedures. The application to appeal the Final Director's Decision is required to be received by the Director within thirty (30) days of the mailing of the Final Director's Decision. The application shall state the reason for the appeal and shall be scheduled to be heard by the Commission in accordance with General Rule A-2, A-3, and other applicable hearing procedures.
- 10) A Notice of Violation for which a Director's Review has not been requested, shall become a final administrative decision of the Commission thirty (30) days following the mailing of the Notice of Violation.
- 11) A Final Director's Decision not appealed to the Commission within thirty (30) days of mailing of the Final Director's Decision shall become a final administrative decision of the Commission.
- 12) All violations specified in a Notice of Violation(s) which have become a final administrative decision in accordance with subparagraph e) 10), a Final Director's Decision which has become a final administrative decision of the Commission in accordance with subparagraph e) 11), or by Order of the Commission, shall be fully abated within the time frame specified in the original Notice of Violation, Final Director's Decision, or Order of the Commission. No further permits or authorities shall be issued to the regulated entity until all outstanding violations specified in a Notice of Violation which has become a final administrative decision in accordance with subparagraph e) 10), a Final Director's Decision which has become a final administrative decision of the Commission in accordance with subparagraph e) 11), or by Order of the Commission have been fully abated.
- f) In addition to the issuance of a Notice of Violation(s), the Director may initiate further enforcement proceedings, as provided for in statute, as follows:
- 1) Assessment of a civil penalty as provided in Ark. Code Ann. § 15-71-114, § 15-72-103, § 15-72-202, or § 15-76-303;
 - 2) The revocation of a certificate of clearance on a state-wide basis, as provided for in Ark. Code Ann. § 15-71-110 (11);

- 3) The filing of a civil complaint in a court of competent jurisdiction in the County where the violation occurred, as provided for in Ark. Code Ann. § 15-72-108 or § 15-76-304;
- 4) The filing of a criminal complaint in any court of competent jurisdiction, as provided for in Ark. Code Ann. § 15-71-114, § 15-72-104 or § 15-76-303.

g) Civil Penalties

- 1) The Director shall determine whether to request the assessment of civil penalties based on failure to comply with the applicable abatement requirements for violations issued under subparagraphs (g) (2) and (3) below. The Director shall determine whether to request the assessment of civil penalties for violations issued under subparagraphs (g) (4) below. If a civil penalty is requested by the Director, the Director or his designee may file an application, in accordance with General Rule A-2, A-3, and other applicable hearing procedures, to request the issuance of the requested civil penalty. The Director's requested penalty shall be computed as provided in subparagraphs (g) (2) through (4) below.
- 2) Administrative violations, defined as failure to file required reports and forms and to provide required notices (excluding spill notice), including, but not limited to regulated activities such as, the failure to file production and well reports or other reports required by Commission rules, regulations, orders or permit conditions; failure to notify the Commission before the setting of surface casing, or the plugging of a well; failure to maintain required performance bond in force for the wells under permit; or pay annual well fees within the specified time. The Director may request the assessment of up to \$1000 per administrative violation and up to \$1000 per day for each day the violation remains unabated after the specified compliance date. The per administrative violation civil penalty request shall be calculated as follows:
 - A) No previous violation of the same rule: \$250. One previous violations of the same rule: \$500. Two or more previous violations of the same rule: \$1000.
 - B) The time frame used for determining previous violations shall be limited to the regulated entity's violation record for the preceding three full calendar years before the issuance of the violation.
- 3) Operating violations, defined as failure to maintain compliance with Commission rules on well drilling and operation, and production facility, pipeline and seismic operations and/or commencing operations requiring a permit prior to issuance of the required permit. These operations include, but are not limited to regulated activities such as, operating a well or natural gas line system without the proper permit or transfer of ownership, failure to maintain a well or crude oil flow line in a leak-free condition, failure to comply with non-jurisdictional natural gas line requirements, failure to notify of a spill occurrence, failure to maintain containment dikes. Multiple incidents of the same violation against a regulated entity on the same occasion shall not be considered separate violations. The Director may request the assessment of up to \$2500 per operating violation and up to \$2500 per day for each day the violation remains unabated after the

specified compliance date, with the exception that operating violations as specified in Ark. Code Ann. § 15-76-303 are limited to a maximum of \$1,000 per operating violation. The per operating violation civil penalty shall be calculated as follows:

- A) No previous violation of the same rule \$500. One previous violation of the same rule, \$750; two or more previous violations of the same rule, \$1000.
 - B) The time frame used for determining previous violations shall be limited to the regulated entity's violation record for the preceding three full calendar years before the issuance of the violation; plus
 - C) If the violation had a low degree of probability to cause environmental impact to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife, add \$250; or, if the violation had a high degree of probability to cause environmental impact to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife, add \$500; or, if the violation caused environmental impact to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife, add \$1000, or
 - D) If the violation created a hazard to the safety of any person, such as the contamination of a potable water well or emission of hydrogen sulfide gas, add \$2000.
- 4) Except as limited in Ark. Code Ann. § 15-76-303, significant violations may result in a request by the Director or his or her designee, of a civil penalty of up to \$2500 per violation and up to \$2500 per day for each day of the violation for the following types of violations: failure to comply with United States Department of Transportation, Office of Pipeline Safety jurisdictional natural gas line requirements, failure to comply with the provisions of General Rule A-7, failure to comply with well spacing provisions, operating a UIC well without a permit, operating an annular or casing injection/disposal well, operating a UIC well prior to establishing mechanical integrity, operating a UIC well with a failed mechanical integrity test, operating a UIC well with pressure on the annulus, failure to provide emergency response or remediate a crude oil or produced water spill, or the improper disposal or discharge of produced fluids. The per violation civil penalty shall be computed as follows:
- A) An initial amount of \$1000; plus
 - B) One or more previous violations of the same type: add \$500 per violation; plus
 - C) If the violation caused environmental impact to surface water, ground water or wildlife: add \$1000, or if the violation created a hazard to the safety of any person, such as the contamination of a potable water well or emission of hydrogen sulfide gas: add \$1500.

- D) The time frame used for determining previous violations shall be limited to the regulated entity's violation record for the preceding three full calendar years before the issuance of the violation.

- h) All civil penalties assessed and paid to the Commission shall be deposited in the Commission operating fund. Additionally, all civil penalties assessed and paid, for violations specified in Ark. Code Ann. § 15-72-202 shall be turned into the general fund of the county where the violation occurred to be used on roads, bridges, and highways at the discretion of the county court.

Final

RULE D-14 - GAS ASSESSMENT

An assessment to pay the conservation expenses and other costs in connection with administration of gas conservation, not otherwise provided for, may be made as follows:

- (A) There shall be assessed against the persons involved, a charge not to exceed ten (10) mills on each one thousand (1,000) cubic feet of gas produced and saved each month from a well. Said assessments shall apply only to the first purchase of gas, or the original taking from the well, and not the subsequent transfers, commonly referred to as "tenderships." Effective on and after January 1, 2002, the gas conservation assessment shall be 9 mills.
- (B) The person selling gas at the first point of sale, who is hereby defined to be the party initially responsible for distributing the 1/8 royalty interest shall, before paying for the production, deduct nine (9) mills for every thousand cubic feet of gas produced and removed from the lease each month, and remit the amounts so deducted to the Commission at the same time and periods as said purchasers make their regular gas payments.
- (C) Said remittances may be made each month in a single check if the person selling gas at the first point of sale so desires and no accounting by the person selling gas at the first point of sale shall be required except to show all deductions on the regular payment statements to producers and royalty owners or the parties in interest.
- (D) The assessment herein provided for shall not apply to gas which is being returned to the ground for repressuring or pressure maintenance purposes within the field, but shall apply only to such gas as is produced and removed from the lease and returned to the ground for storage purposes.
- (E) Any person selling gas at the first point of sale in this state at the well, under any contract or agreement requiring payment for such production to the respective owners thereof, in respect of which production any sums assessed under these rules are payable to the Commission, is hereby authorized, empowered and required to deduct from any sum so payable to any such person the amount due the Commission by virtue of any such assessment and remit that sum to the Commission.

Further, any person taking gas from any well in this state for use or resale, in respect of which production any sums assessed under the provisions of this rule are payable to the Commission, shall remit any sum so due to the Commission in accordance with these rules and regulations.

Final

**RULE D-17 - GENERAL RULE FOR THE REGULATION OF
NATURAL GAS PIPELINES**

a) Definitions

- 1) Jurisdictional Pipeline means any onshore pipeline regulated under Federal Regulation 49 CFR Part 192 as amended, which is within the jurisdiction of the Arkansas Oil and Gas Commission in accordance with Ark. Code Ann. § 15-71-110 as amended.
- 2) Non-Jurisdictional Pipeline means any onshore pipeline, including but not limited to flowlines, production lines, or gathering lines, not under jurisdiction of Federal Regulation 49 CFR Part 192 as amended, which is within the jurisdiction of the Arkansas Oil and Gas Commission in accordance with Ark. Code Ann. § 15-71-110 as amended.
- 3) Perennial Stream means: a stream that has flowing water year-round during a typical year, the water table is located above the stream bed for most of the year, groundwater is the primary source of water for stream flow, and runoff from rainfall is a supplemental source of water for stream flow.
- 4) Pipeline Operator means any person who owns or operates and is responsible for the construction, operation and maintenance of a pipeline which transports natural gas from the well within the jurisdiction of the Arkansas Oil and Gas Commission in accordance with Ark Code Ann. § 15-71-110 as amended.

b) Applicability

- 1) For purposes of this Rule, the jurisdiction of the Arkansas Oil and Gas Commission, as specified in Ark Code Ann. Ann. § 15-71-110 as amended, extends and includes:
 - A) The production process or production facility as defined in Ark Code Ann. § 15-71-110 as amended; or
 - B) A natural gas pipeline or associated facility whose owner is not affiliated with an Arkansas natural gas public utility and the majority owner is either a production company or an affiliate of a production facility.
- 2) Every Pipeline Operator transporting natural gas by pipeline from the well is subject to the applicable provisions of this rule. Natural gas pipelines from the well, to a custodial transfer meter located on the well pad, are exempt from the provisions of this rule.

c) General Requirements for all Jurisdictional and Non-Jurisdictional Pipelines:

- 1) Each pipeline operator shall apply, on a form prescribed by the Director, for an initial statewide permit to construct and operate a natural gas pipeline system. The initial permit application shall contain at a minimum the following:
 - A) Name, address and contact information for the gas pipeline operator;
 - B) Map, or other media acceptable to the Director, showing the location of all natural gas pipelines from the producing wells through any production or processing equipment or treating facility, and to the termination point of the jurisdiction of the Arkansas Oil and Gas Commission, including all public road, railroads and perennial stream crossings;
 - C) A determination as to what pipelines are jurisdictional;
 - D) Submission of the applicable permit fee as follows:
 - (i) no permit fee is required for 1 mile or less, provided the pipeline does not cross a public road, railroad or perennial stream.
 - (ii) less than 50 miles of pipeline, including pipelines in (c)(1)(D)(i) above which cross public roads, railroads or perennial streams - \$500.00
 - (iii) 50 miles to less than 100 miles of pipeline - \$1,500.00
 - (iv) 100 miles to less than 250 miles of pipeline -\$2,500.00
 - (v) 250 miles or more of pipelines - \$5,000.00
 - 2) Each pipeline operator shall be required to submit an annual permit renewal by January 31 of each year.
 - 3) The renewal permit shall include a revised pipeline map showing any new pipeline additions constructed during the previous year, an annual report on a form prescribed by the Director, along with a permit renewal fee in accordance with paragraph (c)(1)(D) above. The renewal permit shall also contain the operator's determination as to which pipelines are jurisdictional.
 - 4) Each pipeline operator shall submit a Notice of Construction or Repair, on a form prescribed by the Director, prior to commencing construction or within 48 hours after completing repair, for each segment or project length of pipeline constructed during the year. The Notice shall indicate the location and extent of the pipelines to be constructed or repaired.
- d) Requirements for all Non-Jurisdictional Pipelines
- 1) Each pipeline operator shall submit a Notice of Incident, on a form prescribed by the Director for each incident of release due to pipeline failure which results in a total cost of repair, including the value of natural gas lost, of fifty thousand dollars (\$50,000) or more.

- 2) All pipelines crossing any stream or stream bed shall comply with applicable state and federal rules and regulations. Additionally, any stream crossing of perennial streams, constructed on or after December 16, 2007, shall maintain a minimum of fifty (50) feet of undisturbed stream bank for the protection of the stream. However, the fifty (50) feet of undisturbed stream bank requirement may be modified by the Director provided that the pipeline operator provides proof that the pipeline operator has received approval for the crossing from a state or federal agency.
 - 3) Each pipeline operator shall place and maintain appropriate signage at all pipeline crossings of public roads and railroads. The marker should include the words "Warning", "Caution" or "Danger" followed by the words "Gas Pipeline" along with the operators name and telephone number where the operator can be reached at all times.
 - 4) Each pipeline operator which operates pipelines within the limits of any incorporated or unincorporated city, town or village, shall be a member of a qualified one-call program.
 - 5) All pipelines, constructed after the effective date of this rule, shall be buried at least twenty-four (24) inches below ground surface, or in accordance with other applicable state or federal laws.
- e) Requirements for Jurisdictional Pipelines
- 1) All jurisdictional pipelines shall be in compliance with construction, operation and maintenance requirements contained in Federal Regulations 49 CFR Part 192 Subpart A thru Subpart O as amended, which are herein incorporated by reference.
 - 2) All jurisdictional pipelines shall be subject to the applicable enforcement provisions of Federal Regulation 49 CFR Part 190 as amended, which are herein incorporated by reference.
 - 3) All jurisdictional pipelines shall be subject to the applicable incident and other reporting requirements contained in Federal Regulation 49 CFR Part 191 as amended, which are herein incorporated by reference, and all such reports shall be submitted to the Arkansas Oil and Gas Commission.
 - 4) All pipeline operators of jurisdictional pipelines shall be subject to the applicable drug and alcohol testing requirements contained in Federal Regulation 49 CFR Part 199 as amended, which are herein incorporated by reference.
 - 5) All jurisdictional lines which contain over 100 PPM hydrogen sulfide shall also be subject to the provisions of subparagraph (f) below, unless the provisions of subparagraph (f) are less stringent than any applicable requirement of this subparagraph (e).
- f) Additional Requirements for All Pipelines Containing 100 PPM or Greater Hydrogen Sulfide.

- 1) Construction Requirements:
 - A) All pipeline materials must be chemically compatible with any natural gas transported by the pipeline and such pipeline shall maintain structural integrity under the anticipated temperatures and environmental conditions for which the pipeline may be exposed, and
 - B) All piping must be of sufficient thickness or must be installed with adequate protection to withstand anticipated external pressures and loads that will be imposed on the pipe after installation, and
 - C) No pipeline may be operated after new construction, repair or relocation until it has been successfully tested for at least one hour with a minimum pressure of 1.25 times the maximum operating pressure to substantiate the maximum operating pressure with all leaks located and eliminated, and
 - D) All metallic pipelines must be adequately protected from both external and internal corrosion and the operator is required to submit an annual report, by March 31st of every year for the preceding calendar year, of the effectiveness of the company's corrosion program, with such protection efforts performed by an independent contractor specializing in the control of corrosion.
- 2) Each operator shall prepare, maintain and follow for each pipeline, a manual of written procedures for conducting operations, maintenance activities and emergency response. This plan must be reviewed and updated as often as necessary. A review must be conducted annually but not to exceed 15 months between reviews.
- 3) Each operator shall have a procedure for continuing surveillance of its facilities and take appropriate action regarding, failures, corrosion and operating conditions.
- 4) Each operator must develop and carry out a damage prevention program to prevent damage to its pipelines from excavation activities. Each operator shall be a member of the state wide "one-call" system. The plan must have a method of communicating to excavators in the area where the pipeline is located of the existence of the pipeline, provide a means of receiving and recording notification of planned excavation activities, provide for temporary marking of the pipeline and inspection of the pipeline when the operator has reason to believe it could be damaged by excavation activities.
- 5) Each operator shall establish written procedures to minimize the hazards resulting from a gas pipeline emergency event. Each plan must include at a minimum:
 - A) Methods of receiving and identifying an event which requires immediate response; and

- B) Methods for establishing and maintaining adequate communication with appropriate emergency response and public officials; and
 - C) Methods for determining safe areas related to evacuation and security during an event; and
 - D) Methods for training employees of their duties and responsibilities during an event.
- 6) Each operator shall develop and implement a written continuing public awareness plan which includes provisions for educating the public, appropriate governmental organizations and persons engaged in excavation activities. Use of a one-call notification prior to conducting excavation, possible hazards associated with unintended releases from the pipeline, physical indications that such a release may have occurred, steps that should be taken for the safety of the public, procedures for reporting such an event. The program must include activities to advise affected municipalities, schools, businesses and residents along the pipeline right of way. The program and media used must be as comprehensive as necessary to reach all areas in which the operator shall transport gas.
 - 7) Each operator shall establish procedures for analyzing accidents and failures for the purpose of determining the cause of the failure and minimizing the possibility of subsequent reoccurrence.
 - 8) Each operator shall not operate any pipeline at a pressure that exceeds the documented pressure at which the pipeline may be safely operated.
 - 9) Each operator shall have a patrol program to observe surface conditions on and adjacent to its pipeline right-of-way for indications of leaks, construction activity, erosion, condition of signage, conditions at public road and railroad crossings and other factors affecting safety and operation of the pipeline. Patrols shall be conducted and documented at least twice each calendar year, not to exceed 7 ½ months between patrols.
 - 10) Each operator shall maintain appropriate pipeline markers at all public road and railroad crossings and along the pipeline at intervals necessary to identify the location of the buried pipeline. The marker should include the words "Warning", "Caution" or "Danger" followed by the words "Gas Pipeline" along with the operators name and telephone number where the operator can be reached at all times.
 - 11) Each pressure relieving device in a compressor station, pressure limiting station or regulator station must be inspected, tested and operated at the pipelines maximum operating pressure, once each calendar year and not to exceed 15 months to determine proper operation.
 - 12) Each remote controlled shutdown device must be inspected and tested once each calendar year and not to exceed 15 months to determine proper operation.

- 13) Each line valve that serves to block a segment of pipeline and or might be used in an emergency, must be inspected and partially operated once each calendar year and not to exceed 15 months.
- 14) Each operator shall maintain records associated with operation and maintenance of the pipeline required in this section.
- 15) Each pipeline abandoned in place must be disconnected from all sources of gas, purged of gas, filled with freshwater or inert material and sealed at both ends. When a pipeline is being purged all efforts must be taken to (i) prevent the formation of a hazardous mixture of gas and air, (ii) ensure that all safety equipment necessary is present, (iii) remove all non-essential persons from the area and (iv) ensure the public is adequately protected.

FINAL

**RULE E-3 - EXPLORATION AND PRODUCTION FLUID GATHERING,
HANDLING AND TRANSPORTATION**

- a) Definitions
- 1) "Class II Fluids" means:
 - A) Produced water and/or other fluids brought to the surface in connection with drilling, completion or fracture treatments, workover or recompletion and plugging of oil, natural gas, Class II or wells that are required to be permitted as water supply wells by the Commission; enhanced recovery operations; or natural gas storage operations, or
 - B) Produced water and/or other fluids from A) above, which prior to re-injection have been used on site for purposes integrally associated with well drilling, completion or fracture treatments, workover or recompletions or plugging oil, natural gas, Class II or wells that are required to be permitted as water supply wells by the Commission; enhanced recovery operations; natural gas storage operations; or chemically treated or altered to the extent necessary to make them usable for purposes integrally related to well drilling, completion, workover or recompletions or plugging oil, natural gas, Class II or wells that are required to be permitted as water supply wells by the Commission; enhanced recovery operations; natural gas storage operations, or commingled with fluid wastes resulting from fluid treatments outlined above, provided the commingled fluid wastes do not constitute a hazardous waste under the Resource Conservation and Recovery Act.
 - 2) "Exploration and Production Fluid" means crude oil bottom sediments and all Class II fluids, to the extent those fluids are now or hereafter exempt from the provisions of Subtitle C of the Federal Resource Conservation Recovery Act of 1976.
 - 3) "Exploration and Production Fluid Transportation System" means any motor vehicle licensed for highway use on a public highway or used on a public highway, that is equipped for either carrying or pulling a Transportation Tank containing Exploration and Production Fluids, from the point of any fluid generation or collection site to any subsequent off-site storage facility, surface disposal facility or an injection well disposal facility.
 - 4) "Exploration and Production Fluid Transporter" means an operator of an Exploration and Production Fluid Transportation System.
 - 5) "Transportation Tank" means an assembly, compartment, tank or other container that is used for transporting or delivering Exploration and Production Fluid.
- b) No person shall operate an Exploration and Production Fluid Transportation System without an Exploration and Production Fluid Transportation System permit. Application

for which shall be made on forms prescribed by the Director. The application shall be executed under penalties of perjury, and accompanied by an Exploration and Production Fluid Transportation System permit fee in the amount specified below.

- c) If the application does not contain all of the required information or documents, the Director or his or her designee shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to process the application, and shall advise the applicant that the application will be deemed denied unless the additional information or documents are submitted within 30 days following the date of notification.
- d) The application shall, at a minimum, include:
 - 1) A permit fee of \$100.00 per Transportation Tank.
 - 2) The name, address, and business and emergency telephone numbers of the proposed Exploration and Production Fluid Transporter, including Arkansas contact information if the transporter is located outside of the state of Arkansas.
 - 3) A brief description of the number and type of Transportation Tanks to be used in the system; specifying whether Transportation Tanks will be owned, leased or otherwise arranged for and including tank capacity and a manufacturers serial number or other identifying number for Transportation Tank.
 - 4) An Entity Organizational Report on a form prescribed by the Director.
- e) If the applicant satisfies all requirements of this rule, the Director shall issue an Exploration and Production Fluid Transportation System permit and permit sticker for each Transportation Tank. The Exploration and Production Fluid Transportation System permit shall be kept in the Arkansas office of the Exploration and Production Fluid Transportation System permit holder. The permit sticker shall be affixed to the back of the Transportation Tank and shall be kept visible and readable at all times.
- f) Exploration and Production Fluid Transportation System permits are not transferable.
- g) Exploration and Production Fluid Transportation System permits shall be renewed annually on July 1 of each year, commencing on July 1, 2010; and Amended applications, including any additional permit fees, are required to be submitted within thirty (30) days of the addition of any Transportation Tanks to the Exploration and Production Fluid Transportation System.
- h) Exploration and Production Fluid Transportation System recordkeeping requirements:
 - 1) Each Exploration and Production Fluid Transportation System permit holder shall maintain a record of all Exploration and Production Fluids received, transported, delivered or disposed of, which shall include the well lease or unit name, well or facility operator (fluid generator), the date received, the amount per pick up, type of fluid, and the name and location of the permitted off-site temporary storage facility, permitted surface disposal facility or permitted injection well disposal facility.

- 2) Records shall be maintained a minimum of three (3) years at the Arkansas office of the Exploration and Production Fluid Transportation System permit holder, and shall be made available to commission staff for inspection during normal business hours.
- i) Exploration and Production Fluid Transportation System operating requirements:
 - 1) All Transportation Tanks and associated piping and valves must be kept in leak free condition.
 - 2) Exploration and Production Fluid Transporters shall only transport Exploration and Production Fluid to a permitted well for re-use in the well drilling or well completion process, a permitted off-site temporary storage facility, a permitted surface disposal facility or a permitted injection well disposal facility. Exploration and Production Fluid shall not be released or discharged onto the ground surface or into waters of the state, unless otherwise authorized by the Arkansas Department of Environmental Quality.
 - 3) All Exploration and Production Fluids stored at a permitted temporary storage facility shall be contained in tanks or permitted temporary storage pits.
 - 4) Exploration and Production Fluid shall not be commingled or blended with non-exempt waste (such as used motor or compressor oil) under Subtitle C of the Federal Resource Conservation and Recovery Act of 1976.
 - 5) All Transportation Tanks shall contain the name and phone number of the Exploration and Production Fluid Transporter in a legible manner.
 - j) No person shall engage, employ or contract with any other person except a permitted Exploration and Production Fluid Transporter to transport Exploration and Production Fluids.
 - k) Failure to comply with provisions of this rule may result in revocation of the Exploration and Production Fluid Transportation System permit, and/or the assessment of civil penalties in accordance with General Rule A-5.

Final

H-2 - WELL CONSTRUCTION, OPERATING AND REPORTING REQUIREMENTS FOR CLASS II DISPOSAL WELLS

- a) No Class II Disposal Well, as defined in General Rule H-1 a) 1) (hereinafter referred to as “Class II Disposal Well”), for which a permit has been issued in accordance with General Rule H-1, shall be operated until well internal mechanical integrity has been established in accordance with sub-paragraph o) below, and an authority for initial commencement of injection operations is issued by the Director.
- b) The permit holder shall provide notice to the Commission Regional Office where the Class II Disposal Well is located, prior to performing any well servicing activity, cementing, or any wireline logging activities, so as to allow commission staff to be present to observe the activity. Any well servicing which requires the resetting of the packer shall require an internal mechanical integrity test be run in accordance with subparagraph o) below, prior to re-commencement of injection.
- c) All well records for newly drilled Class II Disposal Wells shall be submitted in accordance General Rule B-5. Completion or recompletion reports and wireline logs for all subsequent well servicing, cementing or wireline logging activity performed on the well shall be filed no later than fifteen (15) days after completion of these activities.
- d) Following issuance of the permit to Drill and or Operate a Class II Disposal Well, an annual fee of \$100 per well shall be due each July 1st for the life of the well until the well is plugged.
- e) Surface and production casing requirements.
 - 1) Class II Disposal Wells shall be cased and cemented, in such manner that damage will not be caused to any USDW, as defined in General Rule H-1 a) 5) (hereinafter referred to as “USDW”), or oil and gas resources.
 - 2) For newly drilled Class II Disposal Wells
 - A) Set and cement surface casing 250 feet below the base of the lowermost USDW, and cement production casing to at least 250 feet above the proposed disposal zone; or
 - B) Set and cement surface casing fifty (50) feet below the base of the lowermost formation utilized for a public water system (see 40 CFR) in the area of the Class II Disposal Well, with a minimum of five hundred (500) feet of surface casing required, and cement production casing back to the surface.
 - 3) For existing wells converted to Class II Disposal Wells
 - A) Unless otherwise approved by the Director, production casing in the existing well is required to be cemented to at least 250 feet above the proposed disposal zone. A cement bond (CBL), gamma ray (GR) and

density log (VDL) shall be required to verify the presence of the required casing cement. The CBL should indicate at a minimum an 80% bond index over the 250 foot cemented interval.

- B) If a casing liner is required to provide well bore integrity above the required production cementing requirements in subparagraph e) 3) A) above, the liner must be set, at a minimum, below the cemented portion of the production casing and cemented back to surface.
- f) Tubing and packer requirements.
- 1) All injection shall be through tubing and packer. The packer shall be placed no higher than 100 feet above the uppermost perforations or the casing seat in an open hole completion, provided the packer is within the cemented portion of the production casing, provided the packer is no less than 500 feet below the base of the USDW.
 - 2) If the tubing and packer cannot be set or utilized in accordance with subsection f) 1) above, due to existing well construction conditions, the Permit Holder may request the Director to authorize an alternative packer setting depth or well construction. In determining an alternative packer setting depth or alternative well construction, the Director shall take into consideration the current construction of the well, the depth of the USDWs and the nature of the obstruction. If an alternative packer setting depth or well construction is authorized, the Director may require additional or more frequent internal mechanical integrity tests be performed on the well, or may require additional remedial or corrective work to assure that injection does not endanger USDWs.
 - 3) The Permit Holder shall contact the Regional Office in which the well is located at least 24 hours prior to the initial setting or any resetting of the packer in a Class II Disposal Wells to enable an inspector to be present when the packer is set.
- g) The wellhead shall be maintained in a leak-free condition, and must have a working pressure in excess of the maximum discharge pressure of the pump. The wellhead shall be configured to include a one half inch female fitting, with shut-off valve, to allow monitoring of the annulus between the production casing and the injection tubing and a one half inch female fitting, with shut-off valve, installed on the tubing to measure the injection pressure.
- h) The injection pressure shall not exceed the maximum injection pressure established in accordance with General Rule H-1 h) 8).
- i) No change shall be made in the permitted injection zones unless the new zone is permitted in accordance with General Rule H-1.
- j) Injection fluids shall be confined to the permitted injection zones. If the Director has reason to believe, based upon well records or field observations, that injection fluids are migrating into zones not permitted for injection or into USDWs or to the surface or is causing fluid migration into the USDWs, due to the operation of any Class II Disposal Well or resulting from a failure of internal or external mechanical integrity of the well,

the Permit Holder shall be required to shut-in the well until all necessary corrective work, which may include plugging of the well, is completed.

- k) Internal mechanical integrity shall be maintained in accordance with subparagraph o) below.
- l) Only Class II Fluids, as defined in General Rule H-1 a) 3), and/or fresh water can be injected into a Class II Disposal Well.
- m) Each well shall have a legible sign placed near the well showing the Permit Holder and the well name and number and permit number and section, township and range as shown on the permit in the Commission records.
- n) The Permit Holder of each Class II Disposal Well shall file a Quarterly Well Status Report on forms prescribed by the Director. The report shall be filed within thirty (30) days after the end of each quarter of a calendar year commencing on January 1 of each year. The report shall include at a minimum:
 - 1) Name and permit number of the well;
 - 2) Names of all injection intervals;
 - 3) Maximum daily injection rates and pressures; and
 - 4) Monthly volumes of fluid injected.
- o) Establishment of Internal Mechanical Integrity.
 - 1) Internal mechanical integrity must be maintained at all times. If internal mechanical integrity is lost, the Permit Holder shall shut-in the well immediately and notify the Regional Office where the well is located, of loss of internal mechanical integrity. The well shall remain shut-in until the necessary remedial action necessary to restore internal mechanical integrity is completed and a new internal mechanical integrity test run and successfully passed.
 - 2) An internal mechanical integrity test shall be performed:
 - A) Prior to initial injection into a newly permitted Class II Disposal Well;
 - B) Prior to initial injection into a Class II Disposal Well after a change to a newly permitted injection zone;
 - C) Prior to resuming injection into any Class II Disposal Well after any workover of the well involving the resetting or movement of a packer;
 - D) Whenever the Director has reason to believe, based upon well records or field observation, that the Class II Disposal Wells may be leaking or improperly constructed; and
 - E) At least once every five (5) years measured from the date of the last successful test.

3) Internal mechanical integrity test

A) The following tests shall be performed on Class II Disposal Wells to establish the internal mechanical integrity of the tubing, casing and packer of the well. The Permit Holder shall contact the Regional Office in which the well is located at least 48 hours prior to conducting the test to enable an inspector to be present when the test is done.

i) Pressure Test

The casing-tubing annulus above the packer shall be tested under the supervision of a Commission representative at a minimum pressure differential between the tubing and the annulus of fifty (50) psig for a period of thirty (30) minutes. The casing-tubing annulus starting test pressure shall not be less than three hundred (300) psig and may vary no more than ten (10) percent of the starting test pressure during the test. The pressure at which the test is to be performed shall be fifty (50) psig over the permitted injection pressure, with a maximum of one thousand (1000) psig.

ii) Radioactive Tracer Survey Test

For those wells in which alternative well construction has been approved by the Director in accordance with subparagraph f) 2) above, a radioactive tracer survey may be run in the well at a frequency to be determined by the Director to evidence mechanical integrity of the well by demonstrating that the injected fluid is being injected into the approved disposal zone.

B) Any Class II Disposal Well which fails an internal mechanical integrity test, or on which an internal mechanical integrity test has not been performed when required, shall be shut in until the well is successfully tested or remedial work is commenced and completed or the well is plugged. The necessary work shall be completed and an internal mechanical integrity test successfully completed within ninety (90) days. The Director may approve up to an additional ninety (90) days, with any greater length of time to be established by the Commission upon application by the operator.

p) If the Director has reason to believe, based upon well records or field observation, that any Class II Disposal Well is causing fluid migration into the USDWs resulting from a failure of internal or external mechanical integrity, the Permit Holder shall shut in the well until any necessary corrective work is commenced and completed and internal and external mechanical integrity is established.

q) Class II Disposal Wells no longer in service for periods greater than 24 months shall be plugged or temporarily abandoned in accordance with General Rule B-7.

FINAL

**H-3 - WELL CONSTRUCTION, OPERATING AND REPORTING
REQUIREMENTS FOR CLASS II COMMERCIAL DISPOSAL WELLS**

- a) No Class II Commercial Disposal Well, as defined in General Rule H-1 a) 2) (hereinafter referred to as “Class II Commercial Disposal Well”) for which a permit has been issued in accordance with General Rule H-1, shall be operated until well internal mechanical integrity has been established in accordance with sub-paragraph o) below, and an authority for initial commencement of injection operations is issued by the Director.
- b) Notice shall be provided to the Commission Regional Office where the Class II Commercial Disposal Well is located, prior to performing any well servicing activity, cementing, or any wireline logging activities, so as to allow Commission staff to be present to observe the activity. Any well servicing which requires the resetting of the packer shall required an internal mechanical integrity test be run in accordance with subparagraph o) below, prior to re-commencement of injection.
- c) All well records for newly drilled Class II Commercial Disposal Wells shall be submitted in accordance General Rule B-5. Completion or recompletion reports and wireline logs for all subsequent well servicing, cementing or wireline logging activity performed on the well shall be filed no later than fifteen (15) days after completion of these activities.
- d) Following issuance of the permit to Drill and or Operate a Class II Commercial Disposal Well, an annual fee of \$100 per well shall be due each July 1st for the life of the well until the well is plugged.
- e) Surface and production casing requirements.
 - 1) Class II Commercial Disposal Wells shall be cased and cemented, in such manner that damage will not be caused to oil and gas resources or any USDW, as defined in General Rule H-1 a) 5) (hereinafter referred to as “USDW”).
 - 2) Existing wells shall be prohibited for re-completion as a Class II Commercial Disposal Well unless the well had been constructed at the time of original completion in accordance with subparagraph e) 3) below.
 - 3) Newly drilled Class II Commercial Disposal Wells:
 - A) Set and cement surface casing 250 feet below the base of the lowermost USDW, and cement production casing to at least 500 feet above the proposed disposal zone; or
 - B) Set and cement surface casing fifty (50) feet below the base of the lowermost formation utilized for a public water system (see 40 CFR) in the area of the Class II Commercial Disposal Well, with a minimum of five hundred (500) feet of surface casing required, and cement production casing back to the surface.
 - C) A cement bond (CBL), gamma ray (GR) and density log (VDL) shall be

required to verify the presence of the required casing cement. The CBL should indicate at a minimum an 80% bond index over the 500 foot cemented interval.

- f) Tubing and packer requirements.
 - 1) All injection shall be through tubing and packer. The packer shall be placed no higher than 100 feet above the uppermost perforations or the casing seat in an open hole completion, provided the packer is within the cemented portion of the production casing, provided the packer is no less than 750 feet below the base of the lowermost USDW.
 - 2) The Permit Holder shall contact the District Office in which the well is located at least 24 hours prior to the initial setting or any resetting of the packer in a Class II Commercial Disposal Well to enable an inspector to be present when the packer is set.
- g) The wellhead shall be maintained in a leak-free condition, and must have a working pressure gauge in excess of the maximum discharge pressure of the pump. The wellhead shall be configured to include a one half inch female fitting, with shut-off valve, to allow monitoring of the annulus between the production casing and the injection tubing and a one half inch female fitting, with shut-off valve, installed on the tubing to measure the injection pressure.
- h) The injection pressure shall not exceed the maximum injection pressure established in accordance with General Rule H-1 h) 8).
- i) No change shall be made in the permitted injection zones unless the new zone is permitted in accordance with General Rule H-1.
- j) Injection fluids shall be confined to the permitted injection zones. If the Director has reason to believe, based upon well records or field observations, that injection fluids are migrating into zones not permitted for injection or into USDWs, or to the surface, or is causing fluid migration into the USDWs, due to the operation of any Class II Commercial Disposal Well or resulting from a failure of internal or external mechanical integrity of the well, the Permit Holder shall be required to shut-in the well until all necessary corrective work, which may include plugging of the well, is completed.
- k) Internal mechanical integrity shall be maintained in accordance with subparagraph o) below.
- l) Only Class II Fluids, as defined in General Rule H-1 a) 3), and/or fresh water can be injected into a Class II Commercial Disposal Well.
- m) Each well shall have a legible sign placed near the well showing the Permit Holder and the well name and number and permit number and section, township and range as shown on the permit in the Commission records and an emergency telephone number.
- n) The Permit Holder of each Class II Commercial Disposal Well shall file a Monthly Well Status Report on forms prescribed by the Director. The report shall be filed within thirty

(30) days after the end of each month of a calendar year commencing on January 1 of each year. The report shall include at a minimum:

- 1) Name and permit number of the well;
 - 2) Names of all injection intervals;
 - 3) Maximum daily injection rates and pressures; and
 - 4) Monthly volumes of fluid injected.
 - 5) In addition, each Class II Commercial Disposal Well facility must keep an accurate log of each shipment of fluids to be disposed. This log shall include the generator (operator) of the fluid, well name, number and location or permit number of the well, amount of fluid and the date the shipment was received. A copy of this log must accompany the above Monthly Well Status Report.
- o) Establishment of Internal Mechanical Integrity.
- 1) Internal mechanical integrity must be maintained at all times. If internal mechanical integrity is lost, the Permit Holder shall shut-in the well immediately and notify the Regional Office where the well is located, of loss of internal mechanical integrity. The well shall remain shut-in until the necessary remedial action necessary to restore internal mechanical integrity is completed and a new internal mechanical integrity test run and successfully passed.
 - 2) An internal mechanical integrity test shall be performed:
 - A) Prior to initial injection into a newly permitted Class II Commercial Disposal Well;
 - B) Prior to initial injection into a Class II Commercial Disposal Well after a change to a newly permitted injection zone;
 - C) Prior to resuming injection into any Class II Commercial Disposal Well after any workover of the well involving the resetting or movement of a packer;
 - D) Whenever the Director has reason to believe, based upon well records or field observation, that the Class II Commercial Disposal Well may be leaking or improperly constructed; and
 - E) At least once every year measured from the date of the last successful test.
 - 3) Internal mechanical integrity test
 - A) The following test shall be performed on Class II Commercial Disposal Wells to establish the internal mechanical integrity of the tubing, casing and packer of the well. The Permit Holder shall contact the Regional Office in which the well is located at least forty-eight (48) hours prior to

conducting the test to enable an inspector to be present when the test is done. The casing-tubing annulus above the packer shall be tested under the supervision of a Commission representative at a minimum pressure differential between the tubing and the annulus of fifty (50) psig for a period of thirty (30) minutes and may vary no more than ten (10) percent of the starting test pressure during the test. The pressure at which the mechanical integrity test is to be performed shall be fifty (50) psig over the permitted injection pressure with a maximum of one thousand (1,000) psig. The minimum test pressure shall be three hundred (300) psig.

- B) Any Class II Commercial Disposal Well which fails an internal mechanical integrity test, or on which an internal mechanical integrity test has not been performed when required, shall be shut in until the well is successfully tested or remedial work is commenced and completed or the well is plugged. The necessary work shall be completed and an internal mechanical integrity test successfully completed within ninety (90) days. The Director may approve up to an additional ninety (90) days, with any greater length of time to be established by the Commission upon application by the operator.
- p) All commercial facilities must have restricted entry to all nonessential traffic. A lockable gate must be maintained and shall be locked during all unmanned hours. Additionally, the Director may require a fence to limit entry to the facility.
- q) Permit Holders may be required to take periodic samples of the injection fluid and have those samples analyzed at a certified lab. Samples of the injection fluid may also be taken periodically by a Commission representative. Samples will be checked for compliance with Class II fluids as defined in General Rule H-1.
- r) If the Director has reason to believe, based upon well records or field observation, that any Class II Commercial Disposal Well is causing fluid migration into the USDWs resulting from a failure of internal or external mechanical integrity, the Permit Holder shall shut in the well until any necessary corrective work is commenced and completed and internal and external mechanical integrity is established.
- s) Class II Commercial Disposal Wells no longer in service for periods greater than 12 months shall be plugged in accordance with General Rule B-7.