

Title 8. Environmental Law

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

Subchapter B. Administration

Part 12. Permit Fee Rules

Subpart 1. General Provisions

8 CAR § 12-101. Title.

This part shall be known by and may be cited by the short title 8 CAR pt. 12, Permit Fee Rules.

Authority. Arkansas Code §§ 8-1-203, 8-2-204, 8-4-202, 8-4-203, 8-6-207.

8 CAR § 12-102. Purpose.

(a) It is the purpose of this part to develop and implement a system of fees for permits issued by the Division of Environmental Quality pursuant to the provisions of the Arkansas Water and Air Pollution Control Act, Acts 1949, No. 472, as amended, Arkansas Code § 8-4-101 et seq., or the Arkansas Solid Waste Management Act, Acts 1971, No. 237, as amended, Arkansas Code § 8-6-201 et seq., Acts 1983, No. 817, as amended, Acts 1993, No. 1254, as amended, and Acts 1999, No. 1052, Arkansas Code § 8-1-101 et seq., which authorize the collection and enforcement of these fees and authorize their use to defray the costs of operating the division.

(b) It is also the purpose of this part to assess reasonable fees to establish and to administer the State Environmental Laboratory Certification Program Act, Acts 1985, No. 876, as amended, Environmental Laboratory Accreditation Program Act, Arkansas Code § 8-2-201 et seq.

Authority. Arkansas Code §§ 8-1-203, 8-2-204, 8-4-202, 8-4-203, 8-6-207.

8 CAR § 12-103. Definitions.

(a) All terms used in this part shall have their usual meaning unless the context otherwise requires or unless specifically defined in the enabling legislation or in federal regulations adopted by reference for program management.

(b) In addition, for purposes of this part, the following definitions apply:

(1)(A)(i) "Administrative permit amendment" means a minor change or permit revision that is not typically considered a permit modification, as defined by applicable statutes or rules, or a minor modification that does not require public notice and opportunity for comment.

(ii) For example, typographical corrections or revisions, or other changes initiated by the Division of Environmental Quality, might be considered administrative permit amendments.

(iii) Some minor changes requested by the permittee may also qualify as administrative permit amendments.

(B) For purposes of Subpart 4 of this part, administrative permit amendments are defined in 8 CAR pt. 40, 8 CAR pt. 41, and 8 CAR pt. 42.

(C) The Director of the Division of Environmental Quality, in his or her discretion, may decide whether a revision would be considered an administrative amendment.

(D) No fee will be charged for administrative permit amendments;

(2) "Annual fee" means the fee required to be submitted upon the facility-specific annual invoice date for a permit issued pursuant to the Arkansas Water and Air Pollution Control Act, Arkansas Code § 8-4-101 et seq., as amended, or the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 et seq., as amended;

(3) "Category" means one (1) type of laboratory test or group of laboratory tests for similar materials or classes of materials or that use similar methods or related methods;

(4)(A) "Certificate" means the annual document showing those parameters for which a laboratory has received certification.

(B) The annual period begins at receipt of fee payments or at the expiration of a current certificate;

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

(6) "Confined animal operation" means any lot or facility where livestock or fowl have been, are, or will be stabled or confined and fed or maintained, and where crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any significant portion of the lot or facility;

(7) "Director" means the Director of the Division of Environmental Quality or his or her designated representative;

(8)(A) "Discretionary major facility" means an industrial facility discharging wastewater under the terms of a National Pollutant Discharge Elimination System (NPDES) permit that does not meet the numerical rating criteria as an NPDES nonmunicipal major facility, but is designated as a major permittee by the Division of Environmental Quality or the United States Environmental Protection Agency.

(B) Such facilities are assigned a major rating code (MRAT) greater than five hundred (500);

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

(10) "EPA" means the United States Environmental Protection Agency;

(11) "Evaluation" means a review of the quality control and quality assurance procedures, records keeping, reporting procedures, methodology, and analytical techniques of a laboratory for measuring or establishing specific parameters;

(12)(A)(i) "Facility" means an activity or operation within a specific geographical location including property contiguous thereto.

(ii) A facility may consist of several manufacturing, treatment, storage, or disposal operational units.

(B)(i) For purposes of this part, a facility shall be considered to be all property, facilities, or operations owned, leased, or operated by a single entity, whether a municipal, county, or state government, corporation, partnership, or proprietorship in the same geographical area, forming an integral part of the same activity or operation, whether or not such activity lies within the boundaries of the city or county.

(ii) For purposes of permit fee assessment only, such property, facilities, or operations shall be considered as a single facility if they are regulated by a common state or federal permit within each permit category, or in the future such consolidation of multiple permits can be realized within the scope of applicable permitting regulations, and the facilities or operations are under the supervision of a single plant manager/superintendent;

(13) "Initial fee" means the fee that is required by law to be submitted with all applications for permits issued pursuant to the Arkansas Water and Air Pollution Control Act, Arkansas Code § 8-4-101 et seq., as amended, and the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 et seq., as amended, and that must be received by the Division of Environmental Quality before a permit is issued;

(14) "Issue date" means the date the Division of Environmental Quality signed the permit;

(15) "Laboratory" means any facility that performs:

(A) Analyses to determine the chemical, physical, or biological properties of air, water, solid waste, hazardous waste, wastewater, soil, or subsoil materials; or

(B) Any other analyses related to environmental quality evaluations;

(16) "Major municipal facility" means a publicly owned treatment works (POTW) with a design flow or daily average flow of one million (1,000,000) gallons per day (mgd) or greater, or a POTW designated as a major facility by the Division of Environmental Quality or United States Environmental Protection Agency;

(17)(A) "Modification fee" means that fee required by law to be submitted for modification of any existing or future permit required by the Arkansas Water and Air Pollution Control Act, Arkansas Code § 8-4-101 et seq., as amended, or the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 et seq., as amended, such modification being either at the request of the permittee or as required by law or rule.

(B) The fee may vary if the permit modification or renewal is considered to be a minor or major modification, as defined in applicable statutes or rules, or otherwise determined by the Director of the Division of Environmental Quality;

(18)(A) "Nonmunicipal major facility" means a facility subject to the National Pollution Discharge Elimination System (NPDES) whose status is determined following completion of an NPDES Permit Rating Worksheet (current version) in which points are allocated on the basis of:

- (i) Toxic pollutant potential;
- (ii) Permitted flow or the ratio of wastewater to stream flow volume;
- (iii) Conventional pollutants mass loadings;
- (iv) Public health impacts (including proximity to drinking water supplies and potential for human health toxicity); and
- (v) Water quality factors.

(B) Additional points can be assessed for certain steam electric power plants or for separate storm sewers serving a population greater than one hundred thousand (100,000).

(C)(i) The total points accumulated is known as the major rating code, or MRAT, which is the numeric total of ranking points assigned to nonmunicipal facilities and used to delineate them as a major or minor facility.

(ii) Currently, a facility with an MRAT of eighty (80) points or more is designated as a "nonmunicipal major facility".

(iii) Additionally, the United States Environmental Protection Agency or the Division of Environmental Quality may designate an NPDES permittee as a "discretionary major facility".

(D) Once an MRAT for a major facility is calculated and approved by the United States Environmental Protection Agency, the Division of Environmental Quality may recommend increases or decreases to an MRAT, but only the United States Environmental Protection Agency is authorized to change an individual permittee's MRAT or designation as a "major" facility;

(19) "Non-Part 70 permit" means an air permit that is issued pursuant to a regulation other than Part 70 of Title 40 of the Code of Federal Regulations, 40 C.F.R. pt. 70;

(20) "Parameter" means the characteristic or characteristics of a laboratory sample determined by an analytic laboratory testing procedure;

(21) "Part 70 permit" means an air permit that is issued pursuant to 40 C.F.R. pt. 70;

(22) "Program" means the Environmental Laboratory Accreditation Program;

(23) "Q" or "quantity" means the permitted flow expressed in one million (1,000,000) gallons per day (mgd), as used in formulas for calculating water permit fees under Subpart 3 of this part; and

(24)(A) "Renewal permit" means a permit issued to a facility upon expiration of an existing permit.

(B) A modification fee may be assessed, depending upon whether the renewal is considered to be a minor or major modification, as defined in applicable statutes or rules, or otherwise determined by the Director of the Division of Environmental Quality.

Authority. Arkansas Code §§ 8-1-203, 8-2-204, 8-4-202, 8-4-203, 8-6-207.

8 CAR § 12-104. Applicability.

(a) Permit fees established by this part shall be applicable to:

(1) All water permits, including no-discharge and closed system permits, issued under the provisions of the Arkansas Water and Air Pollution Control Act, Arkansas Code § 8-4-101 et seq., as amended;

(2) All air permits issued under the Arkansas Water and Air Pollution Control Act, as amended;

(3) Any federal water or air permit program where permitting authority has been delegated to the Division of Environmental Quality (unless fees for such a program are otherwise provided by law); and

(4) All solid waste disposal permits issued under the provisions of the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 et seq., as amended, and the Solid Waste Management Rules, 8 CAR pt. 60.

(b) Facilities operating under the provisions of the "Permits by Rule" or "Authorization by Rule" are exempt from this part until such time that the facility submits an application for an individual permit within each applicable permit category.

(c)(1) Laboratory certification fees established by this part shall be applicable to all laboratories certified by the division.

(2) The fees include, but are not limited to, the reasonable costs of administering the provisions of the program and the reasonable administrative costs of initial issuance, initial certificate, renewed certificates, and the expenses associated with conducting evaluations.

Authority. Arkansas Code §§ 8-1-203, 8-2-204, 8-4-202, 8-4-203, 8-6-207.

Codification Notes. Permits by rule are authorized by Arkansas Code § 8-4-203. Provisions pertaining to permits by rule or authorization by rule are also included in 8 CAR pt. 25 and 8 CAR pt. 27, State Water Permit Rule.

8 CAR § 12-105. Severability.

If any provision of this part or the application thereof to any person or circumstance is held invalid, its invalidity shall not affect other provisions or applications of this part that can be given effect without the invalid portion or application, and to this end the provisions of this part are declared to be severable.

Authority. Arkansas Code §§ 8-1-203, 8-2-204, 8-4-202, 8-4-203, 8-6-207.

Subpart 2. Permit Fee Payment

8 CAR § 12-201. Permit fee payment.

(a) **Fee calculation.** The applicant may calculate the initial permit application fee or permit modification fee and include it with the permit application, or the applicant

may request that the Division of Environmental Quality calculate the fee after reviewing the application and forward an invoice to the applicant for payment.

(b) Fee payment.

(1) Applicable permit fees shall be paid by check or money order payable to the division for deposit in the State Treasury.

(2) The permit shall not be issued until the fee is received by the division.

(c) Annual fee payment.

(1) Annual fees shall be due forty-five (45) days after the first day of the month that the permittee is billed for the required annual fee.

(2) Failure to receive this bill does not relieve the permittee from liability for the annual fee, but late charges shall not be assessed until forty-five (45) days after the permittee has been notified that the annual fee is due.

(3) The Director of the Division of Environmental Quality may waive annual fees or a portion thereof for new facilities that are not in operation unless the waiver is otherwise prohibited by state or federal law.

(d) Failure to pay annual fees.

(1) A permitted facility failing or refusing to pay the annual fee in a timely manner shall be subject to a late payment charge as established in this part.

(2) Continued failure or refusal to pay the required fees after a reasonable notice shall constitute grounds for legal action by the division that may result in revocation of the permit.

(3) When payment of fees is made by check that is subsequently returned due to insufficient funds, all review work on the particular application shall immediately cease until the fee is paid in cash or by money order.

(e) First annual fee payment.

(1) The annual fee shall be assessed upon the facility-specific annual invoice date.

(2) The division shall credit the first annual fee on a prorated basis if the initial fee for the permit was assessed within twelve (12) months of the first annual fee for the permit.

(3) The division may credit the annual fee on a prorated basis if a modification fee for the permit was assessed within twelve (12) months of the annual fee for the permit.

(f) Annual fee late payment charge.

(1) A late payment charge shall be assessed to facilities failing to pay the annual fee within forty-five (45) days of the billing date and shall be assessed at the rate of ten percent (10%) of the annual fee.

(2) Late payment charge equals ten percent (10%) of annual fee.

Authority. Arkansas Code §§ 8-1-203, 8-2-204, 8-4-202, 8-4-203, 8-6-207.

8 CAR § 12-202. Refunds.

(a) Except for pre-site investigation fees and interim authority or variance application fees as described in Subparts 5 and 6 of this part, up to forty percent (40%) of a fee submitted pursuant to this part is refundable if the request for the permit action for which the fee was submitted is withdrawn by the applicant before the final permit decision.

(b) The Director of the Division of Environmental Quality has the discretion to retain as much of the above-cited forty percent (40%) as he or she determines is necessary to cover the reasonable administrative and technical review costs incurred in the review process.

Authority. Arkansas Code §§ 8-1-203, 8-2-204, 8-4-202, 8-4-203, 8-6-207.

Subpart 3. Water Permit Fees and Trust Fund Contribution Fee

8 CAR § 12-301. Water permit fees.

The permit fee schedule in 8 CAR §§ 12-302 – 12-307 applies to the affected water permit programs in the State of Arkansas.

Authority. Arkansas Code §§ 8-1-203, 8-2-204, 8-4-202, 8-4-203, 8-6-207.

8 CAR § 12-302. Maximum water permit fees.

(a) Actual permit fees shall be calculated and assessed in accordance with the provisions of this section.

(b)(1) The following maximum fees for water permits, including construction permits and initial, annual, renewal, and modified permits, shall apply to each permit issued by the Division of Environmental Quality.

(2) **Construction permits.** Construction permits issued pursuant to the Arkansas Water and Air Pollution Control Act, Arkansas Code § 8-4-101 et seq., as amended, for construction, alteration, or modification, or any combination thereof, of a treatment system shall not exceed five hundred dollars (\$500) per permit.

(3) **NPDES and UIC Program permits.** Permits issued under the National Pollutant Discharge Elimination System (NPDES) and the Underground Injection Control (UIC) Programs:

Initial and Annual \$30,000

Modification of Permit

Major Modification \$10,000

Minor Modification* \$1,000

*Minor modifications for NPDES and UIC permits are restricted to those as defined in 40 C.F.R. §§ 122.63 and 144.41, respectively.

Non-NPDES "No-Discharge" Permits..... \$500

Short Term Activity Authorizations

Fees for Short Term Activity Authorizations under the provisions of 8 CAR pt. 21, Water Quality Standards for Surface Waters of the

State of Arkansas, shall not exceed \$200.

Authority. Arkansas Code §§ 8-1-203, 8-2-204, 8-4-202, 8-4-203, 8-6-207.

8 CAR § 12-303. General provisions.

(a) Construction permits.

(1) All applicants for construction permits required by Arkansas Code § 8-4-217(b) shall be assessed a fee that shall not exceed five hundred dollars (\$500) for each permit or modification thereto, except that liquid animal waste management systems shall be assessed a fee of two hundred dollars (\$200) for each permit or modification thereto.

(2) Construction permit fees shall be in addition to any water permit fees required in 8 CAR §§ 12-304 – 12-306.

(b) **Permit fees.** Permit fees (initial, annual, or modification) shall be required for each water permit, as described in this subpart.

(c) Inactive status fees.

(1) The owner or operator of a hog farm that has been issued a permit under 8 CAR pt. 24, Liquid Animal Waste Management Systems, shall not pay an annual fee if the permit is placed on inactive status by the Division of Environmental Quality.

(2) An NPDES or non-NPDES permit may be placed on inactive status if the owner's or operator's contract with the integrator has been terminated by the integrator.

(3)(A) To obtain inactive status, the owner or operator must submit a written request to the division seeking inactive status and provide the division with a copy of the integrator's letter terminating the contract.

(B) The division shall notify the owner or operator that the permit has been placed on inactive status.

(4) The owner or operator shall not pay an annual fee during the time the permit is on inactive status.

(5)(A) A permit that is placed on inactive status may remain on inactive status for a maximum of two (2) years following the date of contract termination.

(B) The owner or operator must comply with all permit conditions in order for the permit to remain on inactive status.

(C) Failure to comply with permit conditions may result in the possible repayment of the annual fees, in addition to any assessed penalties.

(6) If the permit has not been reactivated at the end of the two-year period, the owner or operator must file a closure plan with the division.

(7) The owner or operator must reactivate the permit if the owner or operator begins operating the hog farm and shall notify the division within thirty (30) days after the owner or operator begins operating the hog farm that the permit is being reactivated.

Authority. Arkansas Code §§ 8-1-203, 8-2-204, 8-4-202, 8-4-203, 8-6-207.

8 CAR § 12-304. Fees for permits issued under the National Pollutant Discharge Elimination (NPDES) permits.

(a) Nonmunicipal major facilities.

(1) All facilities classified as nonmunicipal major facilities, as defined in 8 CAR § 12-103, with a major/minor permit rating (MRAT) equal to or greater than one hundred (100), except for discretionary major facilities, see subdivision (a)(2) of this section, are subject to fees as follows:

Initial Fee.....	\$15,000
Annual Fee.....	\$15,000
Modification Fee	
Major.....	\$5,000
Minor*.....	\$1,000

(2) Nonmunicipal major facilities with MRAT less than one hundred (100) and discretionary major facilities are subject to fees as follows:

Initial Fee.....	\$11,000
Annual Fee.....	\$11,000
Modification Fee	
Major.....	\$5,000
Minor*.....	\$1,000

(b) **Major municipal facilities.** All major municipal facilities, as defined in Subpart 1 of this part, are subject to fees as follows:

Initial and annual fees shall be calculated as follows:

$$\text{Fee} = \$5,000 + (900 \times (Q-1))$$

Modification Fee

Major.....	\$5,000
Minor*.....	\$1,000

(c) **Minor municipal and minor nonmunicipal domestic facilities.**

(1) Facilities without toxics, priority pollutants, or hazardous substances, as defined in 40 C.F.R. § 122, Appendix D, Tables II, III, and V, or whole effluent toxicity (WET) limits, limited in the permit:

Initial and annual fees shall be calculated as follows:

$$\text{Fee} = \$200 + (5,600 \times Q)$$

with Maximum Fee = \$5,800

Modification Fee

Major.....	\$2,000
Minor*.....	\$1,000

(2) Facilities with toxics, priority pollutants, or hazardous substances, as defined in 40 C.F.R. § 122, Appendix D, Tables II, III, and V, or whole effluent toxicity (WET) limits, limited in the permit:

Initial and annual fees shall be calculated as follows:

$$\text{Fee} = \$200 + (21,500 \times Q) \text{ with Maximum Fee} = \$15,000$$

Modification Fee

Major.....	\$2,000
Minor*.....	\$1,000

(3) Facilities with toxic pollutants based solely on a total maximum daily load (TMDL), limited in the permit:

Initial and annual fees shall be calculated as follows:

$$\text{Fee} = \$200 + (5,600 \times Q) \text{ with Maximum Fee} = \$5,800$$

Modification Fee

Major.....	\$2,000
Minor*.....	\$1,000

(d) **Nonmunicipal minor facilities.** Nonmunicipal minor facilities with MRAT less than eighty (80) are subject to fees as follows:

Initial and annual fees shall be calculated as follows:

$$\text{Fee} = \$200 + (5,600 \times Q)$$

with Maximum Fee = \$10,000

Modification Fee

Major.....	\$2,000
Minor	\$1,000

(e) Noncontact cooling water (including discharges from power plants not subject to fees described in subsection (a) of this section) and noncontaminated storm water discharges:

Initial and annual fees shall be calculated as follows:

$$\text{Fee} = \$200 + (700 \times Q)$$

with Maximum Fee = \$10,000

Modification Fee

Major.....	\$2,000
Minor*.....	\$1,000

(f) Aquatic animal production facilities (fish hatcheries, etc.) with flow-through systems shall be subject to the following fees:

Initial and Annual Fees..... \$2,500

Modification

Major.....	\$2,000
Minor*.....	\$500

(g) Variable discharge (i.e., storm water and land clearing not addressed in subsection (c) of this section, aggregate facilities, mining, etc.):

Initial and Annual	\$300
Modification (Major and Minor)	\$300

(h) **Note.** *Minor modifications to NPDES permits are restricted to those defined in 40 C.F.R. § 122.63.

Authority. Arkansas Code §§ 8-1-203, 8-2-204, 8-4-202, 8-4-203, 8-6-207.

8 CAR § 12-305. General permits.

(a)(1) In lieu of the fee schedules described in 8 CAR § 12-304, and except as provided in subsection (b) of this section, permittees authorized to discharge wastewater under a Water Division general permit issued by the Division of Environmental Quality shall be subject to an initial fee and an annual fee as described below.

(2) The initial fee shall be remitted with the notice of intent (NOI) for coverage under the applicable general permit.

(3) Until a notice of termination (NOT) is submitted to and approved by the Division of Environmental Quality, the permittee shall be billed annually thereafter by the Division of Environmental Quality on the anniversary date of coverage.

(4) When general permits are revised, an additional initial fee is not required to be submitted if the currently permitted facility has maintained coverage under the existing general permit.

General Permit Number & Name

ARG160000 (Sanitary Landfill Runoff)	\$400
ARG550000 (Individual Treatment Unit)	\$200
ARG640000 (Water Plant Backwash Filters)	\$400
ARG670000 (Pipeline Hydrostatic Testing)	\$200
ARG750000 (Car/Truck Wash Facilities)	\$200

ARG790000 (Ground Water Clean-up)	\$500
ARR000000 (Storm Water - Mfg)	\$200
ARR150000 (Storm Water- Construction)	\$200
ARR040000 (Storm Water – MS4 Phase II)	\$200
ARG500000 (Aggregate Facilities)	\$200
00000-WG-LA (Land Application of Drilling Fluids)	\$500
0000-WG-CW (Carwash)	\$200
0000-WG-WR (Wastewater Treatment Plant Residuals)	\$500
0000-WG-SW (Salt Water Disposal)	\$250
0000-WG-AW (Confined Animal)	\$200

(b) Homeowners covered under general permit ARG550000 (Individual Treatment Units) are exempt from fees required herein.

(c) Miscellaneous general permits not specifically mentioned above that are issued by the Water Division shall be subject to an initial fee not to exceed five hundred dollars (\$500) and an annual fee not to exceed five hundred dollars (\$500).

Authority. Arkansas Code §§ 8-1-203, 8-2-204, 8-4-202, 8-4-203.

8 CAR § 12-306. Fees for non-NPDES permits.

(a) Saltwater disposal:

Initial Fee.....	\$250
Annual Fee.....	\$250
Modification Fee*.....	\$250

(b) Confined animal and small commercial septic tank systems (< 5,000 gallons per day (gpd)):

Initial Fee.....	\$200
Annual Fee.....	\$200
Modification Fee.....	\$200

(c) Commercial or industrial (nonagricultural, non-UIC, commercial septic tank systems) (> 5,000 gallons per day (gpd)):

Initial Fee.....	\$500
Annual Fee.....	\$500
Modification Fee*.....	\$500

(d) Industrial sludge application (i.e., food processing, reserve pit, hatchery systems, etc.):

Initial Fee.....	\$500
Annual Fee.....	\$500
Modification Fee*.....	\$500

(e) Publicly owned treatment works (POTW) non-NPDES with land application of wastewater:

Initial Fee.....	\$500
Annual Fee.....	\$500
Modification Fee*.....	\$500

(f) **Note.** *Defined as a ten percent (10%) or greater change in application or storage volumes or a change in the method of application or disposal.

Authority. Arkansas Code §§ 8-1-103, 8-4-202.

8 CAR § 12-307. Fees for underground injection control (UIC) permits (injection well classifications are defined in 40 C.F.R. § 144.6).

(a) Class I, III, and IV:

Initial Fee.....	\$15,000
Annual Fee.....	\$15,000
Modification Fee*	
Major.....	\$10,000
Minor*.....	\$1,000

Note: *Minor modifications are limited to those actions defined in 40 C.F.R. § 144.41.

(b) Class V:

Initial Fee.....	\$500
Annual Fee.....	\$500
Modification Fee.....	\$500

Authority. Arkansas Code §§ 8-1-103, 8-4-202.

8 CAR § 12-308. Nonmunicipal Domestic Sewage Treatment Works Trust Fund contribution fee.

(a) A nonmunicipal domestic sewage treatment work is required to pay a trust fund contribution fee for the Nonmunicipal Domestic Sewage Treatment Works Trust Fund.

(b) The trust fund contribution fee shall be assessed in accordance with Arkansas Code § 8-4-203(b).

Authority. Arkansas Code §§ 8-1-103, 8-4-202, 8-4-203.

8 CAR § 12-309. Administrative permit amendments.

(a) There shall be no fee charged for minor water permit modifications involving only administrative amendments or revisions to a permit.

(b) For purposes of this subpart, minor modifications are restricted to those defined in 40 C.F.R. § 122.63 or § 144.41.

(c) The Director of the Division of Environmental Quality, in his or her discretion, may decide whether a minor modification is considered to be an administrative amendment.

Authority. Arkansas Code §§ 8-1-103, 8-4-202.

Subpart 4. Air Permit Fees

8 CAR § 12-401. Applicability.

The air permit fees contained in this section are applicable to:

- (1) Non-Part 70 permits;
- (2) Part 70 permits; and
- (3) General permits.

Authority. Arkansas Code §§ 8-1-103, 8-4-311.

8 CAR § 12-402. Terms used in fee formulas.

(a)(1) The \$/ton factor is sixteen dollars per ton (\$16/ton) until September, 1994, after which time it shall be increased annually by the percentage, if any, by which the federal consumer price index exceeds that of the previous year.

(2) The Director of the Division of Environmental Quality may, after considering the factors contained in 8 CAR § 12-801, decide not to increase the \$/ton factor in a year when the fee fund has a balance greater than one hundred fifty percent (150%) of the amount of money expended from that fund in the previous year.

(b)(1) Tons/year predominant air contaminant is the permitted emission rate of the most predominant air contaminant (other than carbon monoxide, carbon dioxide and methane).

(2) The maximum value shall be no greater than four thousand (4,000) tons/year per facility.

(c)(1) Tons/year chargeable emissions is the sum of the permitted emission rates of all air contaminants (other than carbon monoxide, carbon dioxide and methane).

(2) The maximum value per air contaminant shall not exceed four thousand (4,000) tons/year per facility.

Authority. Arkansas Code §§ 8-1-103, 8-4-311.

8 CAR § 12-403. Initial fees.

(a) Initial fees shall be assessed according to the following formulas.

(b)(1) Non-Part 70 permits:

Initial fee = \$/ton factor x tons/year predominant air contaminant

(2) Provided, however, no initial fee shall be less than five hundred dollars (\$500) except for general permits issued to Non-Part 70 sources.

(c) **Part 70 permits.**

(1)(A) Permits issued to Part 70 sources already holding an active air permit not issued pursuant to 8 CAR pt. 42:

Initial fee = [\$/ton factor x tons/year chargeable emissions] –
amount of last annual air permit fee invoice

(B) Provided, however, that no initial fee shall be less than one thousand dollars (\$1,000).

(2)(A) Permits issued to Part 70 sources that do not hold an active air permit:

Initial fee = \$/ton factor x tons/year chargeable emissions

(B) Provided, however, that no initial fee shall be less than the \$/ton factor x 100.

Authority. Arkansas Code §§ 8-1-103, 8-4-311.

8 CAR § 12-404. Annual fees.

(a) Annual fees shall be assessed according to the following formulas:

(b)(1) Non-Part 70 permits:

Annual fee = \$/ton factor x tons/year predominant air contaminant

(2) Provided, however, that no annual fee shall be charged for a permit in which the tons/year predominant air contaminant is less than ten (10) tons/year.

(c)(1) Part 70 permits:

Annual fee = \$/ton factor x tons/year chargeable emissions

(2) Provided, however, that no annual fee shall be less than the \$/ton factor x 100.

Authority. Arkansas Code §§ 8-1-103, 8-4-311.

8 CAR § 12-405. Modification fees.

(a) Modification and renewal fees for air permits shall be assessed according to the following formulas.

(b)(1) Non-Part 70 permits:

Modification fee = \$/ton factor x tons/year net emissions increase of predominant air contaminant

(2) However, no modification fee shall be less than four hundred dollars (\$400), or more than the \$/ton factor x by 4,000.

(c) Part 70 permits.

(1)(A) For each nonminor permit modification or each renewal permit involving a nonminor permit modification:

Fee = \$/ton factor x tons/year net emission increase of chargeable emissions

(B) However, no fee shall be less than one thousand dollars (\$1,000) or more than the \$/ton factor x by 4,000.

(2) A fee of five hundred dollars (\$500) for each minor permit modification or each renewal permit involving only a minor permit modification.

Authority. Arkansas Code §§ 8-1-103, 8-4-311.

8 CAR § 12-406. Administrative permit amendments and renewal permits.

There shall be no fee charged for administrative permit amendments or renewal permits not involving a permit modification, as such are defined in 8 CAR pt. 42, Arkansas Operating Air Permit Program, 8 CAR pt. 41, State Implementation Plan for Air Pollution Control, or 8 CAR pt. 40, Arkansas Air Pollution Control Code, as applicable.

Authority. Arkansas Code §§ 8-1-103, 8-4-311.

8 CAR § 12-407. General permits.

(a)(1) In lieu of the fees schedules in this subpart, and except as provided in subsection (b) of this section, sources that qualify for a general air permit issued pursuant to 8 CAR pt. 40, 8 CAR pt. 41, or 8 CAR pt. 42 shall be subject to an initial fee and annual fee as described below.

(2) The initial fee of two hundred dollars (\$200) shall be remitted with the notice of intent (NOI) for coverage under the applicable general permit.

(3) Until a notice of termination (NOT) is submitted and approved by the Division of Environmental Quality, the permittee shall be billed two hundred dollars (\$200) annually thereafter on the anniversary date of coverage.

(4) When general permits are revised, no additional initial fee shall be required to be submitted if the currently permitted facility has maintained coverage under the existing general permit.

(b) The following general permit holders shall not be assessed or billed an annual fee:

(1) Non-Part 70 general permits in which the tons/year predominant air contaminant is less than ten (10) tons per year.

Authority. Arkansas Code §§ 8-1-103, 8-4-311.

8 CAR § 12-408. Permit fees for certain small business subject to Part 70 permitting requirements.

(a) For purposes of this section, the term "small business stationary source" means a stationary source that is:

(1) Owned or operated by a person that employs one hundred (100) or fewer individuals;

(2) A small business concern as defined in the federal Small Business Act (www.sba.gov);

(3) Not a major stationary source;

(4) Permitted to emit less than fifty (50) tons per year of any regulated pollutant; and

(5) Permitted to emit less than seventy-five (75) tons per year of all regulated pollutants.

(b) Upon written request, the Director of the Division of Environmental Quality may reduce the Part 70 initial, Part 70 annual, or Part 70 modification fee for a small business stationary source if the source demonstrates to the satisfaction of the director that they do not have the financial resources to pay the fee as calculated.

(c) When reducing permit fees in accordance with subsection (b) of this section, the director shall calculate the fee as if the source is a non-Part 70 source.

Authority. Arkansas Code §§ 8-1-103, 8-4-311.

Codification Notes. The Small Business Act was enacted in Pub. L. No. 85-536.

Subpart 5. Solid Waste Permit Fees

8 CAR § 12-501. Maximum amount of solid waste permit fee collections.

(a) In accordance with Arkansas Code § 8-1-103, the total amount of fees for solid waste management facility permits shall be calculated to generate revenues in any fiscal year not to exceed four and one-quarter (4.25) times the total amount collected from Class 1 and Class 3 landfills in fiscal year 1992-93, provided that the total fee revenues cannot exceed one and one-quarter (1.25) times the total amount collected from solid waste permit fees in fiscal year 1994-95.

(b) Further, if the amount of permit fees levied on or received from permit holders exceed the amount specified above in a fiscal year, the over-collections may be retained by the Division of Environmental Quality to be used to reduce permit fees in subsequent years by relative amounts.

Authority. Arkansas Code §§ 8-1-103, 8-6-207.

8 CAR § 12-502. Fee categories.

(a) Separate fees for the initial fees (preapplication and application), annual fees, modification fees, permit transfer fees, and post-closure fees will be assessed for each applicable permit category.

(b) For purposes of assessing fees, permit categories include the following types of solid waste management facilities:

- (1) Class 1 landfills;
- (2) Class 3C (commercial) landfills;
- (3) Class 3N (noncommercial) landfills;
- (4) Class 3T (tire) landfills;
- (5) Class 4 landfills;
- (6) Transfer stations;
- (7) Composting facilities; and

(8) Solid waste material recovery facilities, provided, however, fees for a solid waste material recovery facility will not be assessed where limited recycling and material recovery activities occur at a transfer station site.

(c) Solid waste management facilities, subject to the permit fees as set forth in this part, are further defined and regulated under 8 CAR pt. 60, Solid Waste Management Rules.

Authority. Arkansas Code §§ 8-1-103, 8-6-207.

8 CAR § 12-503. Initial fees.

(a)(1) Due to the unique requirements for a preliminary site survey (pre-site), which may include a geotechnical site review, of a proposed solid waste management facility prior to the submission of a permit application, the initial fee for solid waste permits is composed of two (2) parts, i.e.:

- (A) The preapplication fee; and
- (B) The application fee.

(2) The preapplication fee will help to recover the costs of the preliminary engineering site survey conducted by the various regulating agencies in association with the Division of Environmental Quality.

(b)(1) This pre-site fee shall be nonrefundable and shall be paid prior to conducting the pre-site investigation.

(2) Upon a finding of site suitability based on the pre-site investigation, or at the owner's risk if the site is judged to be unsuitable and the owner continues to seek a permit for the site, the initial fee shall be paid as specified in Subpart 2 of this part.

(c) These fees are applicable to all types of facilities permitted under the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 et seq., as amended, and any rules promulgated thereto:

Preapplication Fees

Class 1, Class 3C, Class 3N, Class 3T.....	\$2,000
Class 4	\$1,000

Application Fees

Class 1, Class 3C	\$10,000
Class 3N, Class 3T.....	\$5,000
Class 4	\$1,000
Transfer Stations, Composting, Material Recovery Facilities.....	\$900

Authority. Arkansas Code §§ 8-1-103, 8-6-207.

8 CAR § 12-504. Annual fees.

(a) Annual fees are payable in accordance with Subpart 2 of this part and are assessed for each calendar year that the solid waste management facility is in operation.

(b) For all solid waste management facilities, subject to fees named herein, annual fees are assessed each calendar year until the solid waste management facility

stops receiving waste and the Division of Environmental Quality places the facility in post-closure status under 8 CAR pt. 60, Solid Waste Management Rules.

(c) No partial year refund of annual fees will be made.

(d) Annual fees:

Class 1	\$6,000
Class 3C	\$5,000
Class 3N, Class 3T.....	\$3,000
Class 4.....	\$500
Transfer Stations, Composting, Material Recovery Facilities...	\$450

Authority. Arkansas Code §§ 8-1-103, 8-6-207.

8 CAR § 12-505. Modification fees.

Modification fees:

Class 1 Major Modification.....	\$4,000
Class 1 Minor Modification	\$3,000
Class 3C, Class 3N, Class 3T.....	\$2,000
Class 4	\$1,000
Transfer Stations, Composting, Material Recovery Facilities ...	\$450

Authority. Arkansas Code §§ 8-1-103, 8-6-207.

8 CAR § 12-506. Permit transfer fees.

Permit transfer fees:

Class 1, Class 3C, Class 3N, Class 3T, Class 4	\$1,000
Transfer Stations, Composting, Material Recovery Facilities ...	\$500

Authority. Arkansas Code §§ 8-1-103, 8-6-207.

8 CAR § 12-507. Post-closure fees.

Post-closure fees are assessed annually throughout the post-closure period for each permit category subject to post-closure monitoring:

Class 1, Class 3C, Class 3N, Class 3T, Class 4	\$500
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Authority. Arkansas Code §§ 8-1-103, 8-6-207.

8 CAR § 12-508. Administrative permit amendments.

For purposes of this subpart, there shall be no fee charged for minor permit modifications involving only administrative permit amendments or corrections.

Authority. Arkansas Code §§ 8-1-103, 8-6-207.

8 CAR § 12-509. General permits.

(a) In lieu of the fee schedules in 8 CAR §§ 12-503 – 12-506, solid waste management facility permit applicants that qualify for a general solid waste permit shall be subject to an initial fee, an annual fee, a modification fee, and a permit transfer fee as described below.

(b)(1) An initial fee of nine hundred dollars (\$900) shall be remitted with the notice of intent (NOI) for coverage under the applicable solid waste general permit.

(2) Until the permittee notifies the Division of Environmental Quality to terminate its solid waste general permit and the permit is voided, the permittee shall be

billed an annual fee of four hundred fifty dollars (\$450) annually thereafter on the anniversary date of coverage.

(3) An application for the modification of an existing solid waste general permit shall be accompanied by a four-hundred-fifty-dollar permit modification fee.

(4) An application for the transfer of an existing solid waste general permit shall be accompanied by a four-hundred-fifty-dollar permit transfer fee.

(5) When solid waste general permits are revised, no additional initial fee will be required to be submitted if the currently permitted facility has maintained coverage under the existing general permit.

Authority. Arkansas Code §§ 8-1-103, 8-6-207.

Subpart 6. Variance or Interim Authority Requests

8 CAR § 12-601. Processing fee.

(a) In accordance with Arkansas Code § 8-4-230(a)(3), as amended, there may be an initial processing fee of two hundred dollars (\$200) assessed for all requests for variances from the requirements of any permit issued by the Division of Environmental Quality or any interim authority request to construct or operate during the permit application review and issuance process.

(b) The fee shall not be required for a request for an extension of any existing variance or interim authority.

Authority. Arkansas Code §§ 8-1-103, 8-4-202.

8 CAR § 12-602. Fees nonrefundable.

If a variance or interim authority request is denied, the processing fee is nonrefundable.

Authority. Arkansas Code §§ 8-1-103, 8-4-202.

Subpart 7. Laboratory Certification Fee Program

8 CAR § 12-701. Laboratory certification fees.

(a) All laboratory certificates previously issued under Regulation Number 13 [repealed], Laboratory Certification Fee Regulation, shall remain in effect for the full period of time for which they were issued.

(b) Application for initial certificate and application for renewed certificate, whether issued under Regulation Number 13 [repealed] or under this part, shall comply with the requirements of 8 CAR §§ 12-701 – 12-703 and other applicable requirements of this part:

Initial certificate, including up to ten parameters.....	\$500
Renewed certificate, including up to ten parameters.....	\$500
For each parameter in addition to the first ten.....	\$ 10
Each of the following categories:	
Dioxins and Furans	\$ 50
Herbicides.....	\$ 50
Volatile organics.....	\$ 50
Semivolatile organics.....	\$ 50
Pesticides and PCB's.....	\$ 50
Acute and/or Chronic Toxicity Testing	\$250

Authority. Arkansas Code §§ 8-2-204, 8-2-209.

Codification Notes. Regulation 13 was repealed by the Arkansas Pollution Control and Ecology Commission in April 2006. The provisions of Regulation 13 were incorporated into 8 CAR pt. 12, as amended.

8 CAR § 12-702. Laboratory certification travel fees.

(a)(1) The Division of Environmental Quality will assess reasonable fees for the cost of all expenses incurred during the evaluation of certified laboratories.

(2) This includes without limitation the reasonable cost of travel and travel-related expenses related to the evaluation.

(b)(1) The division will submit an itemized invoice for the incurred expenses.

(2) Payment of the expenses is due within thirty (30) days from the date of the invoice for the expenses.

Authority. Arkansas Code §§ 8-2-204, 8-2-209.

8 CAR § 12-703. Failure to pay laboratory certification fees.

(a) A laboratory that fails to remit payment of any fee assessed pursuant to this subpart, including without limitation initial certificate, renewed certificate, fees for additional parameters, fees for categories, reasonable cost of travel, or travel-related expenses shall be assessed a late payment charge of ten percent (10%) forty-five (45) days after the invoice date.

(b) A certified laboratory that refuses to pay fees upon reasonable notice will be subject to enforcement action that may include revocation of the certificate.

Authority. Arkansas Code §§ 8-2-204, 8-2-209.

Subpart 8. Administrative Procedures

8 CAR § 12-801. Division review of fees.

(a) The Division of Environmental Quality shall undertake a biennial reevaluation of the permit fee schedule as contained in this part within sixty (60) days of receiving its approved budget for the next biennium.

(b) The evaluation shall reflect:

(1) The current needs of the division to perform essential permitting, compliance, enforcement, and monitoring activities;

- (2) The resources available;
- (3) The balance of the permit fee fund from the previous biennium;
- (4) Anticipated state and federal appropriations;
- (5) Status of delegation of federal programs; and
- (6) Any other factors deemed relevant to the study by the division.

Authority. Arkansas Code §§ 8-1-103, 8-2-204, 8-4-202, 8-4-311, 8-6-207.

8 CAR § 12-802. Appeals.

If any applicant/permittee disagrees with the Division of Environmental Quality's decision on an assessment of fees, the applicant/permittee may appeal the decision in accordance with the applicable provisions of the Arkansas Water and Air Pollution Control Act, Arkansas Code § 8-4-101 et seq., the Arkansas Solid Waste Management Act, Arkansas Code § 8-6-201 et seq., the Environmental Laboratory Accreditation Program Act, Arkansas Code § 8-2-201 et seq., and 8 CAR pt. 11, Administrative Procedures.

Authority. Arkansas Code §§ 8-1-103, 8-2-204, 8-4-202, 8-4-311, 8-6-207.

8 CAR § 12-803. Effective date.

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

- (1) Secretary of State;
- (2) Arkansas State Library; and
- (3) Bureau of Legislative Research.

Authority. Arkansas Code §§ 8-1-103, 8-2-204, 8-4-202, 8-4-311, 8-6-207.