

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S3/10/11
A Bill

SENATE BILL 764

5 By: Senator J. Key
6 By: Representative Johnston
7

For An Act To Be Entitled

9 AN ACT TO AUTHORIZE THE ARKANSAS DEPARTMENT OF
10 ENVIRONMENTAL QUALITY TO ISSUE GENERAL PERMITS; TO
11 CREATE PROCEDURES FOR ISSUANCE, REVIEW, RENEWAL, AND
12 REVOCATION OF GENERAL PERMITS; AND FOR OTHER
13 PURPOSES.
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Subtitle

16 AN ACT TO AUTHORIZE THE ARKANSAS
17 DEPARTMENT OF ENVIRONMENTAL QUALITY TO
18 ISSUE GENERAL PERMITS; TO CREATE
19 PROCEDURES FOR ISSUANCE, REVIEW, RENEWAL,
20 AND REVOCATION OF GENERAL PERMITS.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 8-4-203, concerning permits regarding water
27 pollution control, is amended to add an additional subsection to read as
28 follows:

29 (m)(1)(A)(i) The department may issue general permits under subsection
30 (a) of this section.

31 (ii) A general permit is a statewide permit for a
32 category of facilities or sources that:

33 (a) Involve the same or substantially similar
34 types of operations or activities;

35 (b) Discharge or release the same type of
36 wastes or engage in the same type of disposal practices;



1 (c) Require the same limitations, operating
2 conditions, or standards;

3 (d) Require the same or similar monitoring
4 requirements; and

5 (e) In the opinion of the director, may be
6 regulated under a general permit.

7 (B)(i) Facilities or sources eligible to construct or
8 operate under a general permit may obtain coverage by submitting a notice of
9 intent to the department.

10 (ii) The director may require a person who has been
11 granted coverage under a general permit to apply for and obtain an individual
12 permit.

13 (2)(A) A general permit is subject to the public notice
14 requirements for statewide permits and the procedures under § 8-4-203(e).

15 (B) The department shall pay the costs of publication of
16 notice of a draft permitting decision to issue a general permit.

17 (C) General permit coverage is not transferable unless the
18 general permit provides for transfer.

19 (3)(A)(i) Before the submittal to public comment of a general
20 permit that has not been previously issued, the department shall consider the
21 economic impact and environmental benefit of the general permit and its terms
22 and conditions upon the people of the State of Arkansas, including those
23 entities that may apply for coverage under the general permit.

24 (ii) This requirement does not apply to general
25 permits or terms or conditions that adopt the language of state or federal
26 statutes or regulations without substantive change.

27 (B) If the terms and conditions of a previously issued
28 general permit are revised upon renewal, the economic impact and
29 environmental benefit of only the proposed changes shall be considered.

30 (C) A general permit for which costs are specifically
31 prohibited from being considered by state or federal law or regulation is
32 exempt from the requirements of this subsection.

33 (D) The department may rely upon readily available
34 information for its consideration of the economic impact and environmental
35 benefit of the general permit and its terms and conditions.

36 (4)(A) Only those persons that submit comments on the record

1 during the public comment period shall have standing to appeal the decision
2 of the department to the commission.

3 (B) The final permitting decision of the department on the
4 general permit is subject to a hearing before the commission under §§ 8-4-
5 205, 8-4-212, 8-4-213, 8-4-214, and the administrative procedures promulgated
6 by the commission.

7 (5)(A)(i) When a general permit includes an expiration date
8 later than July 1, 2012, the department shall publish the notice of intent to
9 renew or not renew the general permit at least three hundred sixty-five (365)
10 days before the expiration of the general permit.

11 (ii) When a general permit includes an expiration
12 date earlier than July 1, 2012, the department shall publish the notice of
13 intent to renew or not renew the general permit as soon as reasonably
14 possible.

15 (B) The department shall publish its final permitting
16 decision to renew or not renew the general permit at least one hundred eighty
17 (180) days before the expiration date of the general permit.

18 (C) If the general permit expires before the final
19 decision to renew or not renew the general permit, the terms and conditions
20 of the general permit shall remain in effect, and all persons who obtained
21 coverage under the general permit before its expiration shall retain coverage
22 under the general permit until there has been a final permit decision on the
23 general permit.

24 (D) In the event the department makes a decision to not
25 renew the general permit, existing coverage under the general permit shall
26 continue under the terms of the expired permit until a final decision is
27 reached for an individual permit.

28 (6)(A) If a general permit is appealed and the general permit
29 expires before the final decision by the director or by the commission to
30 renew or not renew the general permit, the terms and conditions of the
31 general permit shall remain in effect.

32 (B) All persons who obtained coverage under the general
33 permit before its expiration shall retain coverage under the general permit
34 until there has been a final administrative decision on the general permit.

35 (C) The director shall not approve new coverage under an
36 expired general permit for any facility for which a notice of intent was not

1 filed before expiration of the general permit.

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/s/J. Key

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