

**ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**SUBJECT-Regulation No. 2  
Water Quality Standards  
Third-Party Rulemaking  
CITY OF FAYETTEVILLE PAUL R. NOLAND  
WASTEWATER TREATMENT PLANT**

**DOCKET NO. 13-010-R**

**MINUTE ORDER NO. 17-04**

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On October 11, 2013 the City of Fayetteville Paul R. Noland Wastewater Treatment Plant (Fayetteville) filed a Petition to Initiate Third Party Rulemaking to Amend Regulation No. 2, Water Quality Standards (Petition).

On October 25, 2013, the Commission granted Fayetteville's Petition by Minute Order No. 13-22. The Original Petition sought modification of the chloride, sulfate and total dissolved solids ("TDS") criteria for the White River from the outfall of Fayetteville's Paul R. Noland Wastewater Treatment Plant ("Noland WWTP") at River Mile 17.25 to immediately downstream of the confluence of Richland Creek at River Mile 11.6 as follows: chloride from 20 mg/L to 60 mg/L; sulfate from 20 mg/L to 100 mg/L; and TDS from 160 mg/L to 440 mg/L.

During the public comment period, ADEQ submitted written comments which acknowledged that aquatic life in that segment of the White River is not impacted by minerals but requested that Fayetteville re-evaluate the proposed criteria. During post-comment discussions between Fayetteville and ADEQ, ADEQ recommended that Fayetteville revise its proposal to divide the affected river segment in two, with different criteria changes for the upstream and downstream segments.

On January 13, 2017, Fayetteville filed an Amended Petition to Initiate Rulemaking and Request for a Second Public Comment and Hearing in which Fayetteville agreed with ADEQ's recommendations to divide the affected river segment into two, one from the Noland WWTP outfall to a point 0.4 miles downstream (WR-02), and another from WR-02 to ADEQ monitoring station WH10052 (WR-03). Fayetteville proposes new criteria for the two segments as follows:

<u>Revised Proposal</u>	<u>Chloride</u>	<u>Sulfate</u>	<u>Total Dissolved Solids</u>
Noland to WR-02	44 mg/L	79 mg/L	362 mg/L
WR-02 to WR-03	30 mg/L	40 mg/L	237 mg/L

Fayetteville has requested that the revised proposal to divide the affected segment into two reaches and the new proposed criteria be sent back out to the public for public comment and a public hearing.

1. Fayetteville and the Arkansas Department of Environmental Quality (ADEQ) shall file an original and one (1) copy and a computer disk in Word of all material required under this Minute Order. This requirement does not apply to transcripts.

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2. Persons submitting written public comments shall submit their written comments to ADEQ and ADEQ will deliver the originals of all comments to the Commission Secretary at the conclusion of the proceeding.

3. Fayetteville shall submit to ADEQ's Office of Law and Policy the following:

- a. A proposed public notice to be used in mailing notice to interested persons, for publishing in appropriate industry, trade, or professional publications as the Commission may select. The proposed public notice may, at the ADEQ's discretion, be approved for use or ADEQ may choose to prepare its own public notice. The public notice shall conform to the requirements of Regulation No. 8.803. The public notice shall be published not later than 45 days prior to the first public hearing. By agreement, Fayetteville shall pay the costs of the newspaper publications and the costs of the appropriate industry, trade or professional publications chosen by the Commission and shall file only the original proof of publication with the Commission. ADEQ shall be responsible for mailing the public notice to all persons who have requested advance notice of rulemaking proceedings and the cost of the mailing.
- b. Fifty (50) copies of the executive summary of the proposed rulemaking.
- c. Bound copies of the Amended Petition and all supporting documentation, the number of which is to be determined by ADEQ's Office of Law and Policy.

4. A public hearing shall be conducted the week of March 27, 2017 in Washington County, Arkansas. The exact date, time and location for the hearing will be determined by Fayetteville in cooperation with ADEQ's Office of Law and Policy.

5. The period for receiving all written comments from Fayetteville, the public and ADEQ shall conclude ten (10) business days after the date of the public hearing, unless an extension of time is granted.

6. Fayetteville and ADEQ shall each file, not later than 14 days before the Commission meets to consider adoption of the proposed regulation, a Statement of Basis and Purpose and Responsiveness Summary as required by Regulation No. 8.815. In addition, Fayetteville and ADEQ shall file a proposed Minute Order deciding this matter.



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7. ADEQ shall seek approval of the proposed rule from the Joint Interim Committee on Public Health and Welfare and from the Joint Interim Committee on Administrative Rules and Regulations.

8. The Commission may consider this matter at or before their June, 2017 meeting. In the event the appropriate legislative committees do not complete review of the proposed rule by the above date, the Commission will consider the proposed amendments to the regulation after review by the appropriate legislative committees. Members of the Commission may ask questions of any persons that made oral or written comments.

9. At the commission meeting, the presentation of oral statements and legal arguments will be regulated as follows:

- a. The Chair of the Commission will permit members of the public to make a statement to the Commission. No more than three (3) minutes will be allowed for each statement. The period for statements will close at the end of one (1) hour, or sooner if all interested persons have completed their statements. At the discretion of the Chair, the one (1) hour oral statement period may be extended.
- b. At the discretion of the Chair, an attorney representing one or more individuals, a corporation or other legal entity may be permitted five (5) minutes in which to address the Commission.
- c. Legal counsel or other designated persons representing Fayetteville and the ADEQ shall be permitted ten (10) minutes in which to address the Commission.
- d. At the conclusion of all statements, the Chair will call on each Commissioner for the purpose of asking the attorneys or persons sponsoring statements who are present, any questions they may have. Attorneys will not be permitted to respond or ask follow-up questions of any person questioned by a Commissioner.

After each Commissioner has had an opportunity to ask questions, the Chair will entertain a motion on the matter, allow discussion, and call for a vote of the Commission members.

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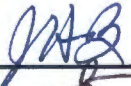
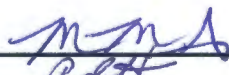




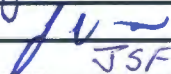
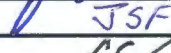



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10. If Fayetteville desires a transcript of the public hearing and Commission meetings, or if required by the Commission, Fayetteville agrees to pay all costs for the preparation of a transcript of the public hearing and Commission meetings which concern this docket and occur after the adoption of this Minute Order. If a transcript is required, Fayetteville shall employ the court reporter and the court reporter shall deliver the original transcript to the Commission Secretary.

11. The Commission finds the proposed regulation does not affect small businesses and therefore concludes that Act 143 of 2007, as amended by Act 809 is not applicable.

The Commission initiates the rulemaking proceeding in this docket and adopts, without modification, the procedural schedule set forth above.

COMMISSIONERS

	J. Bates		M. Goggans
	L. Bengal		A. Henry
	J. Chamberlin		B. Holland
	J. Crow		R. Reynolds <b>RECUSED</b>
	J. Fox		W. Stites
	C. Gardner		B. White

  
R. Moss - Chair

SUBMITTED BY: Allan Gates PASSED: 1/27/17