

**BEFORE THE ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**IN RE: REQUEST BY CITY OF FAYETTEVILLE)
PAUL R. NOLAND WASTEWATER)
TREATMENT PLANT)
TO INITIATE RULEMAKING TO) DOCKET NO. 13-010-R
AMEND REGULATION NO. 2)**

**AMENDED PETITION TO INITIATE THIRD-PARTY
RULEMAKING TO AMEND REGULATION NO. 2
WITH AMENDED EXHIBIT A**

Petitioner, City of Fayetteville Paul R. Noland Wastewater Treatment Plant, for its Amended Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2 states:

1. On October 11, 2013, the City of Fayetteville filed its Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2 (“Original Petition”). Attached to the Original Petition was Exhibit A, the blackline showing the proposed amendment to Regulation No. 2. Exhibit A contained errors. This Amended Petition is filed with Amended Exhibit A, attached hereto to correct the errors.

2. Paragraphs 1 through 11 of the Original Petition are incorporated herein as if set forth word for word.

3. Paragraph 12 of the Original Petition is amended to state:

Through this Petition, and based upon the UAA, Fayetteville is requesting the following amendments to APCEC Regulation No. 2:

modify the dissolved minerals water quality standards for the White River from the discharge of the Noland WWTP to immediately downstream of the confluence of Richland Creek as follows:

chloride from 20 mg/L to 60 mg/L

sulfate from 20 mg/L to 100 mg/L
TDS from 160 mg/L to 440 mg/L

A redline version of APCEC Regulation No. 2 showing the proposed change is attached hereto as Amended Exhibit A and incorporated herein by reference.


4. Paragraphs 13 through 21 of the Original Petition are incorporated herein as if set forth word for word.

WHEREFORE, the City of Fayetteville requests that the Commission initiate a rulemaking to amend APCEC Regulation No. 2, and amend Regulation No. 2 in the manner requested above.

Respectfully submitted,

MITCHELL, WILLIAMS, SELIG,
GATES & WOODYARD, PLLC
425 W. Capitol Avenue, Suite 1800
Little Rock, Arkansas 72201-3525
(501) 688-8800
mtaylor@mwlaw.com

By:




Marcella J. Taylor, AR Bar No. 82156
Allan Gates, AR Bar No. 72040

Counsel for the City of Fayetteville

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of October, 2013, I served a copy of the foregoing Amended Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2 on the following by United States Postal Service, postage prepaid and by electronic service:

Tammy Harrelson, Esq.
Managing Attorney
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118
harrelson@adeq.state.ar.us

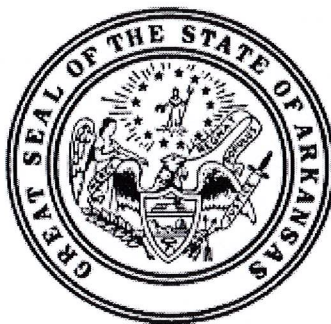


Marcella J. Taylor

AMENDED EXHIBIT A

**BLACKLINE VERSION OF
APCEC REGULATION NO. 2
SHOWING PROPOSED AMENDMENT**

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION



REGULATION NO. 2

REGULATION ESTABLISHING WATER QUALITY STANDARDS FOR SURFACE WATERS OF THE STATE OF ARKANSAS

INITIAL DRAFT

Submitted to the Arkansas Pollution Control and Ecology Commission on October 25, 2013

<u>Stream</u>	<u>Concentration-mg/L</u>		
	<u>Cl⁻</u>	<u>SO₄⁼</u>	<u>TDS</u>
Little Red River (including Greers Ferry Reservoir)	20	30	100
Black River	20	30	270
Strawberry River	20	30	270
Spring River	20	30	290
Eleven Point River	20	30	270
Stennitt Creek	ER	ER	456*
South Fork Spring River	20	30	270
Myatt Creek	20	30	270
Current River	20	30	270
White River (Dam #3 to Missouri line, including Bull Shoals Reservoir)	20	20	180
Buffalo River	20	20	200
Crooked Creek	20	20	200
White River (Missouri line to headwaters, including Beaver Reservoir)	20	20	160
<u>White River from the discharge of the Fayetteville Noland WWTP to immediately downstream of the confluence of Richland Creek</u>	<u>60</u>	<u>100</u>	<u>440</u>
Kings River	20	20	150
West Fork White River	20	20	150
St. Francis River Basin			
St. Francis River (Mouth to 36° N. Lat.)	10	30	330
L'Anguille River	20	30	235
Tyronza River (headwaters to Ditch No. 6 confluence)	20	30	350
Ditch No. 27	ER	480	1200
Ditch No. 6 (mouth to Ditch No. 27 confluence)	ER	210	630
Tyronza River (mouth to Ditch No. 6 confluence)	20	60	350
Little River	20	30	365
Pemiscot Bayou	20	30	380
St. Francis River (36° N. Lat. to 36° 30' N. Lat.)	10	20	180
Ouachita River Basin			
Bayou Bartholomew	50	20	500
Chemin-A-Haut Creek	50	20	500
Overflow Creek	20	30	170
Bayou Macon	30	40	330
Boeuf River	90	30	460
Big Cornie Creek	230	30	500
Little Cornie Creek	200	10	400
Three Creeks	250	10	500
Little Cornie Bayou	200	20	500
Unnamed trib from GLCC 003	538*	35*	519*
Unnamed trib to Little Cornie Bayou	305*	ER	325*
Little Cornie Bayou from unnamed trib to State Line	215*	25*	500*
Walker Branch	180*	ER	970*

Stream**Concentration-mg/L**

	<u>Cl⁻</u>	<u>SO₄⁼</u>	<u>TDS</u>
Gum Creek	104*	ER	311*
Bayou de L'Outre above Gum Creek	250	90	500
Bayou de L'Outre below Gum Creek	250	90	750
Ouachita River (Louisiana line to Camden)	160	40	350
Saline River	20	40	120
Saline River east bifurcation at Holly Creek	ER	250	500
Hurricane Cr above Hurricane Lake Dam	20	250	500
Hurricane Cr from Hurricane Lk. Dam to Ben Ball Brdg	125	730	1210
Hurricane Cr from Ben Ball Bridge to Hwy.270	125	700	1200
Hurricane CR from Hwy 270 to Saline River	100	500	1000
Alcoa unnamed tribs to Hurricane Cr.	125	700	1100
Dry Lost Creek and tribs	ER	560	880
Lost Creek to Little Lost Creek	ER	510	820
Lost Creek below Little Lost Creek	ER	300	550
Holly Creek	30	860	1600
Moro Creek	30	20	260
Smackover Creek	250	30	500
Unnamed trib A to Flat Creek from mouth of EDCC 001 ditch to confluence with Flat Creek	16*	80*	315*
Confluence with unnamed trib A to Flat Creek	23*	125*	475*
Bayou de L'Outre Creek above Loutre Creek	180	ER	970
Unnamed trib UT004 from GLCC	014*	ER	311*
Unnamed trib UT002 from GLCC	278*	90*	500*
Loutre Creek- from Hwy 15 South to the confluence of Bayou de Loutre	256*	997*	1756*
Bayou de Loutre – from Loutre Creek to the discharge for the City of El Dorado - South facility	264*	635*	1236*
Bayou de Loutre – from the discharge for the City of El Dorado-South downstream to the mouth of Gum Creek	250*	431*	966*
Bayou de Loutre – from the mouth of Gum Creek downstream to the mouth of Boggy Creek	250*	345*	780*
Boggy Creek - from the discharge for Clean Harbors El Dorado LLC to the confluence of Bayou de Loutre	631*	63*	1360*
Bayou de Loutre- from the mouth of Boggy Creek downstream to the mouth of Hibank Creek	250*	296*	750*
Bayou de Loutre – from the mouth of Hibank Creek downstream to the mouth of Mill Creek	250*	263*	750*
Bayou de Loutre – from the mouth of Mill Creek downstream to the mouth of Buckaloo Branch	250*	237*	750*
Bayou de Loutre- from the mouth of Buckaloo Branch downstream to the mouth of Bear Creek	250*	216*	750*
Bayou de Loutre – from the mouth of Bear Creek	250*	198*	750*

Use Variations Supported by UAA or Other Investigations

Railroad Hollow Creek - no fishable/swimmable uses (OH-1, #1)
Columbia Hollow Creek - seasonal fishery March-June (OH-1, #2)
Curia Creek - below first waterfall, perennial fishery (OH-4, #3)
Moccasin Creek - below Highway 177, perennial fishery (OH-3, #4)
Stennitt Creek- from Brushy Creek to Spring River, no domestic water supply use (OH-4)

SPECIFIC STANDARDS: OZARK HIGHLANDS ECOREGION
(Plates OH-1, OH-2, OH-3, OH-4)

	<u>Streams</u>	<u>Lakes and Reservoirs</u>
Temperature °C (°F)*	29 (84.2)	32 (89.6)
Trout waters	20 (68)	
Turbidity (NTU) (base/all)	10/17	25/45
Minerals	see Reg. 2.511	see Reg. 2.511
Dissolved Oxygen**	<u>Pri.</u> <u>Crit</u>	see Reg. 2.505
<10 mi ² watershed	6 2	
10 to 100 mi ²	6 5	
>100 mi ² watershed	6 6	
Trout waters	6 6	

All other standards (same as statewide)

Variations Supported by UAA

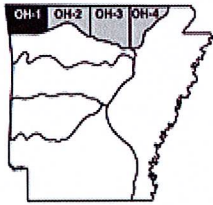
Railroad Hollow Creek: from headwaters to Spavinaw Creek - year-round dissolved oxygen - 2 mg/l (OH-1, #1)
Curia Creek - below first waterfall, critical season D.O. 6 mg/l (OH-4, #3)
Moccasin Creek - below Highway 177, critical season D.O. 5mg/l (OH-3, #4)
SWEPCO Reservoir - maximum temperature 54°C (limitation of 2.8°C above natural temperature does not apply) (OH-1, #5)
Stennitt Creek - from Brushy Creek to Spring River, TDS = 456 mg/l (OH-4, #6)

White River - from the discharge of the Fayetteville Noland WWTP to immediately downstream of the confluence of Richland Creek, chloride = 60 mg/L, sulfate = 100 mg/L, TDS = 440 mg/L (OH-1, #7)


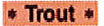



* Increase over natural temperatures may not be more than 2.8°C (5°F).

** At water temperatures ≤10°C or during March, April and May when stream flows are 15 CFS and greater, the primary season D.O. standard will be 6.5 mg/l. When water temperatures exceed 22°C, the critical season D.O. standard may be depressed by 1 mg/l for no more than 8 hours during a 24-hour period.

Plate OH-1 (Ozark Highlands)



LEGEND

-  - Ecologically Sensitive Waterbodies
-  - Trout Waters
-  - Extraordinary Resource Waters
-  - Natural and Scenic Waterways
-  - Variation by UAA

