

BEFORE THE ARKANSAS POLLUTION
CONTROL AND ECOLOGY COMMISSION

IN RE: PETITION BY CENTRAL ARKANSAS)
WATER TO INITIATE RULEMAKING TO)
AMEND REGULATION NO. 6, REGULATIONS)
FOR STATE ADMINISTRATION OF THE)
NATIONAL POLLUTANT DISCHARGE)
ELIMINATION SYSTEM (NPDES))

DOCKET NO. 08-003-R

CENTRAL ARKANSAS WATER'S
RESPONSIVENESS SUMMARY

I. Introduction

On February 8, 2008, Central Arkansas Water ("CAW") filed a Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 6, Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES). CAW petitioned to amend Regulation No. 6 to prohibit all surface discharges, with the exception of permitted stormwater discharges, in the Lake Maumelle basin. On March 28, 2008, the Commission voted to initiate the Third Party Rulemaking process. As part of the process for soliciting public comments, the Commission directed that public hearings be held in both North Little Rock and Perryville. The hearings were held on May 27, 2008 and June 2, 2008, respectively. The public comment period expired at 4:30 p.m. on June 16, 2008. The Commission directed both CAW and ADEQ to file a Statement of Basis and Purpose and Responsiveness Summary as required by Regulation No. 8, Part 3, Section 3.6.2(1), (2) and (3). In accordance with the Commission's direction, CAW submits this Responsiveness Summary.

II. Summary of Comments

A total of 74 comments were submitted--64 written comments and 10 oral comments. In determining the number of comments, CAW counted an oral comment and a written comment submitted by one person as two comments. Identical or similar comments submitted at both public hearings were also counted twice. Some persons resubmitted the same comment (for example, by regular mail and by e-mail) in order to ensure that the comment was received. Such comments were counted once. A resolution by the Quorum Court of Perry County was submitted along with two separate comments. In addition to counting each of these two comments, the resolution was also counted as one additional comment. A comment submitted by multiple signers or on behalf of one or more organizations was counted as a single comment. One commenter submitted a correction to a previous comment. Only one comment was counted. Another commenter sent nearly identical comments at different times. Each comment was counted.

The comments in favor of the petition totaled 60 (81%) while those opposed totaled 13 (18%). One (1%) of the comments appeared to neither support nor oppose the petition.

In those instances where it was clearly possible to determine the geographic origin of the commenter, 10 were from Perry County, 41 were from Pulaski County, and 3 were from other parts of Arkansas or from outside Arkansas. When a comment was made on behalf of an organization, the principal place of business of the organization was determined to be the geographical location, but when the comment was made by an individual who gave an address including an organization name but did not specifically designate the comment as being on behalf of the organization, the address or stated residence of the individual was determined to

be the geographic location. The comments are broken down geographically as follows:

<u>Geographic Location</u>	<u>For</u>	<u>Against</u>	<u>Indeterminate</u>
Perry County	0	10	0
Pulaski County	38	3	0
Other	2	0	1
Indeterminate	20	0	0

Several of the comments were from public officials or public entities. The Perry County Quorum Court submitted written comments through the County Attorney opposing the petition. Also, as mentioned above, the Perry County Quorum Court adopted a resolution, submitted both by the County Attorney and by Quorum Court member William Doughty, that was opposed to the petition. Perry County Quorum Court members Wanda Smith and Billy Gibson made individual oral comments opposing the petition. Mr. Gibson is also a member of the Wye Mountain Water Board. Pulaski County Quorum Court member Patricia Dicker and Representative David Johnson from Pulaski County submitted individual comments in support of the petition. CAW submitted both written and oral comments favorable to the petition at both public hearings.

Comments were submitted on behalf of various private businesses or organizations. The Arkansas Association of Conservation Districts and Canterbury Park Limited Partnership submitted comments opposing the proposed rulemaking. The Downtown Neighborhood Association (Little Rock), the Coalition of Little Rock Neighborhoods, the League of Women Voters of Pulaski County, and Citizens Protecting Maumelle Watershed submitted comments in support of the proposed rulemaking.

III. Response to Comments

1. *The proposed regulation would unnecessarily interfere with the rights of property owners.*

A number of commenters expressed concern that the proposed rulemaking would interfere with the rights of property owners. However, it is important to understand that the proposed regulation is designed to have minimal effect on landowners' use of their own property. The proposed regulation would only prohibit discharges of wastewater (other than permitted stormwater discharges) into surface waters. Many alternatives to discharging wastewater are available. For example, for larger developments on the edge of watershed, wastewater can be pumped out of the watershed. Septic systems may be used everywhere else where soil is suitable. If the soil is not suitable for conventional septic systems, then mound, cap and fill, or drip irrigation is available. Such alternatives are generally less onerous and intrusive for the landowner than the extensive permitting, monitoring and reporting requirements that would be required under the NPDES permits that must be obtained for discharging systems.

2. *The takings clause of the Fifth Amendment to the U.S. Constitution helps to protect private property by stating that private property shall not be taken for public use without just compensation.*

The Perry County Quorum Court noted the takings clause of the Fifth Amendment. CAW responds that the proposed regulation is a proper use of the police power and does not rise to such a level as to constitute a taking. The proposed regulation is no more intrusive than typical environmental regulation.

3. *Orderly development is supported.*

CAW concurs with this comment.

4. *The proposed regulation is not needed since there are currently no discharges of wastewater in the Lake Maumelle watershed.*

CAW agrees that, to the best of its knowledge, there are currently no discharges in the Lake Maumelle watershed. However, the need for the proposed regulation is based on the certainty that this situation will change in the future. Development around Lake Maumelle is already beginning and it is anticipated that development will continue and even accelerate in the future. CAW believes that addressing this certainty before significant discharges occur is more reasonable, fair and effective than waiting until a problem has already developed and then attempting to correct the situation afterwards.

5. *The proposed regulation is not needed since the residents of Perry County use their land responsibly avoiding undue harm to the waters in the rivers, creeks and lakes and there is no reason to believe that these landowners would behave differently in the future.*

CAW acknowledges the responsible behavior of the current residents of Perry County; however, as pointed out in the response to 4. above, the proposed regulation is intended to prevent problems from occurring in the future and not to address the current situation. While the current residents of Perry County are to be commended, there is no way of ensuring that those who move into Perry County in the future will behave as responsibly as the current residents.

6. *The real purpose of the proposed regulation is not preserving water quality but providing an economic benefit to CAW.*

Canterbury Park Limited Partnership (“Canterbury”) is the owner of land in the Lake Maumelle watershed which it proposes to develop as a residential subdivision. Canterbury comments that the current rules do not pose a risk to water quality, but does not provide any evidence to refute the extensive support for the proposed rulemaking provided in the scientific studies filed with this petition. The studies show that without a prohibition on surface wastewater discharges, greatly increased nutrient loadings will increase the likelihood of harmful algal blooms and greatly decrease lake water quality. Under the scenario of uncontrolled development, the algal concentrations near the water intake could increase more than five times current levels and up to thirteen times current levels in the upper portion of Lake Maumelle. Even under the scenario of controlled development, non-point pollutant loads from development alone would use up all available increases in nutrient loading. Furthermore, the most stringent level of treatment that could be required under current regulations would not be sufficient to meet targeted water quality levels.

Canterbury also argues that the proposed rulemaking provides a precedent that would apply to other watersheds in the state. The precedent is limited however in that Lake Maumelle is unique in several respects: Central Arkansas Water owns the lake, it was built for a single purpose (water supply), there are no current dischargers in the basin, and extensively calibrated and verified water quality modeling supports the need for prohibiting surface discharges of wastewater.

7. *The proposed regulation would set higher water quality standards for the economic benefit of CAW.*

As discussed above in the response to 6., the proposed regulation is shown by extensive

scientific studies to be necessary to maintain drinking water reasonably safe and free of odor, taste, bacteria, disinfection byproducts, metals and pharmaceuticals. Canterbury contends that the studies were controlled by CAW to obtain this result. However, the Lake Maumelle Watershed Management Plan was developed with extensive participation by citizens groups, rate payers, elected officials, property owners, and environmental and recreational groups. A panel of technical advisors, whose members included local, state and federal governmental entities, planning agencies and universities, provided input on technical issues. Four public meetings provided information to interested parties and allowed direct participation in the planning process. The process was transparent and involved a large cross-section of stakeholders. Canterbury's allegations are unsupported.

8. *The proposed regulation would have an economic impact on property owners in the Lake Maumelle watershed.*

CAW believes that the economic impact on property owners of the proposed regulation would be minimal, if at all. Alternatives include pumping for larger developments at the edge of the watershed; septic systems where soil is suitable; and mound, cap and fill, and drip irrigation where soil is not suitable for septic tanks. It is important to note that a discharging system requires an NPDES permit with associated monitoring, testing and other compliance costs that would not be incurred for non-discharging systems as allowed under the proposed regulation.

9. *The current regulatory scheme protects water quality.*

See response to 6. above.

10. *There are alternatives to the proposed regulation.*

Canterbury suggests that to overcome the problems caused by pollution introduced into Lake Maumelle the solution is raising rates and letting those who drink the water pay to treat it. And if higher levels of treatment are not feasible, Canterbury suggest that CAW buy land in the watershed. First, even with the highest feasible levels of treatment, drinking water could not be maintained reasonably safe and free of odor, taste, bacteria, disinfection byproducts, metals and pharmaceuticals. Second, CAW is already acquiring land in critical areas and working with local governments to implement zoning restrictions, but these efforts are only effective if the proposed regulation is put in place. The proposed regulation is a critical and necessary part of the overall effort to protect the lake.

11. *The studies done by Tetra Tech are not credible.*

One commenter suggested in oral comments that the studies done by Tetra Tech to support the proposed regulation are not credible. In support of this comment, the same commenter provided a written critique by Dr. Robert N. Crittenden of a study done by Tetra Tech regarding the effect of domestic water wells on the Dungeness River in the State of Washington. The studies Dr. Crittenden comments on are in a different state, a different watershed, and involved different Tetra Tech personnel and different scientific issues. The comments by Dr. Crittenden are simply not relevant to the proposed regulation.

12. *The proposed regulation is ambiguous making it subject to later interpretations.*

The Perry County Quorum Court commented that the proposed regulation is ambiguous without specifying any ambiguity. It is important to understand that the proposed regulation does not stand alone; it is an amendment to APC&EC Regulation No. 6, the regulations for the state administration of the Federal NPDES program. The NPDES program is a detailed

regulatory scheme into which the proposed regulation dovetails. For example, the proposed regulation uses the term “discharge” without further definition. The definition may be found by referring to the NPDES regulations at 40 CFR § 122.2.

13. *The proposed regulation change is unnecessary since there are no known plans for developments that would be affected by the proposed regulation.*

See the response to 4. above.

14. *The proposed regulation would required control of property in Perry County even though motorboats are permitted on Lake Maumelle.*

CAW regulations prohibit the discharge of wastewaters by boats into the lake.

15. *The proposed regulation would require control of property in Perry County even though the City of Little Rock is being permitted to release treated sewage into the Arkansas River.*

CAW does not believe that this comment is relevant to the proposed rulemaking. Many municipalities discharge treated wastewater into the Arkansas River. For example, the City of Perryville is permitted to discharge its treated sewage into the Fourche La Fave River which discharges into the Arkansas River. The issue is not whether treated sewage may be discharged into a suitable receiving stream, but whether wastewater, sewage or otherwise, should be discharged into a drinking water supply lake.

16. *The proposed regulation will reduce property values.*

To the contrary, CAW believes that the proposed regulation will enhance property values by encouraging orderly development of the watershed.

17. *The proposed regulation may harm mineral rights, including natural gas exploration or development.*

The proposed regulation would not affect mineral rights in any way. If the comment is directed to impact on exploration and development activities, CAW notes that ADEQ extensively regulates this activity and allows land application of drilling fluids produced in the course of oil and gas exploration and development.

18. *Not all property owners in the watershed received notice of the proposed regulation and the hearing in Perryville.*

CAW, at the request of the Commission, sent out approximately 700 mailings to landowners in the watershed. Such direct notice is not required by the regulations that govern third party rulemakings, but CAW acted to the best of its ability to accommodate the Commission's request. Some landowners may have inadvertently been omitted from the mailing list; this is regretted by CAW but this circumstance does not affect the validity of the rulemaking. APC&EC rules require that the public be notified of proposed rulemaking by public notice. This was done in accordance with the regulations by legal notices in newspapers. Further, packets of information were also made available in area libraries and on the ADEQ website. The public was fully informed of the proposed rulemaking.

19. *Governmental power to take property should be used sparingly when there is a clear public need and governments have a responsibility and moral obligation to exercise their powers in such a manner as to minimize intrusion on private property owners.*

CAW concurs in this comment. CAW's proposed regulation is intended to minimize any intrusion on landowners' use of their property, allowing as much freedom as possible to all landowners while avoiding issues of safety and unreasonable costs in providing drinking water.

20. *The proposed regulation would be an undue and unnecessary intrusion on the rights of*

property owners.

CAW disagrees with this comment. Please see the responses to 4. and 19. above.

21. *Regulations should be adopted to keep sewage out of Lake Maumelle and out of the drinking water.*

Numerous persons made similar comments in which CAW concurs.

22. *Consumers of drinking water from Lake Maumelle cannot afford the cost of water treatment to clean up the waste of others.*

CAW notes that pollution can be prevented at its source much less expensively than attempting to clean it up after it was been diluted and dispersed into the environment. The societal benefit derived from preventing pollution at its source is a fundamental justification for environmental regulation.

23. *Support locally led decision making and voluntary incentive based programs to achieve natural resources goals.*

CAW agrees that this is beneficial, but does not believe that it has any relevance to the control of wastewater discharges.

24. *Government should not infringe on the private property rights of others without a clear directive addressing a specific need.*

CAW concurs with this comment. Please see the responses to 4. and 19. above.

25. *Since surface water discharge is legal in Arkansas, the proposed regulation would hold the property owners of this one watershed to a higher standard than others.*

CAW does not agree with this characterization of the proposed regulation. The proposed regulation was developed specifically for the unique circumstances that characterize

Lake Maumelle. Lake Maumelle is unique in that it was built for a single purpose, it is owned by CAW, it has unique hydrology and geology, and extensive studies support the prohibition of direct surface wastewater discharges in Lake Maumelle.

26. *Given the state of the economy, the proposed regulation would put an unnecessary burden on Pulaski, Perry and Saline Counties.*

CAW disagrees and believes to the contrary that orderly development of the area, while maintaining the high quality of the drinking water from Lake Maumelle, would be a positive economic benefit to all the counties in the watershed.

27. *Pulaski County and Perry County need the growth from new developments in the Lake Maumelle watershed.*

CAW concurs with this comment. See the response to 26. above.

28. *Each county should address the issue of development and control land use in their own county/This issue should be dealt with at the local level.*

Dealing with this issue by separate jurisdictions would lead to inconsistent and unfair treatment of landowners. The State is already set up to deal with these issues and to do so consistently.

29. *The ratepayers of CAW should bear some of the burden of ensuring high quality drinking water.*

CAW ratepayers are already bearing the burden of ensuring high quality drinking water. CAW ratepayers are paying the cost of treatment, the costs of the studies that led to the development of the watershed management plan, the cost of continuing management of the watershed, and the cost of buying up critical acreage in the watershed.

30. *The impact of surface water effluent can be addressed through treatment prior to distribution and still be within acceptable levels.*

CAW disagrees with this comment. Even with the highest feasible levels of treatment, drinking water cannot be maintained reasonably safe and free of odor, taste, bacteria, disinfection byproducts, metals and pharmaceuticals if wastewater discharges are allowed into the Lake Maumelle watershed.

31. *The problem can be addressed by voluntary land acquisitions in the Lake Maumelle Basin as property becomes available, with priority given to land adjacent to waterways.*

The watershed comprises approximately 88,000 acres. Voluntary acquisition of this amount of land is not reasonably possible. Time is critical and CAW cannot delay for the amount of time that would be necessary to acquire this amount of land voluntarily. In fact, it is not possible to ensure that all of the land would ever voluntarily be made available.

32. *Land acquisition by eminent domain should only be used when landowners are documented as having negatively impacted the watershed, been notified, given time to correct the deficiencies, and made no viable effort to correct the situation.*

CAW does not believe that the suggested approach is feasible. It would not be fair or effective to wait until a problem occurs and then attempt to correct the situation after the fact. It is more likely that this approach would ensure that the problem would develop to the point that it would become uncontrollable.

33. *There should be cost sharing to landowners to implement best management practices identified by the Arkansas Natural Resources Commission and/or the Natural Resources Conversation Services and working through the conversation districts.*

CAW does not believe that this comment is relevant to the issue of the proposed rulemaking.

34. *There should be cost sharing to homeowners to address defective septic systems.*

CAW does not believe that this comment is relevant to the issue of the proposed rulemaking. In particular, the proposed rulemaking does not address defective septic systems.

35. *If cost sharing is accepted, then landowners would voluntarily agree to forego surface discharging systems on their land.*

CAW does not believe that this comment is relevant to the proposed rulemaking. CAW also doubts the effectiveness of voluntary programs. The studies done on Lake Maumelle show that any direct surface discharge of wastewater would prevent water quality targets from being met.

36. *There should be more education and outreach on these issues.*

CAW believes that the comment is not relevant to the proposed rulemaking but concurs in principle.

37. *State involvement sets a precedent for other watersheds.*

The proposed rulemaking is specific to Lake Maumelle. Please see the response to 25. above.

38. *Unless local people support this proposed rulemaking, the state should not force it on them.*

It is desirable that the public support this rulemaking and CAW is making every effort to improve public awareness of the necessity of the rulemaking.

39. *Other means to address this issue should be exhausted before prohibiting surface*

wastewater discharges.

The proposed regulation is a critical and essential element of the watershed management plan, which includes many other measures that have been adopted by CAW.

40. *Since the Lake Maumelle watershed lies in three counties, the issue must be dealt with at the state level/More equitable, understandable and enforceable/If dealt with at the county level, there will be large differences in separate county ordinances.*

CAW concurs in these comments. Please see the response to 28. above.

41. *High quality drinking water provides an economic value to central Arkansas/aids in recruitment of new industry.*

CAW concurs.

42. *Direct surface discharge of wastewaters is the single greatest threat to the water quality of Lake Maumelle.*

CAW concurs.

43. *The APC&EC has the authority to act to protect the quality of the water of Lake Maumelle/APC&EC is the only body with authority to protect the entire watershed.*

CAW concurs.

44. *Scientific studies, including the use of calibrated watershed and lake response models, support the need for this rulemaking.*

CAW concurs.

45. *Future development in the watershed and associated wastewater discharges, even with the highest level of treatment, would prevent water quality targets from being met.*

CAW concurs.

46. *Central Arkansas Water has some of the least expensive water in the state and that is economically attractive for development.*

CAW concurs.

47. *Without this proposed rulemaking, ADEQ would have no choice but to issue permits for new discharges in the watershed if it would meet current standards/Current regulatory requirements are not adequate to protect the quality of water in Lake Maumelle.*

CAW concurs.

48. *The proposed rulemaking would have no effect on persons now living in the watershed since there are no existing permitted discharges.*

CAW concurs.

49. *The proposed rulemaking would not prohibit septic tanks or subsurface systems.*

CAW concurs.

50. *Sewage should not be discharged into a water supply (Lake Maumelle).*

Numerous commenters made essentially the same comment in which CAW concurs.

51. *Prohibition of direct surface wastewater discharges into the watershed is a necessary first step in the Lake Maumelle Management Plan to provide long term protection to the water quality in Lake Maumelle.*

CAW concurs.

52. *Even with controlled development, non-point loads from development alone would use up all the allowable increase in pollutant loads necessary to meet targeted water quality levels.*

CAW concurs.

53. *What is the definition of "surface discharge of wastewater?"*

Please see the response to 12. above.

54. *"Sustainable development" supported by CAW and UN Agenda 21.*

One commenter appeared to be concerned about UN intrusion on local affairs. CAW does not believe this is relevant to the proposed rulemaking.

55. *Regionalization in water supplies is socialism/attempt to take Perry County's water.*

The proposed rulemaking has nothing to do with any actual or perceived need for future sources of drinking water.

56. *No scientific evidence for global warming.*

The issue of global warming is not relevant to the proposed rulemaking.

57. *People don't want government regulation of their land.*

CAW understands this concern; however, please see the response to 4. and 19. above.

58. *If CAW would drop requirements on acreage and housing, this would have a better chance of going through.*

The proposed rulemaking is limited to the issue of surface discharges of wastewater in the Lake Maumelle basin. The issues raised by the commenter are related to issues being addressed by local government and are not relevant to the proposed rulemaking.

59. *This proposed regulation does not control land use, it prevents surface discharges of sewage into the watershed.*

CAW concurs.

60. *I support the proposed rulemaking.*

There were numerous general comments of this nature, in which CAW concurs.

61. *Keep the quality of drinking water (water in Lake Maumelle) as high as possible.*

There were numerous general comments of this nature, in which CAW concurs.

62. *The needs of many for high quality drinking water should have priority over the wants of a few.*

CAW agrees that the public good should be taken into account and balanced with personal rights in determining the need for any government regulation.

63. *Lake Maumelle is susceptible to degradation by surface discharges of wastewater/Lake Maumelle does not have the nutrient assimilative capacity for surface discharges of wastewater.*

CAW concurs.

64. *Since there is no current discharge into the Lake Maumelle watershed, by acting now no entity would have to change its current way of operating.*

CAW concurs.

65. *It will be easier and cheaper to prevent any problems now than to fix them later.*

CAW concurs.

66. *The burden of adopting rules today will be of little consequence to the future burden to public health and the economy if Lake Maumelle becomes an unreliable and unsafe source of drinking water.*

CAW concurs.

67. *There are replacements for energy but no replacement for water/drinking water is a valuable and limited resource.*

CAW concurs.

68. *Lake Maumelle is a valuable resource with higher quality water than most other sources*

in the region.

CAW concurs.

69. *Unsafe drinking water has the potential to harm 400,000 people.*

CAW concurs.

70. *If discharges of wastewater are allowed, then higher treatment will be required at higher cost.*

CAW concurs. Also see response to 10. and 30. above.

71. *Wastewater cannot be treated enough to make discharge into Lake Maumelle safe.*

CAW agrees that even with the highest feasible levels of treatment, drinking water cannot be maintained reasonably safe and free of odor, taste, bacteria, disinfection byproducts, metals and pharmaceuticals if wastewater discharges are allowed into the Lake Maumelle watershed.

72. *If direct discharge is prohibited, there are alternatives for pumping the wastewater out of the watershed or discharging treated wastewater onto the ground after treatment.*

CAW concurs. See response to 8. above.

73. *Pharmaceuticals in wastewater are a threat to drinking water supplies.*

CAW concurs.

74. *The prohibition of wastewater discharges is a cornerstone of the Lake Maumelle Management Plan; everything else in the plan was based on the prohibition of wastewater discharges.*

CAW concurs.

75. *This issue should be dealt with now and not just passed onto a future Commission to*

deal with.

CAW concurs.

76. *Beaver Lake is polluted by treated sewage and runoff from cattle farms making the water undrinkable because of its bad taste.*

CAW does not believe that this comment is relevant, since this proposed rulemaking is specific to Lake Maumelle.

77. *Some pollutants that could enter Lake Maumelle from wastewater discharges, such as bacteria and heavy metals, cannot be removed by treatment processes. Hormones, drugs, pesticides and heavy metals could pass through a treatment system and into the drinking water.*

The cost to remove such pollutants would be prohibitive even if adequate treatment were possible.

78. *Two issues, management of waste systems at the package treatment level and management of the lake and the waters that feed the lake, may benefit from some form of ISO management.*

CAW acknowledges this comment without response.

79. *Allowing pollutants into Lake Maumelle would violate the Antidegradation policy of the Clean Water Act.*

CAW does not believe the antidegradation policy is applicable in this situation. In fact the Lake Maumelle Watershed Management Plan allows some additional nutrient loading into the lake to accommodate development.

80. *Development in the Lake Maumelle watershed would benefit the wealthy few while increasing the price and lowering the quality of drinking water for half a million people.*

The proposed regulation would promote orderly development to the benefit of all the public.

81. *Other parts of the country have lower quality drinking water. Clean drinking water is a community asset and an attraction to businesses and people locating here.*

CAW concurs.

82. *Lake Maumelle was built as a water supply and not as a location for homes.*

CAW acknowledge the comment without response.

83. *No development should be allowed around Lake Maumelle. Accidents can occur with the potential to pollute the water supply.*

CAW acknowledges the comment without response.

84. *Package wastewater treatment plants have a poor compliance record in meeting permit conditions.*

CAW concurs.

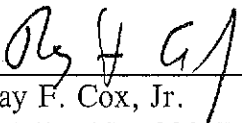
85. *Approval of this proposed rulemaking would carry out the provisions of the State Constitution where the State is charged with protecting the health and safety of its citizens.*

CAW acknowledges the comment without response.

Respectfully Submitted,

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By:

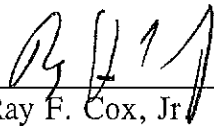


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CERTIFICATE OF SERVICE

I, Ray F. Cox, Jr., hereby certify that I have, on this 28th day of July, 2008, served the foregoing Responsiveness Summary by depositing a true copy in the United States Mail, First Class postage prepaid, addressed to:

Mark Ferguson
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