

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT-Regulation No. 6
Regulations for State
Administration of the National
Pollutant Discharge Elimination
System (NPDES)
Third-Party Rulemaking
Central Arkansas Water**

DOCKET NO. 08-003-R

MINUTE ORDER NO. 08-09

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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). Pursuant to Ark. Code Ann. § 8-4-202(c), the Arkansas Pollution Control and Ecology Commission (“Commission”) has sixty (60) days in which to either institute rulemaking proceedings or to give written notice denying the petition for rulemaking. The Petition has been designated as Docket No. 08-003-R.

The Commission’s Regulations Committee met on February 22, 2008 to review the Petition and it recommended that the Commission defer consideration of the Petition until the Commission’s regularly scheduled March meeting. At the Commission meeting on February 22, 2008, the Commission adopted the recommendation of the Regulations Committee.

The Commission met on March 28, 2008 to review the Petition and institutes a rulemaking proceeding to consider adopting the proposed amendments to Regulation No. 6. The Commission also recommends adoption of the following procedures and schedule.

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

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

3. CAW will submit to the ADEQ’s Public Outreach and Assistance Division (“POA”), 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, in 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, Section 3.1.3. The public notice shall be published not later than 45 days prior to the first public hearing. By agreement, CAW

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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 Petition and all supporting documentation, the number of which is to be determined by POA.

4. A public hearing shall be conducted on May 27, 2008 in the Commission Room at the Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, AR 72118-5317. A second public hearing shall be conducted in Perryville, Arkansas. The exact date, time and location of the public hearing in Perryville, Arkansas will be determined by POA.

5. The period for receiving all written comments from CAW, 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. CAW 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 Responsive Summary as required by Regulation No. 8, Part 3, Section 3.6.2(1), (2) and (3). In addition, CAW and ADEQ shall file a proposed Minute Order deciding this matter.

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

8. The Commission will not consider this matter until the Pulaski County Quorum Court makes a final decision on the proposed Subdivision and Development Code Currently before them on this issue. However, if no action is taken by January 1, 2009 by the Quorum Court, the Commission will consider this matter.

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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 CAW and 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.

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

11. In compliance with Act 143 of 2007, an Economic Impact Statement was submitted to the Arkansas Department of Economic Development ("ADED"). An approval letter from ADED was received and attached to the Petition to Initiate Third Party Rulemaking.

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

COMMISSIONERS:

RBH L. Bengal
RFH S. Henderson
DF D. Hendrix
CMG C. McGrew
DS D. Samples
TS T. Schueck
JTS J. Shannon

LS L. Sickel
JS J. Simpson
WGT W. Thompson
EV E. Valdez
BW B. White
RY R. Young

WGT Submitted by: Ray F. Cox
Chair, T. Schueck, Co Chair

DATE PASSED: 03/28/08