

**ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**SUBJECT – Proposed Regulation No. 37  
Nutrient Water Quality Trading  
Third-Party Rulemaking  
NORTHWEST ARKANSAS NUTRIENT  
TRADING RESEARCH AND ADVISORY  
GROUP**

**DOCKET NO. 18-001-R**

**MINUTE ORDER NO. 18-21**

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On January 11th, 2018, the Northwest Arkansas Nutrient Trading Research and Advisory Group (“NANTRAG”) filed a Petition to Initiate Third-Party Rulemaking to adopt a new regulation, Proposed Regulation No. 37 – *Arkansas Nutrient Water Quality Trading Regulations* (Petition). The Commission met on January 26, 2018, to review NANTRAG’s Petition. Having considered the Petition, the Commission ordered the initiation of a rulemaking proceeding to consider the adoption of Proposed Regulation No. 37. The Commission also adopted a procedural schedule so that consideration of the matter could proceed in an efficient and orderly manner.

On September 14, 2018, NANTRAG notified the Commission that it planned to revise Proposed Regulation No. 37 in response to public comments. NANTRAG requested that the Commission order a supplemental public comment period for NANTRAG’s revised version of the Proposed Regulation No. 37, with the supplemental comment period commencing upon publication of public notice and lasting a period of thirty (30) days. The Commission, having considered the request, hereby orders a supplemental public comment period consistent with following procedural schedule:

1. NANTRAG 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.
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. NANTRAG shall submit to ADEQ’s Public Outreach and Assistance Division (POA) the following:
  - a. A proposed public notice to be used in mailing notice to interested persons and for publishing in appropriate industry, trade, or professional publications as the

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Commission may select. The proposed public notice may, at 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. By agreement, NANTRAG shall pay the costs of the newspaper publications and the costs of the appropriate industry, trade or professional publication chosen by the Commission and shall file only the original proof of the publication with the Commission. ADEQ shall be responsible for mailing the public notice to all persons who have requested notice of rulemaking proceedings and the cost of mailing;

- b. Fifty (50) copies of NANTRAG's revised version of the Proposed Regulation No. 37, in both a red-line and clean, black-line format.
4. The period for receiving all written comments from NANTRAG, the public and ADEQ shall conclude thirty (30) days after the date of publication of the public notice.
5. NANTRAG 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 APEC Regulation No. 8.815. The Responsive Summary shall include comments submitted during the original comment period and the supplemental comment period.
6. The schedule and requirements of this Minute Order are supplemental to the requirements established in Minute Order 18-04.

The Commission orders a supplemental public comment period for NANTRAG's revised version of the Proposed Regulation No. 37. The supplemental comment period shall not exceed thirty (30) days from the date of publication of the public notice. The Commission adopts without modification, the procedural schedule set forth above.

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COMMISSIONERS:

\_\_\_\_\_ L. Bengal  
C.C. \_\_\_\_\_ C. Colclasure  
\_\_\_\_\_ J. Fox  
[Signature] \_\_\_\_\_ M. Freeze  
[Signature] \_\_\_\_\_ C. Gardner  
[Signature] \_\_\_\_\_ M. Goggans

\_\_\_\_\_ B. Holland  
AM 9/28/18 \_\_\_\_\_ D. Melton  
[Signature] \_\_\_\_\_ S. Moss, Jr.  
[Signature] \_\_\_\_\_ W. Stites  
[Signature] \_\_\_\_\_ G. Wheeler  
\_\_\_\_\_ B. White

RR \_\_\_\_\_ SUBMITTED BY: Allan Gates DATE PASSED: 09/28/18  
R. Reynolds – Chair