

**EXHIBIT F**

**PROPOSED MINUTE ORDER**

**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-\_\_-R**

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On January \_\_, 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). Pursuant to Ark. Code Ann. § 8-4-202(c) the Arkansas Pollution Control and Ecology Commission (APCEC or the Commission) has sixty (60) days in which to either institute rulemaking proceedings or to give written notice denying the petition for rulemaking.

The Commission met on January 26, 2018, to review NANTRAG’s Petition. Having considered the Petition, the Commission hereby orders the initiation of a rulemaking proceeding to consider the adoption of Proposed Regulation No. 37. The Commission also adopts the following procedural schedule so consideration of this matter may proceed in an efficient and orderly manner.

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. This requirement does not apply to transcripts.

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 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. The public notice shall be published not later than 45 days prior to the first public hearing. 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

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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 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 the POA.
4. A public hearing shall be conducted Tuesday, March 20, 2018 at 6:00 PM in the Walker Community Room of the Fayetteville Public Library, 401 W. Mountain Street, Fayetteville, Arkansas 72701. A second public hearing shall be conducted Thursday, March 22, 2018 at 2:00 PM in the Commission Room of the Arkansas Department of Environmental Quality Headquarters, 5301 Northshore Drive, North Little Rock, Arkansas, 72118.
5. The period for receiving all written comments from NANTRAG, the public and ADEQ conclude ten (10) business days after the date of the second public hearing, unless an extension of time is granted.
6. 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. In addition, NANTRAG shall file a proposed Minute Order deciding this matter.
7. ADEQ shall seek review and 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 September, 2018 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 regulation after review by the appropriate legislative committees. Members of the Commission may ask questions of any persons that made oral or written comments.

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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 person 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 NANTRAG 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 the Commissioner.

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

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

**COMMISSIONERS:**

\_\_\_\_\_ **L. Bengal**  
\_\_\_\_\_ **J. Chamberlin**  
\_\_\_\_\_ **J. Crow**  
\_\_\_\_\_ **J. Fox**  
\_\_\_\_\_ **C. Gardner**  
\_\_\_\_\_ **B. Holland**

\_\_\_\_\_ **D. Melton**  
\_\_\_\_\_ **S. Moss, Jr.**  
\_\_\_\_\_ **R. Reynolds**  
\_\_\_\_\_ **W. Stites**  
\_\_\_\_\_ **G. Wheeler**  
\_\_\_\_\_ **B. White**

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**M. Goggans – Chair**

SUBMITTED BY: Allan Gates

DATE PASSED: \_\_\_\_\_