

From: [Buffalo River](#)
To: [Reg-Comment](#)
Subject: Nutrient Trade Comments, Docket No. 18- 001-R.
Date: Monday, November 05, 2018 11:10:11 AM

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To ADEQ Director Becky Keogh:

The following comments regarding the revised third-party proposal by the Northwest Arkansas Nutrient Trading Research and Advisory Group (NANTRAG) for a new APC&EC Regulation 37 (Arkansas Nutrient Water Quality Trading Regulation), Docket No. 18- 001-R are submitted on behalf of the Buffalo River Watershed Alliance, PO Box 101, Jasper, AR 72641.

We oppose the proposed regulations because they do not provide adequate safeguards or controls to prevent abuse or prevent the potential for increased nutrient loads to Arkansas waterbodies based on the following:

-No numeric baseline measurements are required. Arkansas' unenforceable narrative standards potentially allow unconstrained point-source nutrient loading in most areas of the state, with the exception of the Nutrient Surplus Area (NSA) of NW Arkansas. Dependence on the Arkansas Phosphorus Index (API) to as an alternative to numeric standards to control or limit nutrient levels is flawed and results in waste applications in excess of agronomic rates. Numeric standards must be required before nutrient trading is considered.

-There is no prohibition of inter-basin or different watershed trades.

-There is no requirement to develop baseline nutrient loading for the proposed stream or river segment. Site-specific empirical data should be required for any proposed waterbodies.

-There is no restriction or prohibition on trades which may affect sensitive watersheds such as those of ERW's, ESWs or NSWs. This is an irresponsible oversight and ignores the importance of these valuable and fragile waterbodies.

-There is no acknowledgement of, or effort to safeguard, sensitive karst areas such as occur extensively in NW Arkansas. Risks to these areas are not adequately accounted for in the API and traditional BMPs are insufficient to protect water quality, particularly groundwater, in these areas.

-There are no adequate descriptions of standards or requirements to assure that nutrient trades do not cause harm and will reduce overall nutrient loads.

- There are no guidelines regarding who monitors, inspects and enforces compliance. Third-party inspectors should be allowed.
- There are no criteria or standards to ensure that there will not be localized adverse impacts on water quality. The lack of numeric standards exacerbates this problem.
- There are no evaluation criteria which specify how the ADEQ Director is to assess proposed trades. Instead, the assessment appears to be at the discretion of the Director and could be subject to political pressure. Assessment and evaluation should be based on empirical data.
- ADEQ has responsibility for assessing and evaluating proposed trades yet lacks enforcement authority, which instead is provided to ANRC. ADEQ should be provided enforcement authority.
- There are no required or prescribed trade ratios to account for uncertainty of trades. Instead it is left to the discretion of the applicant with no guidance of the ADEQ Director.
- We incorporate by reference the comments submitted by Teresa Turk, Jessie Green, and others who similarly oppose this matter.

Thank you for the opportunity to submit these comments.

Gordon Watkins, President
Buffalo River Watershed Alliance

Buffalo River Watershed Alliance
buffaloriveralliance.org