

Jason Henson  
HC 72 Box 10  
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June 27, 2014

**Re: Third Party Rulemaking Proposed Changes to Regulation 5 and Regulation 6**

APC&E Commissioners  
c/o Doug Szenher  
Arkansas Department of Environmental Quality  
Public Outreach and Assistance Division  
5301 Northshore Drive  
North Little Rock, AR 72118-5317

Dear Commissioners:

Thank you for considering my comments and questions concerning the proposed Third Party Rulemaking changes to Regulation 5 and Regulation 6.

I oppose the changes recommended by the petitioners.

The following outlines the reasons I oppose these changes, and I respectfully request answers to questions I have regarding this Third Party Rulemaking petition.

1. No scientific evidence was provided. It would seem that if there is overwhelming evidence justifying something as drastic as a ban on medium and large swine CAFOs in the Buffalo River Watershed, at least one Arkansas-based scientific study would have been cited. The words "*potential*", "*threat*", and "*risks*" were used several times in the petitioners' documents, but not a single scientific fact was provided throughout the entire group of documents that I could find. Compare this to automobiles. There is the "potential" for me to wreck my car and die in a car crash, so does that mean we should automatically ban all cars because there is a "risk" that I might be harmed or because there is the "threat" that someone else might harm me in a car crash? Hardly. We have rules that govern how we use our automobiles, and the same applies to medium and large farms. We must trust those rules and Commissions such as this one to provide reasonable protection against harm so we can all go about our daily lives doing what we need, and have a right, to do. Regulations 5 and 6 provide that reasonable protection. This has been demonstrated by the successful operation of all sizes of swine farms throughout Arkansas over the past several decades. Changes to these regulations should only be made if valid scientific evidence is produced which proves that these regulations are not working. What, if any, valid scientific evidence has been produced which necessitates an outright ban? Please describe and provide reference information for the specific scientific case studies being utilized by the Commission for the basis of its decision.

2. Does this Commission support the Arkansas Phosphorus Index? Does the Phosphorus Index provide adequate protection for the Buffalo National River? If not, why would the Phosphorus Index be adequate for any watershed in the state?
3. The changes proposed in the Third Party Rulemaking are limited to swine CAFOs. Please provide the scientific data this Commission utilized for the basis of its decision which show how swine CAFOs are any more harmful in the Buffalo River Watershed than any other type of farm.
4. What is this Commission's position on whether liquid wastewater from swine operations poses any greater risk for harming the environment than any other type of fertilizer used (i.e., commercial fertilizer, chicken litter, etc.), as long as the wastewater is handled according to the current regulations? How does this position justify a ban on medium and large swine CAFOs in the Buffalo National River Watershed?
5. The National Park Service requires farmers obtaining an Agricultural Special Use Permit for land in the Buffalo River watershed to apply the minimum recommended amounts of fertilizer and lime to the soil based on soil test results. C & H Hog Farms does not produce enough litter in one year to cover even half the acreage that the Park Service themselves requires to be fertilized directly along the banks of the river. Now, I am not a scientist and have never claimed to be, but common sense tells me that nitrogen is nitrogen and phosphorus is phosphorus regardless of whether it is contained in commercial fertilizer or in swine waste. Does this Commission believe that nitrogen and phosphorus from commercial fertilizer does not find its way into the river, especially when it is being spread directly along the banks of the river? Please do not mistake my position; I do not believe any oversight should be required for commercial fertilizer. Any farmer who wants to produce a crop would not over apply nutrients to the land he/she is using. My point is that the application of liquid wastewater from swine is no different. It contains the same nutrients as commercial fertilizer and is only applied based on lab-tested manure and soil samples to determine the nutrient levels in the waste and the needs of each field to which it is being applied. C & H Hog Farms is land applying five (5) miles away from the river under the strict oversight of ADEQ's rules and regulations, while the Park Service requires fertilization along the banks of the river with zero oversight. Is there a greater potential risk for liquid fertilizer applied elsewhere in watershed to reach the river than what is being land applied directly along the river?
6. Swine CAFOs are among the most heavily regulated farming activities in the state of Arkansas. Is the state discriminating against swine farmers simply because there is fear among environmental extremists and those less informed about the actual rules and regulations that swine farmers must follow? Why would this Commission target a specific segment of the farming industry with no scientific evidence to support such claims?

7. How is land application of swine wastewater adding any more nutrients to the watershed when it essentially replaces the use of commercial fertilizer or chicken litter on the application fields?
8. By adopting the proposed changes to Regulations 5 and 6, is this Commission saying that it made a mistake by allowing a large swine CAFO to enter the watershed to begin with and had scientific evidence from the beginning that proved the Buffalo National River Watershed should have had more protection than any other watershed in the state?
9. People who live in other watersheds throughout the state may feel their watershed is just as important to them as the Buffalo River Watershed is to us and deserves just as much protection as the Buffalo River's watershed. Is this Commission saying that people deserve lesser protection of their environment if they live in an area where there is no national river? If geology in the watershed is a factor for determining where a swine CAFO may be located, why would this Commission not require geological studies in all watersheds of the state and tailor regulations to each area rather than targeting just one specific area within the state?
10. Please clarify whether the proposed amendments apply only to medium and large swine CAFOs with liquid wastewater or if the amendments apply to all medium and large swine CAFOs utilizing any type of method/technology for dealing with waste.
11. The petition takes no issue with CAFOs housing 749 swine or less weighing over 55 pounds. Since no scientific evidence was provided with the petition, it seems this may have been nothing more than an arbitrary number picked solely because 749 swine or less is currently deemed a small farm within ADEQ's CAFO sizing chart. If this Commission adopts the changes as proposed, what is the scientific basis for allowing 749 head or less but banning anything over that number?
12. The EPA recently conducted an impromptu inspection at C & H Hog Farms and has not notified the farm of any areas of concern. By adopting the proposed changes, is this Commission suggesting that the EPA grossly overlooked inherent dangers of medium and large swine CAFOs in the Buffalo River Watershed?
13. What alternatives has this Commission considered other than an outright ban on medium and large swine CAFOs in the Buffalo National River watershed?
14. Environmental extremists use the term "CAFO" to scare people and paint an untrue picture about abusive animal treatment and farming practices. You might hear them say they have no problem with the farmer who raises animals "the natural way". So, would be better for a farmer to allow 2,500 hogs to roam free on his land without any type of plan on what to do with the waste? If these animals were not housed and the permit had not included the term "CAFO", would the extremists have been so quick to jump to the conclusion that there must be a problem? If this Commission decides

to cave under the pressure and allow this ban to be instituted, it just further fuels the misaligned thinking that modernized farming is bad. Please do not allow this Commission to contribute to that notion and become another stumbling block for farmers who are trying to take care of their families, grow their businesses, and feed America.

15. I live in the Buffalo River Watershed. I wholeheartedly support farming in our community, and I support all sizes and all types of farms. I had much rather buy meat and produce that was grown in the U.S.A., where I have a reasonable expectation that the food I am putting on the table is safe to eat. If it comes from another country, I feel as though I have absolutely no say in how that animal was raised, what it was fed, or how it got here. Consider the price of pork now. By continuing to push aside the few farmers who actually want to dedicate their lives to caring for pigs, we are pricing ourselves out of food, and certainly out of food grown in America.
16. If this is truly about keeping the Buffalo River watershed “pristine” and protected from “potential threats”, why not shut down tourism to the river in its entirety, too, since there is the “potential” for the river to be contaminated by large numbers of tourists. Or maybe we should initiate a rule that says there can only be a certain number of tourists on the river at any given time. Why not do an environmental impact study on all tourism in the watershed and stop all tourism on the Buffalo until the study has been completed? I know that sounds unreasonable, but that is precisely what the petitioners are calling for when it comes to farming. They are asking that swine production be stopped, regardless of the fact that past studies in Arkansas show that the current regulations are working and in the face of current studies being performed.
17. When did it become okay in Arkansas for environmental extremists or a state agency to dictate to farmers what types of animals they may or may not raise, the size of their operations, and where they may or may not have a farm and develop their own properties? When did it become okay in Arkansas for rules to be made simply because environmental extremists and urban elitists think they deserve the right to make this area their personal playground and dictate to the rest of us who actually live here what we can and cannot do on our own land? Adopting these changes is the same as saying that if you choose to raise swine and live in the Buffalo River Watershed, you must find a supplemental income because you can only have a small farm here. The current regulations are protective of the environment. It should be nobody else’s business or right to tell another citizen what size their business may or may not be, or become. Farmers’ rights should not be counted any less important than the rights of those who are opposed to farming.

Please deny the proposed Third Party Rulemaking changes. Do not succumb to the pressure simply because you want the environment extremists to leave you alone. They will not. After this decision, they will move on to the next farm or the next issue and continue to be just as difficult and unreasonable as they have been with this issue, as I am

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sure you well know. Generally, these types of extremist groups get their way by stirring up fear and emotions among unsuspecting citizens with blown-out-of-proportion theatrics and scare tactics. Please do not allow these groups to pressure you into a decision that will have such a lasting and detrimental effect as this one. Please rely on science to make your decision.

Sincerely,

*Jason Henson*

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