

Hog farm proposal garners support

But commenters note ban's limits by [Emily Walkenhorst](#) | October 14, 2019 at 2:43 a.m. |
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FILE — The C&H Hog Farms complex, shown in 2017, was located on Big Creek 6.6 miles from where the creek flows into the Buffalo River. (Mitchell PE Masilun)

Hundreds of comments have poured in supporting a **proposed permanent ban on federally classified medium or large hog farms** in the Buffalo National River's watershed.

But a handful of comments expressed concerns that, during the process of state regulators editing existing rules to incorporate the ban, significant changes were made to aspects of state rules that had nothing to do with hog farms.

People had several weeks to submit comments on the proposed ban, with the comment period ending Sept. 23. By law, the Arkansas Department of Energy and Environment, which proposed the ban, must read and respond to each comment before altering and/or passing along the proposal for legislative review.

Just more than 400 people submitted comments, with nearly all in favor of a ban.

The *Arkansas Democrat-Gazette* reviewed the comments after obtaining them through a public-records request. Unlike in previous rule-making proposals, the department has not posted the comments online.

Many comments hit on the same themes: calling the C&H Hog Farms permit a mistake, arguing that the karst topography of the region is unsuitable for sizable hog farms, and/or supporting broader restrictions in the watershed. The suggested restrictions include prohibiting small hog farms, barring other types of concentrated animal-feeding operations, and preventing the transport of hog manure and spread of hog manure on land within the Buffalo River's watershed.

Most comments came from Arkansas, largely from the Northwest.

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Only two comments opposed any ban. The Arkansas Farm Bureau contended that state regulators have "no scientific evidence showing animal agriculture is causing an environmental impact." The Farm Bureau said the department was letting "emotion" rather than "sound science" drive the regulation changes.

The Arkansas Pork Producers Association said the proposed regulation changes were a "slippery slope" to further action in the state's other watersheds for "extraordinary resource" waters. The proposal is precautionary, the comment states, adding that "Our state's pork producers have an excellent environmental record."

COMMENTERS' CONCERNS

Several comments questioned why the proposed ban would be limited to hog farms while other animal farms can cause pollution concerns, as well. Poultry farming in Northwest Arkansas has long been blamed for excess nutrients in the Illinois River in Oklahoma.

Some comments questioned whether the proposal, as written, would actually prevent hog farms as large as C&H from being constructed in the watershed.

The White River Waterkeeper organization argued that hog farms exceeding the sizes of "medium" or "large" may still be allowed under the language of the proposal, which refers to farms meeting the definition of a concentrated animal-feeding operation.

Further, the comment states, the change to Regulation 5 refers to "confined animal feeding operations," and the change to Regulation 6 refers to "concentrated animal feeding operations." Those are two distinct technical terms meaning different things. The White River Waterkeeper asked whether that would unintentionally allow some farms to obtain permits despite the ban.

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Farms are federally classified as small, medium or large. Medium hog farms are defined as having 750 or more swine of more than 55 pounds, or 3,000 or more swine of 55 pounds or less.

Hog farms often have combinations of the two weight classes of pigs. The proposed ban does not explain how to calculate whether a hog farm meets the size threshold if combining the two weight classes of pigs, the White River Waterkeeper contended.

The draft rules could be interpreted as allowing one less hog than the maximum for both weight classes -- 749 bigger hogs and 2,999 smaller hogs, Ross Noland, an attorney and the executive director of the Buffalo River Foundation, wrote in his comment. "This would comprise a major facility with more swine waste present than that which C&H produced."

Medium and large hog farms have been banned since 2014 but only on a temporary basis, pending the conclusion of the Big Creek Research and Extension Team's research on the effect of C&H Hog Farms on Big Creek and the Buffalo National River.

C&H is a large-scale hog farm that sits within the Buffalo National River's watershed. It has been the subject of yearslong environmental concerns and will close in the coming months after reaching a \$6.2 million buyout agreement with the state in June.

After signing the buyout agreement with C&H owners, Gov. Asa Hutchinson asked state environmental regulators to petition to make the temporary ban permanent.

The final research report is expected in the coming weeks.

OTHER CHANGES

Not all comments were about the proposed ban on medium and large hog farms.

The proposal places the entirety of two regulations up for amendment. Those are Regulation 5, which governs liquid animal waste management systems that are not allowed to discharge waste, and Regulation 6, which governs federal wastewater permits that allow for discharge.

The department altered numerous provisions within Regulation 6. Some were superficial changes from "Regulation" to "Rule" or "Six" to "6," but some, commenters argued, appeared to change permit application requirements and review processes for facilities that aren't animal farms.

The Beaver Water District opposed several changes, including one that deletes the requirement to disinfect facilities "when necessary" to meet state water-quality standards and another that deletes the requirement to remove nutrients from domestic wastewater effluent "where appropriate." Another change, the group's letter to the department states, would remove many of the permitting requirements for stormwater discharges associated with small construction sites.

The American Fisheries Society and the Buffalo River Watershed Alliance both raised questions about a change allowing higher fecal coliform concentrations in wastewater discharges to extraordinary resource waters and to natural and scenic waterways.

Previously, no concentrations of 200 colonies per 100 milliliters of water were allowed in those waters. The department has proposed changing the limit to a "geometric mean" -- a type of average -- of 200 colonies per 100 milliliters of water, meaning a sample could exceed that concentration as long as the geometric mean remained below 200.

"Whether by averages or geometric means, the application of any mathematical formula should not be allowed to obscure dangerous peak readings when public health is of concern," the Buffalo River Watershed Alliance's comment reads. "Parents allow their children to swim in ERWs on the assumption that this designation means the water is safe for human contact."

The White River Waterkeeper noted that the change is an attempt to be consistent with a separate rule, Regulation 2. But, the organization wrote in its comment, the department has not explained whether the new or the previous language was originally intended. The previous language also listed a limit of an arithmetic mean of 200 colonies per 100 milliliters of water for other water bodies. Geometric means are always lower than arithmetic means, the White River Waterkeeper wrote.

The department issued an executive summary with its proposed changes but didn't mention any reasons for why it altered those specific elements of the regulation. For regulation chapters not accompanied with an explanation, the department's summary states that officials made clarifications, minor corrections and changes to make the regulation consistent with other statutes.

The department did not respond to a request from the *Democrat-Gazette* for comment on the changes.

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