

ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION

SUBJECT: Petition to
Adopt Emergency
Rulemaking -
Regulation No. 6

DOCKET NO. 03-006-R

MINUTE ORDER NO. 03 - 23

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On November 20, 2003, The Arkansas Department of Environmental Quality ("Department"), filed a Petition to Adopt Emergency Rulemaking for Regulation No. 6, Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES). The Petition has been designated as Docket No. 03-006-R.

Having considered the Petition, the proposed emergency amendments to Regulation 6, and other documents, the Arkansas Pollution Control and Ecology Commission finds as follows:

1. On February 12, 2003, EPA promulgated the National Pollutant Discharge Elimination System (NPDES) Permit Regulation and Effluent Limitations Guidelines and Standards for Concentrated Animal Feeding Operations (CAFOs), 40 CFR Parts 122 and 412, also known as the CAFO Rule (68 Fed. Reg. 7176).
2. These new regulations became effective April 14, 2003, and expanded the regulated universe of CAFOs which are required to obtain NPDES permits. These new regulations apply to new and existing large or medium CAFOs (as defined), or which are designated by the permitting authority.
3. The EPA Rule establishes a mandatory duty for all CAFOs (as defined by regulation) to apply for an NPDES permit, and to develop and implement a nutrient management plan, by certain deadlines specified in the EPA Rule, depending upon the type and size of the CAFO.
4. ADEQ began working diligently before and after promulgation of the EPA CAFO Rule to determine the most expeditious way to obtain program authorization. Several informal meetings were held in the spring and summer of 2003 with various stakeholders, to discuss a draft general CAFO permit for dry manure handling systems,

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and to discuss possible changes to Commission regulations.

5. Currently, the Department is working with appropriate agencies and stakeholders to revise its NPDES program to include the new CAFO regulations, and to accept authority for the new program.
6. In the interim, the regulated community affected by the new CAFO Rule, which includes the poultry industry among others, is without necessary permit coverage required by EPA. Until compliance with the new program is obtained by all affected parties, this situation will have an adverse affect on the health, safety and welfare of the citizens of Arkansas.
7. Pursuant to Ark. Code Ann. § 8-4-202(e)(1), the Commission concludes that imminent peril to the public health, safety or welfare exists.

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Therefore, the Commission adopts, as an emergency rulemaking, the attached amendments to Regulation 6, as set forth in Exhibit A.



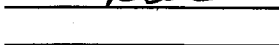
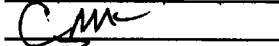
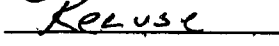

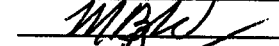

PROMULGATED THIS 5TH DAY OF DECEMBER, 2003, BY ORDER OF THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION.

BY: 
William Thompson, Chairman

ATTEST: 
Marcus C. Devine, Director

APPROVED: 
Mike Huckabee, Governor

COMMISSIONERS

<u></u>	B. Ackerman	<u>Recuse</u>	T. Schueck
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<u>Recuse</u>	R. Quillin	<u></u>	M. Woodward
		<u></u>	R. Young


William Thompson, Chairman

SUBMITTED BY: Jennifer H. Tucker
Attorney for ADEQ

PASSED: 12/5/03