

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

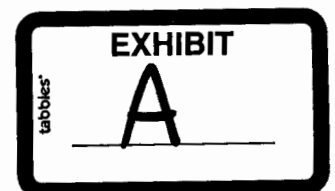
IN THE MATTER OF PROMULGATION OF)
REGULATION NO. 6, REGULATIONS FOR THE STATE) DOCKET NO. 12-008-R
ADMINISTRATION OF THE NATIONAL POLLUTANT)
DISCHARGE ELIMINATION SYSTEM (NPDES))

**STATEMENT OF BASIS AND PURPOSE FOR
ADOPTION OF AMENDMENTS TO REGULATION NO. 6**

The Arkansas Pollution Control and Ecology Commission (hereinafter “APC&EC” or “the Commission”) is given the power and responsibility to promulgate rules and regulations. Pursuant to Ark. Code Ann. § 8-1-203(b)(1), the Commission is granted the power and responsibility to promulgate rules and regulations implementing the substantive statutes which are administered by the Arkansas Department of Environmental Quality (hereinafter “ADEQ” or “the Department”).

In addition to minor formatting changes, there is one substantive change to the rule. Reg.6.206 would be added to the regulation to provide a permit-by-rule for entities discharging pesticides into waters of the State. Related definitions would be added to Reg.6.103 to provide clarity regarding the new requirements of Reg.6.206. These changes would address issues raised by the regulated community regarding a general permit issued by ADEQ for the discharge of pesticides to waters of the State.

On March 1, 2012, the Arkansas Department of Environmental Quality issued a National Pollutant Discharge Elimination System (“NPDES”) general permit for pesticide discharges (Permit No. ARG870000). Issuance of a permit to cover pesticide discharges was required by federal law, based on a decision of the Federal Court of Appeals for the Sixth Circuit in *National Cotton Council of America v. EPA*, 553 F.3d 927 (6th Cir. 2009). ADEQ’s general permit incorporated narrative effluent limitation based on the Environmental Protection

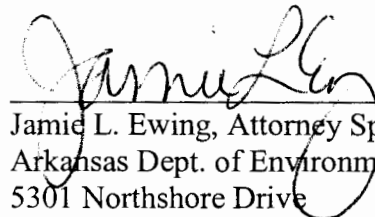


Agency's ("EPA") draft general permit. ADEQ's general permit does not require any additional conditions beyond those already in place under the authority of the Arkansas State Plant Board.

Currently, operators that are required to seek coverage under the general permit are required to pay a \$200 permit fee and file a Notice of Intent ("NOI") for coverage under the general permit. With adoption of the proposed changes, the operator will no longer be required to submit the permit fee and NOI to the Department. The operator would only be required to post a Notice of Coverage at their site and follow the terms of the general permit in order to be deemed to have permit coverage for discharge of pesticides to Waters of the State.

Initially, ADEQ proposed to remove Reg.6.204(B) from the regulation. This proposed change is being withdrawn based on public comments received from the Arkansas Bureau of Legislative Research (see Response to Comments).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jamie L. Ewing", is written over a horizontal line.

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