

## APC&EC Regulation No. 6 Proposed Amendments – Executive Summary

The primary change presented in this proposed rulemaking is the incorporation of legislative revisions, particularly Acts 954 and 402 of 2013. Act 954 of 2013 was passed the Arkansas General Assembly to address, inter alia, the implementation of water quality standards and criteria for minerals, including without limitation total dissolved solids, chlorides, and sulfates.

As APC&EC Regulation No. 6 is the regulation governing the development and issuance of NPDES permits by ADEQ, this regulation should be amended to incorporate and fully implement the provisions of Act 954.

Likewise, Act 402 of 2013 updated the financial assurance requirements for nonmunicipal domestic sewage treatment works and APC&EC Regulation No. 6 should be updated to incorporate those changes.

Specific changes include:

Adding to Reg.6.103 a definition for “average flow” to mean an average flow value that represents both the high and the low of streamflow oscillations and is established by no less than twenty (20) consecutive years of daily streamflow data (7300 data points) from a gaging station must be used to calculate the average flow;

Modifying the definition of “nonmunicipal domestic sewage treatment works” to match the language used in statute, as modified by Act 402 of 2013;

Incorporating changes from Act 402 of 2013 in Reg.6.205 to include the transfer of a National Pollutant Discharge Elimination System permit for a nonmunicipal domestic sewage treatment works and financial assurance requirements;

Incorporating changes from Act 954 of 2013 within Reg.6.207 regarding an individual permit application review for minerals. That section provides that thirty (30) days after the receipt of an application for an individual permit to discharge into a stream, stream segment, or reservoir, the department shall certify to the permit applicant whether the stream segment or reservoir that will receive the proposed discharge is: (1) An existing domestic water supply; or (2) Listed in the Arkansas Water Plan as a planned or potential domestic water supply. Further, any mineral permit effluent limits included in an individual permit shall be based upon the requirements of Act 954 of 2013;

Adding a new section, Reg.6.403, to provide for the development and implementation of water quality standards and criteria for minerals in accordance with Act 954 of 2013. In accordance with Act 954 of 2013, the development and implementation of standards and criteria

for minerals, including without limitation total dissolved solids, chlorides, and sulfates, shall be based on the greater of the average flow in the stream or stream segment or four (4) cubic feet per second (cfs). Further, in accordance with Act 954 of 2013, the development and implementation of standards or criteria for minerals, including without limitation total dissolved solids, chlorides, and sulfates, in order to protect the use of a domestic water supply, shall be based on the greater of the average flow in the stream or stream segment or four (4) cubic feet per second (cfs);

Adding a new section, Reg.6.703, to provide that a term or provision in a National Pollutant Discharge Elimination System permit or an order related to a National Pollutant Discharge Elimination System permit that exists as of the effective date of Act 954 of 2013 but that has not yet become effective and does not comply with or was not developed according to subdivisions (b)(3)(B)(i)-(iv) of section 2 of Act 954 of 2013 shall be:

(A) Stayed upon application to the commission by a person regulated under the noncompliant National Pollutant Discharge Elimination System permit term or condition or an order related to the noncompliant National Pollutant Discharge Elimination System permit; or

(B) Waived upon application to the commission by a person regulated under the noncompliant National Pollutant Discharge Elimination System permit term or condition or an order related to the noncompliant National Pollutant Discharge Elimination System permit until an applicable National Pollutant Discharge Elimination System permit term or condition or an order related to an applicable National Pollutant Discharge Elimination System permit that complies with subdivisions (b)(3)(B)(i)-(iv) of section 2 of Act 954 of 2013 becomes effective; and

Correcting minor stylistic and formatting errors.