

RESPONSE TO COMMENTS

Proposed Changes to APC&EC Regulation 6

The following list represents the comments made regarding the proposed changes made to the Arkansas Pollution Control and Ecology Commission's (APC&EC) Regulation 6.

Commenter	Number of comments raised
1. Arkansas Chapter of the Sierra Club, Tom McKinney	1
2. Ross Moore	1
3. Jay Johnston	1
4. James Metzger	2
5. Joy Fox	1
6. Dana Steward	1
7. Shawn Porter	1
8. Dane Schumacher	2
9. Jack Kroeck	1
10. Vela Giri	1
11. Justin Leflar	1
12. Cindy Rimkus	1
13. Pamela E. Stewart	1
14. Annee Littell	1
15. Arkansas Environmental Federation	3
16. Ross Noland, and other concerned parties	9
17. The Energy and Environmental Alliance of Arkansas	4
18. Arkansas Department of Health	8
19. Ouachita River Park Commission	1
20. Friends of the White and North Fork Rivers	9
21. Beaver Water District	24
22. Judy and John Gibson	1
23. Pamela Dawkins	1
24. Gayne Schmidt	1

Issue 1: At public hearing on 9/23/2013, oral comments were received by the Arkansas Environmental Federation, Beaver Water District, and Friends of the North Fork and White Rivers during the public hearing. These organizations also submitted more detailed written comments regarding the general issues they presented during the hearing. Additionally, a total of 77 comments were raised by 24 separate commenters. Of the 77 comments, 75 comments were related to the changes proposed to APC&EC Regulation 6 based on Act 954 of 2013, a state law passed during the Regular Session by the Arkansas General Assembly.

These commenters believe that changes to APC&EC Regulation No. 6 in regard to Act 954 would violate the federal Clean Water Act.

Response: The Department acknowledges this comment. Before the changes to Regulation 6 were finalized, Act 954 of the 2013 Regular Session was repealed by Act 4 of the First Extraordinary Session of the Arkansas General Assembly. Therefore, any changes to Regulation 6 that were based on Act 954 are no longer proposed and have been deleted (Reg. 6.207, Reg. 6.403, Reg. 6.703 as well as “Average flow” definition) from the final version of the APC&EC Regulation No. 6.

Arkansas Department of Health’s Comments

Issue 2 “The proposed replacement of ‘treatment works’ with ‘device or system’ under ‘non-municipal domestic sewage treatment works’ appears to be an error. ‘Treatment works’ is defined in A.C.A. § 8-4-102(9), and ‘device’ is already included as a possible component of a ‘sewer system’ which is defined in A.C.A § 8-4-102(8). Thus, the proposed change appears to make the Reg. 6.103 definition only apply to the collection system and not to the treatment works. To solve this, ‘treatment works’ or ‘device or system’ could be replaced with ‘disposal system’ which includes both sewer systems and treatment works pursuant A.C.A § 8-4-102(2).”

Response: The Department acknowledges this comment; however, the replacement of ‘treatment works’ with ‘device or system’ will remain as it is necessary to keep the terms used in the definition of ‘non-municipal domestic sewage treatment works’ consistent with Act 402 of 2013 which became effective August 16, 2013.

Issue 3 “Reg. 6.103 should include or at least cite the regulatory definition of ‘Waters of the State’ that is found in A.C.A. § 8-4-102(10) (i.e. ‘all streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state’). ‘Waters of the State’ is already used at least two places in Reg. 6.103 (i.e., in ‘pesticide residue’ and in ‘treatment area’). This is needed for clarity because ‘Waters of the State’ is defined differently than ‘Waters of this State’ in A.C.A § 15-43-301(2) and 27-101-130-(13) (and possibly elsewhere in A.C.A.). Note that ‘water’ is also defined in A.C.A §§ 15-22-602(8) and 15-20-1302(20) (where it refers to ‘waters for the state’ and not ‘waters of this state’).”

Response: The Department acknowledges this comment. A definition for “waters of the state” will be included in the next revision of APC&EC Regulation No. 6.