

Arkansas Pollution Control and Ecology Commission Regulation No. 6

Proposed Amendments – Executive Summary

With the passage of Act 1511 of the 2013 Regular Session, the General Assembly created a Committee and charged it with developing public notification requirements for any applicant seeking coverage under the general permit issued by the Arkansas Department of Environmental Quality (hereinafter “ADEQ”) for a proposed Concentrated Animal Feeding Operation (hereinafter “CAFO”) in Arkansas.

The Committee was comprised of one representative each from the ADEQ, Arkansas Agriculture Department, and Arkansas Farm Bureau and two members appointed by the Governor.

Following meetings and comments from stakeholders, the Committee presented to the Arkansas Legislative Council its recommendations for additional public notice requirements for any applicant for the CAFO general permit issued pursuant to Regulation No. 6¹. After presentation to the Arkansas Legislative Council, ADEQ filed before the Arkansas Pollution Control and Ecology Commission (hereinafter “APC&EC”) a Petition to Initiate Rulemaking on Regulation No. 6 to incorporate the Committee’s recommendations. The APC&EC approved the Petition to Initiate Rulemaking at its May 22, 2014 meeting.

The rulemaking would incorporate the following additional public notice requirements, as presented by the Committee to the Arkansas Legislative Council:

- (A) The applicant would be required to provide written notice by certified mail letter to the following people:

¹ APC&EC Regulation No. 6 consists of the Regulations for the State Administration of the National Pollutant Discharge Elimination System (NPDES).

- (1) Property owners adjacent to the CAFO production site and property owners adjacent to manure spreading sites;
 - (2) The County Judge of the county where the CAFO production site and any manure spreading site is located;
 - (3) Mayors of incorporated municipalities within ten miles of the CAFO production site; and
 - (4) The superintendent of the school district that serves the CAFO production site.
- (B) ADEQ shall provide the contents of the written public notice distributed by the applicant in a form letter made available to the applicant.

The form letter shall include, at a minimum, the following:

- (1) Notice of the proposed CAFO, including the address of the production site, and the name of the applicant and farm;
 - (2) An explanation of the thirty-day public comment period and the right to comment;
 - (3) The telephone number of a person to contact at ADEQ with questions;
 - (4) Directions to ADEQ's website, including directions regarding how an interested party may submit his or her name to receive electronic notification of notices of intent for coverage under the CAFO general permit; and
 - (5) All letters shall include the certified mail, return receipt number.
- (C) The applicant shall publish notice one time of the proposed CAFO in the paper of the largest circulation in the county

of the CAFO production site. ADEQ shall determine the form of that notice, and determine the proper paper for publication.

- (D) The applicant shall post a sign measuring at least two-feet-by-three-feet (2' x 3') on a public road nearest the entrance to the CAFO production site. The sign shall be clearly legible and conspicuous in such a manner that passersby can clearly see from the public road the applicant's requirements set forth in this section. ADEQ will prescribe the sign's minimum requirements which, at a minimum, will contain the same information as that which ADEQ requires the applicant to publish in the paper. The sign shall be posted prior to submittal of an NOI and shall remain in place until thirty (30) days following ADEQ approval of the NOI and NMP.

- (E) Applicants for a CAFO general permit must certify compliance with the public notification requirements in subsections (A) — (F) of this section when submitting the Notice of Intent (NOI) and Nutrient Management Plan (NMP) to ADEQ.

A public hearing is scheduled at 2:00 p.m. July 14, 2014 at the APC&EC Commission Room, 5301 Northshore Drive, North Little Rock, Arkansas.