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Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

October 19, 2016

RE: Proposed changes to Arkansas Pollution Control and Ecology Commission Regulation No. 6, Regulations for state administration of the national pollutant discharge elimination system (NPDES)

Dear Director Keough and Commissioners:

Thank you for the opportunity to comment on the proposed changes to Arkansas Pollution Control and Ecology Commission (Commission) Regulation No. 6, Regulations for state administration of the national pollutant discharge elimination system (NPDES) (thence forth Reg. 6).

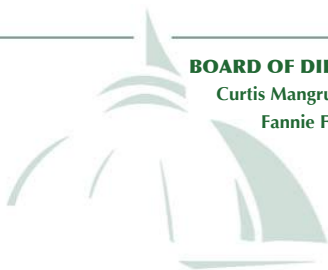
General Comment:

The Arkansas Public Policy Panel (Panel) appreciates Commissioner Ann Henry requesting a public hearing in a second location of the state to address these proposed changes and the Commission and Department honoring this request. With all regulation changes and numerous permitting proceedings the public is faced with numerous challenges in order to participate. To best serve the public, holding meetings and hearings in alternative locations to Little Rock and providing background information on the regulation and proposed changes would provide citizens better access to the process. Thank you for considering this and taking action on this issue.

Most of these issues are very complex and technical, when asking for public comments it would be beneficial to provide the public with more information and explanation on the proposed changes. For example with these proposed changes to Regulation 6 it would provide transparency and insight if there was a supporting document that noted why each change is being proposed, what was the impetus for the change and how it improves the regulation. The public notice provides a brief list of why revisions are occurring but does not provide adequate information on these proposed changes

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and reasoning behind the changes. The public notice also seems make light of proposed changes that are or could be significant.

Comment 1

Clarification and consistency is needed throughout the regulation for the use of “domestic,” “nondomestic” and “industrial user.”

Comment 2

The Ten State Standards should apply to both domestic and industrial dischargers and the definition of Ten State Standard should be updated.

Below are specific sections where comments 1 and 2 apply.

Reg. 6.103: Definitions

Indirect discharge

- The definition of “Indirect Discharge” seems like it could be clarified by using “industrial user” or “industrial source” in place or in addition to “non-domestic source. ”
- “Act” needs to be clarified to demonstrate reference to the Clean Water Act.
- The definition would read:

“‘Indirect Discharge’ means the introduction of pollutants into a Publicly Owned Treatment Works from any industrial user or non-domestic source regulated under section 307(b), (c) or (d) of the federal Clean Water Act.”

Industrial User

- The use of “user” rather than “source” is confusing for me. Could this term and definition be clarified or improved?

Ten State Standards

- Is this the correct title and source of the Ten State Standards?

Reg. 6.202(G)

- The addition of “recommended” is redundant and unnecessary.
- The addition of “domestic” before “wastewater treatment plants” removes the Ten State Standards’ design criteria applying to industrial discharge facilities. The Ten State Standards or some standard minimum design criteria should be applied to industrial wastewater treatment systems.

Reg. 6.202(I)

- The use of the term “nondomestic wastewater treatment plants” is misleading and undefined.
- This section removes any minimum design criteria for industrial wastewater dischargers and is not protective of the environment. The Ten State Standards should be applied to industrial wastewater dischargers.

Comment 3

Reg. 6.301(D)(4) proposes using geometric mean rather than monthly average for permit limits of fecal coliform in discharges to losing streams. What is the reasoning for this change? Geometric mean is not and should be defined and should be. Using geometric mean rather than monthly average could decrease protection for losing streams by allowing higher peak discharge of bacteria.

Comment 4

Reg. 6.401: What is the significance and reasoning deleting section (C) and adding “and Reservoirs with Domestic Water Supply Use” in section (A)? Why is “with nutrient removal where appropriate” being removed? This change could be consequential to our drinking water supplies and remain in the regulation.

Thank you for the opportunity to comment on the proposed changes. I look forward to receiving clarifications and explanations on the proposed changes on which I have commented. I request the definition section be updated to provide greater clarity and consistency, that sections Reg. 6.202(G) and (H), Reg. 6.301(d)(4), and Reg. 6.401 not be adopted as proposed, and that explanations and justifications be provided to the public the other sections I provided comments.

Sincerely,
Anna Weeks
Environmental Policy Associate