

To: Arkansas Pollution Control and Ecology Commission
From: Robert A. Cross
Subject: Comments on Proposed Changes to Regulation 6
Date: October 19, 2016

I wish to comment on some of the proposed changes to Regulation 6—those changes that I believe will weaken the regulation’s purpose of protecting the environment.

First, I will note that the preamble to the Rulemaking Petition as well as Director Keogh’s “Notice of Proposed Regulations Change, Public Hearings” are quite misleading. It is noted in these documents that other than the adoption of federal revisions to the NPDES program and the incorporation of statutory changes passed by the Arkansas General Assembly, the additional changes are “a variety of non-substantive and minor stylistic changes in the interest of clarity and consistency”. However, I believe that far from being “non-substantive and minor” several of the changes proposed have the potential for reducing the water quality of our State, particularly by installations put into operation by non-public users.

I object to the following proposed changes:

- (1) Reg. 6.202(F). This change would do away with the need for a state construction permit if coverage under an NPDES general permit is granted. I believe this change is warranted only if the Ten State Standards are the criteria for all waste treatment plants, not just domestic waste treatment plants, as discussed below. Ideally it would be better if the state construction permit requirement was left in place. Many states regulate construction details for CAFO’s in this manner and find in more efficient than marrying the federal NPDES discharge requirements with the state’s construction requirements in an NPDES permit.
- (2) Reg. 6.202(G and I). There are two changes in this paragraph that are problems. First, the Ten State Standards should apply to all waste treatment systems, not just domestic waste treatment systems. The engineers that developed the Ten State Standards looked at a number of details for waste treatment systems. To name a few these included sewer design, pumping, screening, settling sludge storage and processing, biological treatment, disinfection, pond design, phosphorus removal by chemical treatment, and handling of septage. Where the standards apply to any waste treatment system, whether domestic, industrial, or agricultural, they should be used. Why should the waste treatment systems of chemical plants, paper mills, metal plating facilities, chicken processing plants, etc. not have to use the quality procedures and equipment developed over the years for the Ten State Standards? Use of the Ten State Standard where they apply could eliminate some of the mistakes that might be made even by a profession engineer that custom-designs an industrial waste treatment facility. The use of the Standards would also take some of the work load off of the ADEQ engineers that must check every permit or coverage application. There is a belief by some of the public that ADEQ is tilted towards industrial users at the expense of the environment. This proposed change could be interpreted in that light in that the industrial user could perhaps design

using lower, less costly procedures or equipment and end up with less reliable system.

- (3) Reg. 6.202 (G and J). The other objectionable change to this paragraph is the Director may approve changes to the Ten State Standards and unlike the previous wording there is no criteria that the Director must follow in making changes. This is too much power vested in the Director. The previous wording was that the design criteria must be followed unless exceptions are fully justified. At the very least the previous wording should be used but ideally something like the following wording would be desirable: "Exception to these criteria must be approved by the Director and will only be approved when it can be shown by detailed engineering studies, that the criteria are not necessary or that new criteria will be more effective and reliable in protecting the environment."
- (4) Reg. 6.602(B). I object to the elimination of the words "or coverage" in the first sentence. In the rulemaking associated with the present language we used the words "The Director shall not issue a permit or coverage pursuant to Regulation No. 6 for a CAFO in the Buffalo National River Watershed" because the General Permit, ARG590000, was already in place and a new CAFO could be added without a new permit by using "coverage" under ARG590000. Eliminating the word "coverage" could possibly allow a new hog farm in addition to C & H in the Buffalo River watershed now.
- (5) Reg. 6.602(D). Again, as in the previous statement the words "or coverage" should not be eliminated.

Thank you for your consideration of the above comments.

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