



United States Department of the Interior

NATIONAL PARK SERVICE

Buffalo National River
402 N. Walnut, Suite 136
Harrison, AR 72601

IN REPLY REFER TO
1.A.2

October 17, 2016

Ms. Kelly Robinson
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

Sent via Electronic Mail to: reg-comment@adeq.state.ar.us

Dear Ms. Robinson:

Buffalo National River staff have conducted a review of the Minute Order and related documents filed by Arkansas Department of Environmental Quality (ADEQ) to revise Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 6. We submit the following comments concerning the proposed changes:

Reg. 6.103(B): We question why the definition of “Act” was removed from the regulation. It is our understanding that for ADEQ to be delegated authority to administer the NPDES system, the Environmental Protection Agency (EPA) requires Arkansas to have a water quality law that is at least as stringent as the Clean Water Act. In this case A.C.A. 8-4-101, *et seq.* is more stringent in at least one case as it considers groundwater to be “Waters of the State.” This is an important point that needs to be considered and fully explained to the public.

Reg. 6.103(B): Under the sub-heading “Indirect Discharge” there is reference to section 307(b), (c), and (d) of the Act. We believe that refers to the US Clean Water Act, but that act is not noted in prior definitions.

Reg. 6.202(D): We question why the Arkansas Department of Health review is removed for the construction and operation of domestic wastewater facility discharges, as we believe it to be within the Department’s purview.

Reg. 6.203(B): The proposed language appears to make the regulations less effective at protecting waters of the state. It appears to take the financial burden from the regulated industry and place it on the taxpayers. This does not seem to take the intent of the National Pollutant Discharge Elimination System into consideration.

Reg. 6.207: ADEQ previously announced that the Department would no longer issue general permits for CAFOs. Why was this entire section not stricken from the regulation?

Reg. 6.301 Research has shown that losing streams can be conduits for rapid transport of waste to other reaches of the same stream, other receiving streams, or even out-of-basin watersheds. We feel that this section should be sent out and reviewed by professionals who have a better understanding of the impacts if the information added remains in the final Regulation.

Reg. 6.301(D)(4): We feel the fecal coliform content of discharges is too high in the regulation and the addition of “a geometric mean of” does allow protection of the waters mentioned. Additionally, we would like to see the use of E. coli in place of fecal coliforms, as it is a better measure of contamination.

Reg. 6.301(D)(5): The nitrate plus nitrite nitrogen levels should be reduced from 10 mg/l. State numeric standards have not been developed to understand the implications of this value on receiving waters.

Reg. 6.301(E): Arkansas Department of Health has been removed from the regulation as in 6.202(D).

Reg. 6.401(A)(1): We question why “nutrient removal where appropriate, which is considered as Best Conventional Treatment for dischargers in this flow range” has been removed. Nutrient removal would seem to be preferable, if feasible, as these reservoirs supply water to a large percent of the state’s population and nutrient removal technology at the intake is expensive. This is more of an issue when cyanobacteria are present.

Reg. 6.602(A)(1): Should read “United States Geologic Survey” not “United States Geologic Service”.

Reg. 6.602(C)(1): We understand that the general permit for C&H Hog Farms, Inc. will expire if/when they received a new Regulation 5 permit or an individual NPDES permit. Is this still the case?

Reg. 6.602(D): We question why the language “or coverage” has been removed. Will this allow C&H Hog Farm to increase the size of their operation?

Exhibit D (Financial Impact Statement) indicates the proposed rule will have no financial impact, and the rule is based upon the best reasonably obtainable scientific, technical, economic, or other evidence and information available. We fail to find evidence in the documents where economic impacts have been evaluated. This is an important consideration in a poor area of the state which relies, to a great extent, upon tourism revenue. Making pollution discharge regulations less rigorous is likely to have a significant adverse economic impact to local business interests. In fact, in our review of the proposed changes we noted several areas where the regulation appears to be less rigorous and less protective of the environment than the existing regulation, which could have adverse impacts to the economy and the environment.

Thank you for the opportunity to comment on the proposed changes to Regulation No. 6. We look forward to your response.

Sincerely,



Kevin G. Cheri
Superintendent