

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

**IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 6, REGULATIONS)
FOR STATE ADMINISTRATION OF THE)
NATIONAL POLLUTANT DISCHARGE)
ELIMINATION SYSTEM (NPDES))**

DOCKET NO. 16-____-R

**PETITION TO INITIATE RULEMAKING TO AMEND REGULATION NO. 6,
REGULATIONS FOR STATE ADMINISTRATION OF THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)**

Comes now, the Arkansas Department of Environmental Quality (ADEQ), for its Petition to Initiate Rulemaking to Amend Arkansas Pollution Control & Ecology Commission (APC&EC) Regulation No. 6, Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES), states:

1. The following amendments are proposed for Regulation No. 6 pursuant to Ark. Code Ann. §§ 8-6-207(b)(1), 8-4-202(a), and 8-1-203(b)(1)(A) which allow the APC&EC to promulgate and modify regulations implementing the substantive statutes that ADEQ administers and enforces.

2. The proposed regulatory amendments are as follows:

A. Amendments to incorporate changes to federal regulations, specifically:

- i. Reg.6.104(A)(3) to reflect changes to 40 C.F.R. §§ 122.21(e)(3), 122.44(i)(1)(iv) regarding sufficiently sensitive test methods;
- ii. Reg.6.104(A)(7) to include 40 C.F.R. Part 127 regarding NetDMR electronic reporting;
- iii. Reg.6.104(A)(12) to remove the exception for 40 C.F.R. § 401.17 regarding continuous pH monitoring; and
- iv. Reg.6.104 to update the effective date of all referenced United States Environmental Protection Agency (EPA) regulations to January 1, 2016;

B. Amendments to incorporate Acts 94 and 575 of 2015 of the Arkansas General Assembly that require revisions to Reg.6.205 to add Trust Fund permitting requirements and strike financial assurance permitting requirements;

C. Amendments to provide clarification to sections of the regulation that were otherwise unclear and minor corrections to make the regulation more illustrative of the regulatory intent, specifically to:

- i. Clarify certain definitions under Reg.6.103 and eliminate terms already defined in other regulations;
- ii. Simplify Reg.6.202 generally and remove repetitive language;
- iii. Clarify and make minor corrections to Reg.6.202(E) by using appropriate language to describe the engineer responsible for approval of state construction permit;
- iv. Clarify Reg.6.202 by adding subsection (F) to provide that a state construction permit is not required if the construction is authorized under a general NPDES permit;
- v. Clarify Reg.6.202(G) concerning the requirement that design criteria for domestic wastewater treatment plants should be based on the latest edition of Ten State Standards and remove exceptions to Ten State Standards;
- vi. Add Reg.6.202(H) to clarify the additional standards that apply, with references to the chapters of Ten State Standards that are affected;
- vii. Add Reg.6.202(I) concerning design criteria for nondomestic wastewater treatment plants;
- viii. Add Reg.6.202(J) to clarify the recommended design criteria for Wastewater Treatment Residuals for a water treatment system should be based on the latest edition of Ten State Standards for water works;
- ix. Simplify and clarify Reg. 6.203 concerning the permitting requirements for stormwater discharges associated with a small construction site, including automatic permit coverage;

- x. Clarify Reg.6.204 by changing terminology to “Pretreatment Requirements” instead of “Permitting Requirements”;
- xi. Amend Reg.6.301(B) to create a presumption of a losing stream where there is intermittent flow or a flow insufficient to measure absent a specific evaluation to the contrary;
- xii. Move and renumber Reg.6.301(D) to Reg.6.301(C) concerning the implementation of losing stream regulation;
- xiii. Clarify and make minor corrections to Reg.6.301(D), previously Reg.6.301(C), concerning effluent limitations for discharges into losing stream segments, to include biochemical oxygen demand (BOD₅) as an acceptable measurement for limitation and the use of “geometric mean” rather than “average” when assessing fecal coliform content of discharges;
- xiv. Amend Reg.6.401 concerning the determination of domestic wastewater effluent limitations;
- xv. Amend Reg.6.401(D) to add (E) through (G) for clarification and simplicity; and
- xvi. Rename Chapter 6 “Specific Basin and Watershed Requirements” and make minor changes to update the chapter.

D. Amendments throughout the regulation for consistency with the statutory changes made by the General Assembly and regulatory changes made by EPA, primarily concerning terminology and program name changes; and

E. Minor, non-substantive stylistic and formatting corrections throughout the Regulation.

3. The proposed changes will make the regulation consistent with the amended provisions of 40 C.F.R. §§ 122.21(e)(3), 122.44(i)(1)(iv), 125 (I) and (J), 136.1(c), 401.17 and Parts 122, 123, 127. The proposed changes will also make the regulation consistent with the newly amended provisions of Ark. Code Ann. § 8-4-203. The proposed changes are required to implement Acts 94 and 575 of 2015 of the General Assembly.

4. Caleb Osborne, Senior Associate Director of the Office of Land Resources at ADEQ, will be available to answer questions concerning this proposed rulemaking.

5. Exhibits attached to this petition and incorporated by reference include:

A. A mark-up version of the regulation showing the proposed changes as Exhibit A;

B. A copy of the Governor's approval as Exhibit B;

C. A copy of the Legislative Questionnaire as Exhibit C;

D. A copy of the Financial Impact Statement as Exhibit D;

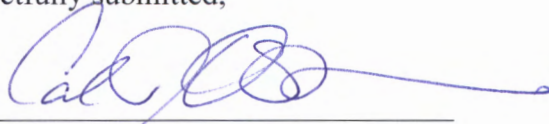
E. A copy of the Economic Impact/Environmental Benefit Analysis pursuant to Reg. 8.812 as Exhibit E; and

F. A proposed Minute Order as Exhibit F.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and promulgate the proposed amendments to Regulation No.

6.

Respectfully submitted,



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