

Robinson, Kelly

From: Wesley Stites <wstites@uark.edu>
Sent: Monday, October 03, 2016 1:57 PM
To: Reg-Comment
Cc: Osborne, Caleb
Subject: Comments on Regulation 9 changes

I have two comments regarding the proposed changes to Regulation 9 that I would like ADEQ to consider.

Reg.9.301(D) concerns failure to pay. One part reads “Continued refusal to pay the required fees after a reasonable notice shall constitute grounds for legal action by the Department...” Is there a particular reason for the use of the word ‘refusal’? I, of course, am not a lawyer, but in my mind the use of that word evokes the question of intent or willfulness in the act. Might it not be better to use the word that is in the title line, ‘failure’, in place of ‘refusal’? Failure is devoid of intent. You either pay or don’t and whether you are refusing to pay, or forgot to pay, or couldn’t pay, or thought somebody else paid is immaterial.

9.403 & Chapter 2 – The definition of Q is moved to Chapter 2. That makes sense. However, the new definition in Chapter 2 says ““Q” or “Quantity” means the flow expressed in million gallons per day (mgd)”. In the old reg, Q is the DESIGN flow. This is no longer specified in the proposed changes. If I am applying for a permit and my average daily flow is 80% of design, using my average daily flow to calculate my fee might save me money. I suggest that ‘design’ or, if that is what you intend, ‘average daily’ be inserted ahead of ‘flow’ in the new definition of Q in Chapter 2.

Thank you for your consideration,
Wesley Stites
Arkansas Pollution Control and Ecology Commission