

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY

SUBJECT: APC&EC Rule No. 5: Liquid Animal Waste Management Systems

DESCRIPTION: Revisions are being proposed to the Arkansas Pollution Control and Ecology Commission's Rule No. 5: Liquid Animal Waste Management Systems in order to implement the Governor's directive to make permanent the current moratorium on confined animal operations of a certain size in the Buffalo National River Watershed. The Commission's authority for amending Rule No. 5 is found in Arkansas Code Annotated § 8-1-203(b)(1)(A).

The proposed changes to the rule include making the moratorium on large confined animal operations in the Buffalo National River Watershed permanent in accordance with the Governor's request; incorporating statutory changes passed by the General Assembly that amended the name of ADEQ and references to rules, particularly Acts 910 and 315 of 2019; and making minor stylistic revisions.

PUBLIC COMMENT: A public hearing was held on August 23, 2019. The public comment period expired on September 3, 2019. The APC&EC voted to reopen the public comment period, and that comment period expired on January 23, 2020. The Division provided a summary of the public comments received and its responses thereto, which due to its length, is attached separately.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 8-1-203(b)(1)(A), the Arkansas Pollution Control and Ecology Commission has the power and duty to promulgate rules implementing the substantive statutes charged to the Division of Environmental Quality. The Commission is further given and charged with the power and duty to promulgate rules, including water quality standards and the classification of the waters of the state and moratoriums or suspensions of the processing of types or categories of permits, implementing the substantive statutes charged to the Division for administration. *See* Ark. Code Ann. § 8-4-201(b)(1)(A). The Commission is likewise given and charged with the power and duty to adopt, modify, or repeal, after notice and public hearings, rules implementing or effectuating the powers and duties of the Division and the Commission under the Arkansas Water and Air Pollution Control Act ("Act"), codified at Ark. Code Ann. §§ 8-4-101 through 8-4-318. *See* Ark. Code Ann. § 8-4-202(a). Under this Act, the Division is given and charged with the power and duty to issue, continue in effect, revoke, modify, or deny permits under such conditions as it may prescribe "[t]o prevent, control, or abate pollution" and "[f]or the discharge of sewage, industrial waste, or other wastes into the waters of the state, including the disposal of pollutants into wells." Ark. Code Ann. § 8-4-203(a)(1), (2).