

# EXHIBIT D6

1. Would consumers be at risk of substantial harm if Arkansas did not have this occupational authorization? What instances of specific and substantial harm have been documented in the past year?

Since the enactment of the Clean Water Act in the early 1970's and the consequent onset of substantial improvements to the wastewater treatment facilities across the country, one of the most important aspects of protecting our nation's water quality is having a workforce of experienced, well-trained, and properly certified operators to operate these wastewater treatment systems.

Wastewater contains elements toxic to humans and the ecosystem. Unclean water poses significant health risks. Wastewater treatment facilities help to purify the water and eliminate bacteria that are harmful to human health.

Wastewater treatment also protects the ecosystem. Fish and aquatic life require fresh water. When their water environment is laden with wastewater, they cannot survive. If chemicals, such as nitrogen and phosphates, enter streams, rivers or large bodies of water in excessive amounts, it causes excessive plant growth which release toxins into the water. This leads to oxygen depletion and dead zones, areas where fish and other aquatic life can no longer exist.

Through the adoption of appropriate state statutes and rules, operators for municipal wastewater treatment (and pretreatment) facilities have been mandated to show they are able to perform their duties without endangering public health or the environment and have been provided the training and certification process to meet this mandate.

Just as the Arkansas Department of Health licenses drinking water treatment and distribution, the Division of Environmental Quality (DEQ) licenses the technical competency of operators of municipal wastewater treatment/pretreatment facilities. All 50 states have requirements for operators of wastewater treatment facilities.

To determine operator competency, DEQ must evaluate whether applicants for licensure possess the necessary skills, knowledge, ability, and judgment to operate and maintain the facilities entrusted to their care properly. Accordingly, applicants for licensure must meet specific education, experience, and examination requirements to be licensed. The Arkansas statutes regarding wastewater licensure also established the Wastewater Licensing Committee, and this committee collaborates with DEQ to ensure that the licensure exams and questions are validated and appropriate for the license levels that match the specific role(s) in wastewater treatment operations.

The mandated testing and training requirements of the wastewater license program can mitigate potentially harmful health and safety risks for the public.

Each instance of permitted effluent discharge violations that are caused by improper operation and maintenance of a wastewater treatment facility is an instance of specific and substantial harm. When discharge violations continue, DEQ will put the permittee under an administrative order to correct the violations. The Office of Water Quality executes approximately 100 administrative orders each year with the majority of those orders citing effluent discharge violations.

Every complaint that DEQ receives of an unpermitted discharge from a wastewater treatment facility is an instance of specific and substantial harm. Unpermitted discharges are typically discharges of raw or partially treated wastewater. Wastewater that has not been properly treated poses a substantial harm to the environment and human health.

2. How many complaints were made to the occupational entity by consumers being harmed by unauthorized practitioners? What specific action was taken by the occupational entity?

In general, the public at large does not make complaints to DEQ about unlicensed wastewater operators. The complaints received by DEQ are typically about the wastewater treatment facility. Upon investigation of those

complaints or during a regular inspection of the facility, DEQ may discover that the wastewater operator for the facility has an expired license or does not have the proper class license to operate the facility. In these cases, DEQ orders the permittee to hire a properly licensed operator to operate the facility.

3. How many complaints were made to the occupational entity by consumers being harmed by authorized practitioners? What specific action was taken by the occupational entity?

In general, the public at large does not make complaints to DEQ about licensed wastewater operators. The complaints received by DEQ are typically about the wastewater treatment facility. Upon investigation of those complaints or during a regular inspection of the facility, DEQ may discover that the wastewater operator for the facility is not properly operating or maintaining the facility. If DEQ determines that the actions of the operator were intentional, then DEQ may seek to have the license suspended or revoked.

The most recent incident of DEQ identifying issues at a facility that were due to a licensed operator's actions was the case of City of Bethel Heights. In this matter, DEQ suspended the wastewater operator's license for six years. On appeal, the Arkansas Pollution Control and Ecology Commission Administrative Law Judge reduced the term of suspension to three years.

4. Were any applicants who otherwise met authorization requirements denied an authorization in the past year? If so, why?

Applicants for wastewater licenses are denied licensure only if the requirements for the class license sought are not met. In general, an applicant will only fail to meet the requirements for the class license sought if the applicant fails the test to obtain the class license for which the applicant has applied.

For renewal of licenses, a licensee's license cannot be renewed if the licensee fails to obtain the required training hours or fails to pay the renewal license fee.

In the past year, approximately 120 applicants failed the test for the license sought. For a licensee that is seeking to advance their license, failing the test does not affect the current license held by the licensee. For example, a licensee with a Class II Wastewater License applies to take the test for a Class III Wastewater License, but fails the Class III Wastewater License test. The licensee is still licensed as a Class II Wastewater Operator.

5. How much does the occupational entity collect annually in fees, and what are annual expenses? How much money does the occupational entity have in reserves?

Wastewater licenses are renewed every two years. For this reason, fees must be considered for a two-year term as the majority of fees are collected during even fiscal years. At the end of FY21, the wastewater-licensing fund had a balance of \$480,768.51. Expenses were significantly lower than usual in FY21 due to the COVID pandemic.

Fiscal Year	Fees Collected	Expenses
FY20	\$135,972.97	\$95,450.56
FY21	\$23,350.00	\$77,465.52
<b>Total:</b>	<b>\$159,322.97</b>	<b>(\$172,916.08)</b>

6. If the occupational entity has a positive amount in reserves, when was the last time reserve funds were used? For what purpose?

When the wastewater-licensing program has sufficient funds, additional temporary staff is hired to assist with the processing of the approximate 4000 wastewater licenses. Funds are also used to provide training, for conferences, and all travel expenses associated with training and conferences. No funds were expended for training or conferences during the COVID pandemic as all such trainings and conferences were cancelled. Funds are used to provide computers for wastewater licensing staff and for testing (Class IV). Wastewater licensing funds are also used to support the database programs for managing the wastewater licenses. The

current program is outdated and cannot be upgraded and therefore must be replaced, which will require an expenditure of funds to implement a new system and assist with migration of data.

7. Does the occupational entity have any other sources of revenue? Could occupational authorization fees be reduced without causing the occupational entity to be underfunded?

The DEQ Wastewater Licensing Program does not have any other sources of revenue. The Wastewater Licensing Program is currently underfunded. As a result, DEQ has not been able to hire and maintain sufficient staff to maintain the program at the highest quality level. Program staff ensures that the licensing program meets all statutory requirements and the requirements set forth in Arkansas Pollution Control and Ecology Commission Rule 3. Due to lack of wastewater licensing staff, the Office of Water Quality has been unable to perform regular evaluations of training courses, annual reviews of testing questions, or quality control analysis of test questions. These aspects of the licensing program are essential for DEQ to maintain the highest quality wastewater licensing program.

DEQ Office of Water Quality needs to evaluate the wastewater-licensing program to determine the appropriate number of staff necessary to maintain and grow the program and increase fees to be commensurate with the work force required to operate the licensing program. Testing fees also need to be increased for retest fees since many of the tests that are retaken multiple of times have a testing fee of \$40.00, which does not include staff time and other resources necessary for administering exams. Current statutes limit the fee for a retest to \$20.00. An external company provides the exam for the Class IV license and each exam has a fee of \$40.00 meaning that the wastewater-licensing program loses money for each exam that is administered.

8. How many applicants for the occupational authorization fail each year? Does the occupational entity track how many applicants that do not progress are veterans, women, or minorities?

In the past year, approximately 120 applicants failed the test for the license sought. DEQ does not track any personal information on applicants that pass or fail license exams. DEQ tracks only the pass and fail rates for each exam and for each class license. DEQ does track veteran status for the purpose of expediting license processing.

9. Can applicants complete the training requirements for this occupational authorization with vocational or non-traditional education (e.g., apprenticeships)? What percentage of applicants complete apprenticeships?

All training requirements for wastewater license are met through attendance of wastewater licensing classes. DEQ does offer an apprenticeship license that is valid for six months. The apprentice license does not have any training requirements. The apprentice license allows the person to work as a wastewater operator before attending the 24-hour class and testing for the Class I Wastewater Operator License.

In the previous year, DEQ issued fifteen apprentice licenses. Of those fifteen apprentice licenses issued, ten apprentice licensees took and passed the Class I Wastewater License test and were issued a Class I Wastewater Operator License.

10. In what ways would removal of the occupational authorization or reduction of occupational authorization requirements be harmful to current authorization holders?

Holding a license has value. The class license held by an operator demonstrates the minimum competency of the operator. DEQ uses a point system to classify wastewater treatment facilities based upon their treatment components and the population served. This classification system corresponds to the minimum class of license that is required to operate the facility. The training for each of the class licenses ensures that the operator has the minimum knowledge required to understand the components and operation of a wastewater facility.

Removal of wastewater operator licensing requirements could result in serious harm to the public. Discharges from some wastewater treatment facilities flow into waters that are sources of drinking water. Public health depends on the treatment of that wastewater to meet the permit limits established through the permitting process.