

DEPARTMENT OF ENVIRONMENTAL QUALITY, WATER DIVISION

SUBJECT: Regulation No. 6; Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES)

DESCRIPTION: In addition to minor formatting changes, there are three substantive changes to the rule. First Chapter 5 of the regulation has been removed. This chapter previously addressed permitting requirements for concentrated animal feeding operations (CAFOs) that utilized dry litter systems. In 2008, the U. S. Environmental Protection Agency (EPA) finalized federal regulations governing NPDES permits for CAFOs. The proposed change will delete this separate chapter for those facilities and incorporate the federal regulations in the list of referenced federal regulations found in Reg. 6.104(A).

Second, the rule will add Reg. 6.203 which creates a permit by rule stormwater discharges from small construction sites. These sites are smaller than five acres but greater than one acre. This provision was previously included in the construction stormwater general permit issued by ADEQ. However, ADEQ believes that a permit by rule is more properly located within a regulation. The requirements for small construction sites are unchanged.

Third, the rule will add Regulation 6.205 which governs the financial assurance permitting requirements for non-municipal sewage treatment works. This new provision is copied directly from the financial assurance requirements found in the Arkansas Water and Air Pollution Control Act, § 8-4-203(b)(1)(B). The General Assembly passed these provisions in 2007.

PUBLIC COMMENT: A public hearing was held on December 19, 2011. The public comment period ended January 2, 2012.

Public comments were as follows:

CONNIE BURKS, Harrison, Arkansas

Comment: Here is comment of opposition including, but not limited to the following: On behalf of all those in Boone, Newton, and Marion Counties awaiting resolution to the unjustified and strongly opposed TMDL proposal for Crooked Creek, they as well as I, oppose and contend that no new CAFO changes should be adopted until the Crooked (TMDL) Creek matter is resolved and none should be proposed without plainly publicizing to all concerned if and what is the/any potential nexus with TMDL proposals and CAFO, etc. present or proposed issues.

Response: ADEQ acknowledges the comment. The changes to Regulation No. 6 are not related to the Total Maximum Daily Load ("TMDL") developed for Crooked Creek or any other water body. The proposed amendments are based on changes to federal regulations governing concentrated animal feeding operations ("CAFOs"). The changes to Regulation No. 6 were developed following extensive stakeholder meetings and input from the regulated industry. In addition, the Department has asked the Environmental Protection Agency ("EPA") to withdraw the Crooked Creek TMDL. Therefore, there are no changes necessary to the regulation based on public comments.

The proposed effective date is ten (10) days after filing with the Arkansas Secretary of State, the State Library, and the Bureau of Legislative Research.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT:

Economic Impact

1. Who will be affected economically by this proposed rule? State: a) the specific public and/or private entities affected by this rulemaking, indicating for each category if it is a positive or negative economic effect; and b) provide the estimated number of entities affected by the proposed rule.

The proposed rule that will have a financial impact will be the incorporation of federal regulations for the permitting of discharges from concentrated animal feeding operations (CAFOs) and the necessity for certain facilities to obtain NPDES permits. Affected facilities will be required to pay a permit fee of \$200. ADEQ determines that less than 10 facilities will probably be required to obtain a permit.

The incorporation of a permit by rule for stormwater discharges for small construction sites and financial assurance for non-municipal sewage treatment works are existing requirements found in other laws and, therefore, will not have any additional financial impact on the regulated community.

2. What are the economic effects of the proposed rule? State: 1) The estimated increased or decreased cost for an average facility to implement the proposed rule; and 2) the estimated total cost to implement the rule.

As stated above, affected facilities will be required to pay a \$200 permit fee. Those facilities will also be required to submit waste management plans, which are generally prepared free of charge by the U. S. Department of Agriculture Natural Resources Conservation Service (NRCS). ADEQ anticipates that less than 10 facilities will be required to be permitted under this provision.

3. List any fee changes imposed by this proposal and justification for each.

The fee for coverage under the CAFO general permit will be \$200. This fee was previously adopted in Regulation No. 9, Reg. 9.404.

4. What is the probably cost to ADEQ in manpower and associated resources to implement and enforce this proposed change, and what is the source of revenue supporting this proposed rule.

There will be negligible costs to ADEQ in terms of manpower and associated resources because there will be few entities permitted under the new CAFO permitting requirements and those that are permitted will most likely be covered under the general permit, which requires minimal administrative processing.

5. Is there a known beneficial or adverse impact to any other relevant state agency to implement or enforce this proposed rule? Is there any other relevant state agency's rule that could adequately address this issue, or is this proposed rulemaking in conflict with or have any nexus to any other relevant state agency's rule? Identify the state agency and/or rule.

There is no known beneficial or adverse impact to any other relevant state agency.

6. Are there any less costly, non-regulatory, or less intrusive methods that would achieve the same purpose of this proposed rule?

This proposed rule incorporates federal permitting regulations for CAFOs and incorporates existing provisions from other permits and state law. Therefore, there are no other appropriate methods that would achieve the same purpose of this proposed rule.

Environmental Impact

1. What issues affecting the environment are addressed by this proposal?

The proposed amendments in this rulemaking address: 1) discharges from CAFOs; 2) a permit by rule for stormwater discharges from small construction sites; and 3) financial assurance for non-municipal sewage treatment works.

2. How does this proposed rule protect, enhance, or restore the natural environment for the well being of all Arkansas?

The proposed rules will prevent pollution from CAFOs and small construction sites through operational requirements. Financial assurance for non-municipal sewage treatment works will ensure continual operation of those treatment systems, which will protect the environment from untreated discharges.

3. What detrimental effect will there be to the environment or to the public health and safety if this proposed rule is not implemented?

Failure to implement the proposed rule may result in untreated discharges from CAFOs, small construction sites and non-municipal sewage treatment works.

4. What risks are addressed by the proposal and to what extent are the risks anticipated to be reduced?

NPDES permitting for CAFOs will require the CAFOs to implement waste management practices that reduce the amount of pollutants that may enter waters of the state from

waste storage and land application. The permit by rule for small construction sites requires the small sites to implement certain best management practices to reduce pollution from stormwater runoff while also reducing the administrative burden on the operator. The financial assurance requirement provides a means for continual operation of a sewage treatment system to prevent the discharge of untreated wastewater into waters of the state.

LEGAL AUTHORIZATION: The Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 et seq., authorizes the proposed rule changes. Specifically, Ark. Code Ann. § 8-4-202 gives the Arkansas Pollution Control and Ecology Commission (“Commission”) the power and duty to adopt, modify, or repeal rules and regulations implementing or effectuating the powers and duties of the Commission. Ark. Code Ann. § 8-4-203 gives the Arkansas Department of Environmental Quality (“ADEQ”) the power and duty to issue, continue in effect, revoke, modify, or deny permits. Ark. Code Ann. § 8-1-103 authorizes ADEQ and the Commission to establish reasonable fees for the initial issuance, annual review, and modification of water, air, or solid waste permits.

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY: Arkansas Department of Environmental Quality
DIVISIONS: Water Division
DIVISION DIRECTOR: Steven Drown, Division Chief, Water Division
CONTACT PERSON: Ryan Benefield, Deputy Director, ADEQ
ADDRESS: ADEQ; 5301 Northshore Drive, North Little Rock, AR, 72118
PHONE NO. : (501) 682-0959 FAX NO.: (501) 682-0798 E-MAIL: benefield@adeq.state.ar.us

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Subcommittee on Administrative Rules and Regulations
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

- 1. What is the short title of this rule?
Regulation No. 6, Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES)
- 2. What is the subject of the proposed rule?
This proposed rule will:
 - 1) Incorporate a reference to new federal regulations for discharges from concentrated animal feeding operations ("CAFOs") and eliminate previous text regarding dry litter systems;
 - 2) Incorporate a permit by rule for stormwater discharges from small construction sites; and
 - 3) Incorporate the state law that requires financial assurance for non-municipal sewage treatment works.

3. Is this rule required to comply with federal statute or regulations? Yes X No _____

If yes, please provide the federal regulation and/or statute citation.

This regulation must comply with the federal Clean Water Act, 33 U.S.C. 1251 *et seq.* and regulations promulgation thereunder.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes _____ No X _____

If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes _____ No _____

5. Is this a new rule? Yes _____ No X If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes _____ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? _____ No X If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

See Question 7 below for a summary of the proposed changes and the purpose for each.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

The Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, including but not limited to Ark. Code Ann. § 8-4-203.

7. What is the purpose of this proposed rule? Why is it necessary?

In addition to minor formatting changes, there are three substantive changes to the rule. First, Chapter 5 of the regulation has been removed. This Chapter previously addressed permitting requirements for CAFOs that utilized dry litter systems. In 2008, the U.S. Environmental Protection Agency ("EPA") finalized federal regulations governing NPDES permits for CAFOs. The proposed change will delete this separate chapter for those facilities and incorporate the federal regulations in the list of referenced federal regulations found in Reg. 6.104(A). This change is necessary to incorporate current federal regulations into our NPDES regulation and to avoid confusion regarding permitting of concentrated animal feeding operations.

Second, the rule will add Reg. 6.203 which creates a permit by rule stormwater discharges from small construction sites. These sites are smaller than five (5) acres. This provision was previously included in the Construction Stormwater general permit issued by ADEQ. However, this change is necessary because ADEQ believes that a permit by rule is more properly located within a regulation. The requirements for small construction sites are unchanged.

Third, the rule will add Reg. 6.205 which governs the financial assurance permitting requirements for non-municipal sewage treatment works. This new provision is copied directly from the financial assurance requirements found in the Arkansas Water and Air Pollution Control Act, § 8-4-203(b)(1)(B). The General Assembly passed these provisions in 2007. This change is necessary to ensure the continued operations of these treatments systems in order to prevent discharge of untreated wastewater.

EXHIBIT B

8. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:

<u>Date/Time</u>	<u>Location</u>
December 19, 2011	ADEQ Headquarters, 5301 Northshore Drive, North Little Rock

9. When does the public comment period expire for permanent promulgation? (Must provide a date.)
The period for receiving all written comments shall conclude ten (10) business days after the public hearing pursuant to Reg. 8.806(B). The projected date for the close of public comment period will be approximately January 2, 2012.
10. What is the proposed effective date of this proposed rule? (Must provide a date.)
Final promulgation of the rule is anticipated on March 23, 2012. The rule will become effective 10 days after filing with the Arkansas Secretary of State, the State Library and the Bureau of Legislative Research, which is anticipated to be April 2, 2012.
11. Do you expect this rule to be controversial? Yes No If yes, please explain.
12. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.
- Arkansas Farm Bureau
 - Tyson
 - Cargill
 - Arkansas Pork Producers Association
 - The Poultry Federation
 - Arkansas Natural Resources Commission
 - USDA Natural Resources Conservation Service
 - University of Arkansas Cooperative Extension Service
 - Arkansas Homebuilders' Association

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT: Arkansas Department of Environmental Quality

DIVISIONS: Water Division

PERSON COMPLETING THIS STATEMENT: Jamie Ewing, Attorney Specialist

TELEPHONE NO.: 501-682-0892 FAX NO.: 501-682-0891 EMAIL: ewing@adeq.state.ar.us

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE: Regulation No. 6, Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES)

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?

Yes _____ No X

The only part of the changes to this rule that will have a financial impact will be the incorporation of federal regulations for the permitting of discharges from concentrated animal feeding operations ("CAFOs") and the necessity for certain facilities to obtain NPDES permits. Affected facilities will be required to pay a permit fee of \$200. ADEQ determines that less than ten (10) facilities will probably be required to obtain a permit.

The incorporation of a permit by rule for stormwater discharges for small construction sites and financial assurance for non-municipal sewage treatment works are existing requirements found in other laws and, therefore, will not have any additional financial impact on the regulated community.

2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

Not applicable. See below for cost estimates.

3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

The ADEQ Water Division will be required to process any permit applications for NPDES permits for CAFOs. This cost is part of a federally delegated program under the federal Clean Water Act, 33 U.S.C. § 1251 *et seq.* As ADEQ anticipates that fewer than ten (10) facilities will be affected by these new rules and the agency has developed a general permit to cover CAFO discharges, this cost will likely be negligible.

EXHIBIT C

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation? Identify the party subject to the proposed regulation, and explain how they are affected.

Current Fiscal Year

Permit Fee

\$200

Waste Management Plan

No Cost*

Next Fiscal Year

None

*Waste Management Plans are generally prepared by the USDA Natural Resources Conservation Service at no cost to the farmer.

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

Current Fiscal Year

Negligible costs for processing general permits

Next Fiscal Year

Same

**ECONOMIC IMPACT STATEMENT
OF PROPOSED RULES OR REGULATIONS
EO 05-04 and Act 143 of 2007: Regulatory Flexibility**

Department Arkansas Department of Environmental Quality

Divisions Water Division

Contact Person Jamie Ewing/Steve Drown Date October 12, 2011

Contact Phone 501.682.0918 Contact Email: ewing@adeq.state.ar.us

Title or Subject: Arkansas Pollution Control and Ecology Commission Regulation No. 6, Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES)

Benefits of the Proposed Rule or Regulation

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, Please explain the nature of such complaints.

In addition to minor formatting changes, there are three substantive changes to the rule. First, Chapter 5 of the regulation has been removed. This Chapter previously addressed permitting requirements for concentrated animal feeding operations (“CAFOs”) that utilized dry litter systems. In 2008, the U.S. Environmental Protection Agency (“EPA”) finalized federal regulations governing NPDES permits for CAFOs. The proposed change will delete this separate chapter for those facilities and incorporate the federal regulations in the list of referenced federal regulations found in Reg. 6.104(A).

Second, the rule will add Reg. 6.203 which creates a permit by rule stormwater discharges from small construction sites. These sites are smaller than five (5) acres but greater than one (1) acre. This provision was previously included in the Construction Stormwater general permit issued by ADEQ. However, ADEQ believes that a permit by rule is more properly located within a regulation. The requirements for small construction sites are unchanged.

Third, the rule will add Regulation 6.205 which governs the financial assurance permitting requirements for non-municipal sewage treatment works. This new provision is copied directly from the financial assurance requirements found in the Arkansas Water and Air Pollution Control Act, § 8-4-203(b)(1)(B). The General Assembly passed these provisions in 2007.

2. What are the top three benefits of the proposed rule or regulation?
 - a. The removal of Chapter 5 and the incorporation of federal regulations governing CAFOs clarify the permitting requirements for those facilities.
 - b. The insertion of the provision of a permit by rule for small construction sites is necessary because a permit by rule should be included within a regulation.
 - c. The inclusion of the financial assurance requirements provides consistency between the state statute and this regulation.

3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

Most importantly, no action at this time would cause confusion for those facilities that are permitted according to the federal CAFO regulations. ADEQ needs to incorporate those regulations into our state regulation and the text that is currently found in Chapter 5 is outdated and confusing to industry.

The incorporation of the permit by rule for small construction sites and financial assurance for non-municipal domestic sewage treatment works will not change any current requirements for those types of facilities. The status quo will be maintained.

4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives.

Market-based or voluntary standards are not appropriate alternatives for the proposed changes. The federal CAFO regulations are effective through promulgation by the EPA. Reg. 6.104(B) requires ADEQ to conduct rulemaking process to incorporate new NPDES rules into the regulation, so as to keep our delegated state permitting program as stringent as the federal program. The permit by rule for small construction sites and financial assurance for non-municipal domestic sewage treatment works are current requirements that will not change by their incorporation into Regulation No. 6.

Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of *collecting information, completing paperwork, filing recordkeeping, auditing and inspecting* associated with this new rule or regulation.

The rulemaking will not increase costs to ADEQ associated with the proposed rules

6. What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected.

Under the current federal CAFO regulations, only large CAFOs are automatically required to apply for a NPDES permit. ADEQ estimates that only about ten (10) facilities will be affected by these new federal rules and that most small animal feeding operations will not need to apply for a NPDES permit.

Small construction sites would be covered by the permit by rule incorporated in the regulation but this provision has been included in the Construction Stormwater general permit for several years. As this is a permit by rule, the entities do not have to notify ADEQ that they are operating under the rule. Therefore, it is difficult to estimate the number of small construction sites that would be covered by the permit by rule.

Non-municipal sewage treatment works may qualify as small businesses; however, this proposed rule currently applies to those facilities and no new requirements are proposed. ADEQ currently permits approximately 200 non-municipal sewage treatment works.

Exhibit D

7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.
No.
8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.
No additional requirements for small business owners.
9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.
Only the incorporated federal CAFO regulations contain different requirements for different sized entities. Larger entities are subject to more stringent requirements.
10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.
Small business owners can receive assistance through various governmental agencies for compliance with the federal CAFO regulations, if those apply to their facility. Likewise, most of the requirements under the CAFO regulations are similar to current state permitting requirements found in Regulation No. 5, Liquid Animal Waste Management Systems. Small business owners have not met with significant difficulty in meeting those requirements.

Small businesses are already meeting the requirements for a permit by rule for small construction sites and for the financial assurance requirements for non-municipal sewage treatment works. The proposed rule does not change those requirements.
11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?
The proposed rule incorporated federal CAFO regulations. The permit by rule for stormwater discharges for small construction site has previously been included in a stormwater general permit issued by ADEQ. A similar provision is found other state and federal permitting programs. The requirement for financial assurance for non-municipal sewage treatment works is found the Arkansas Water and Air Pollution Control Act, § 8-4-203(b)(1)(B)
12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.
When ADEQ began the process of implementing the new federal regulations on CAFOs, we held several stakeholder meetings to discuss proposed rulemakings related to the implementation. The stakeholder group included the Farm Bureau, industry representatives, and representatives from other governmental agencies that assist facilities with compliance.

The other substantive changes to the rule have been shared with the Arkansas Homebuilders' Association. We have not received any negative feedback at this time.

APC&EC Regulation No. 6

Proposed Amendments – Executive Summary

In addition to minor formatting changes, there are three substantive changes to the rule. First, Chapter 5 of the regulation has been removed. This Chapter previously addressed permitting requirements for concentrated animal feeding operations (“CAFOs”) that utilized dry litter systems. In 2008, the U.S. Environmental Protection Agency (“EPA”) finalized federal regulations governing NPDES permits for CAFOs. The proposed change will delete this separate chapter for those facilities and incorporate the federal regulations in the list of referenced federal regulations found in Reg. 6.104(A).

Second, the rule will add Reg. 6.203 which creates a permit by rule stormwater discharges from small construction sites. These sites are smaller than five (5) acres but greater than one (1) acre. This provision was previously included in the Construction Stormwater general permit issued by ADEQ. However, ADEQ believes that a permit by rule is more properly located within a regulation. The requirements for small construction sites are unchanged.

Third, the rule will add Regulation 6.205 which governs the financial assurance permitting requirements for non-municipal sewage treatment works. This new provision is copied directly from the financial assurance requirements found in the Arkansas Water and Air Pollution Control Act, § 8-4-203(b)(1)(B). The General Assembly passed these provisions in 2007.

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**



REGULATION NO. 6

**REGULATIONS FOR STATE ADMINISTRATION
OF THE NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM (NPDES)**

Submitted to the PC&E Commission in October 2011

REGULATION NO. 6
REGULATIONS FOR STATE ADMINISTRATION OF THE NATIONAL
POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

TABLE OF CONTENTS

CHAPTER ONE: GENERAL PROVISIONS.....	1-1
Reg.6.101 Adoption.....	1-1
Reg.6.102 Purpose.....	1-1
Reg.6.103 Definitions.....	1-1
Reg.6.104 Incorporation of the latest Federal Regulations	1-2
Reg.6.105 Confidentiality.....	1-4
Reg.6.106 Violations	1-5
CHAPTER TWO: PERMIT PROCEDURES	2-1
Reg.6.201 Status and Continuation of Permits.....	2-1
Reg.6.202 Application Requirements for Construction and Operation of Wastewater Facilities	2-1
Reg. 6.203 Permitting Requirements for stormwater discharge associated with a Small Construction Site.....	2-3
Reg.6.2034 Permitting Requirements for Industrial Users of Publicly Owned Treatment Works.....	2-4
Reg.6.205 Financial Assurance Permitting Requirements	2-5
CHAPTER THREE: LOSING STREAM SEGMENTS	3-1
Reg.6.301 Effluent Discharges to Losing Stream Segments	3-1
CHAPTER FOUR: WASTEWATER DISCHARGES	4-1
Reg.6.401 Determination of Domestic Wastewater Effluent Limitations.....	4-1
Reg.6.402 Discharge of Treated Wastewater to the Ouachita River.....	4-2
CHAPTER FIVE: CONCENTRATED ANIMAL FEEDING OPERATION (CAFO) DRY LITTER PROGRAM (RESERVED).....	5-1
Reg.6.501 Federal Regulations Not Incorporated by Reference	5-1
CHAPTER SIX: ADMINISTRATIVE PROCEDURES	6-1
Reg.6.601 Penalty Policy and Administrative Procedures	6-1
Reg.6.602 Severability.....	6-1
CHAPTER SEVEN: EFFECTIVE DATE.....	7-1
Reg.6.701 Effective Date.....	7-1

CHAPTER ONE: GENERAL PROVISIONS

Reg.6.101 Adoption

Pursuant to the provisions of ~~Subchapter 2, Section 8-4-202 of the Arkansas Water and Air Pollution Control Act, hereinafter referred to as the "Act" (Act 472 of 1949, as amended; Ark. Code Ann. § 8-4-101 et seq.)~~*et seq.*, the Arkansas Pollution Control and Ecology Commission (~~hereinafter referred to as the "Commission"~~) hereby promulgates this Regulation No. 6 to implement ~~s~~State administration of the National Pollutant Discharge Elimination System ("NPDES").

Reg.6.102 Purpose

It is the purpose of this regulation to adopt regulations necessary to qualify the State of Arkansas to receive authorization to implement the State water pollution control permitting program, in lieu of the federal National Pollutant Discharge Elimination System program, as ~~provided by the Clean Water Act of 1977, as amended (P.L. 95-217)~~ pursuant to the Clean Water Act, 33 U.S.C. § 1342. In order to receive such authorization, it is necessary for the Arkansas Department of Environmental Quality to have regulations as stringent as the federal program administered by the United States Environmental Protection Agency.

Reg.6.103 Definitions

(A) The definitions set forth in 40 CFR 122.2 and 124.2 are all adopted herein by reference in Reg.6.104.

(B) In addition, the following definitions also apply to this Regulation:

"Act" means the Arkansas Water and Air Pollution Control Act, ~~as amended (Act 472 of 1949, as amended; Ark. Code Ann. § 8-4-101 et seq)~~ *et seq.*

~~"ADEQ"~~ or "Department" means the Arkansas Department of Environmental Quality, or its successor.

"Commission" means the Arkansas Pollution Control and Ecology Commission.

"Director" means the Director of the Arkansas Department of Environmental Quality, unless the context dictates otherwise. (See 40 CFR 122.2, and 124.2, and Ark. Code Ann. § 8-1-202 ~~et seq~~ *et seq.*).

"Larger Common Plan of Development" means a contiguous (sharing a boundary or edge, adjacent, or touching) area where multiple and distinct construction activities may be taking place at different times on different schedules under one plan. Such a plan might consist of many small projects (e.g., a common plan of development for a residential subdivision might lay out the streets, house lots, and areas for parks, schools and commercial development that the

Exhibit A

developer plans to build or sell to others for development.) All these areas would remain part of the common plan of development or sale. The term "plan" is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot.

"Non-municipal domestic sewage treatment works" means a device or system operated by an entity other than a city, town, borough, county, or sewer improvement district that treats, in whole or in part, waste or wastewater from humans or household operations and must continuously operate to protect human health and the environment despite a permittee's failure to maintain or operate the treatment works.

"Operator" means any person (an individual, association, partnership, corporation, municipality, state or federal agency) who has the primary management and ultimate decision-making responsibility over the operation of a facility or activity. The operator is responsible for ensuring compliance with all applicable environmental regulations and conditions.

"Small Construction Site" means construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance.

"Stormwater" means runoff from rainfall, snow melt runoff, and surface runoff and drainage.

"Stormwater Pollution Prevention Plan" means a plan that describes the measures and practices used to control the discharge of pollutants through stormwater discharges.

Reg.6.104 **Incorporation of the latest Federal Regulations**

- (A) The following regulations promulgated by the U.S. Environmental Protection Agency are hereby adopted as provisions of this Regulation as though set forth herein line for line and word for word of the most current version of the Code of Federal Regulations with the exception that, and unless the context otherwise dictates, all references therein to "Administrator," "Regional Administrator," "Director" or "State Director" shall be considered references to the "Director of the Arkansas Department of Environmental Quality", and all references to the "U.S. Environmental Protection Agency" or "EPA" shall be considered references to the "Arkansas Department of Environmental Quality"; and all references elsewhere in this Regulation to any of the following regulations shall constitute a reference to the regulation as herein adopted; and provided that the effective date of provisions adopted herein by reference as provisions of this Regulation shall be the date such provisions are specified as being effective by the Commission in its rulemaking and the effective date of the federal regulations adopted herein shall have no bearing on the effective date of any provisions of this Regulation:

Exhibit A

Title 40 Code of Federal Regulations adopted verbatim by ADEQ -

- (1) Part 116;
- (2) Part 117;
- (3) Subparts A, B, C and D of Part 122 with the following exceptions: 122.6 (for analogous provision, see Reg. 7); 122.7(a); 122.21(l); ~~122.23(g)(4)~~; 122.29(c) and (d); and 122.49;
- (4) The following provisions, only, of Part 123: 123.25(b), 123.26(d), 123.27(d), 123.41(a), and 123.62(e);
- (5) The following provisions, only, of Part 124: 124.2; 124.3(a); 124.5(a), (c), (d) and (f); 124.6(a), (c), (d), (e); 124.7; 124.8; 124.10(a)(1)(ii), (iii) and (v); 124.10(b), (c), (d) and (e); 124.11; 124.12(a), (b), (c) and (d); 124.13; 124.14; 124.17(a) and (c); 124.19; 124.56; 124.57(a); 124.59; and 124.62;
- (6) Subparts A, B, C, D, H, I, J, K, and L, only, of Part 125;
- (7) Part 129;
- (8) Part 133;
- (9) Part 136;
- (10) Part 257;
- (11) Parts 400 through 471 with the following exceptions: 401.17 and ~~412.4(e)(3)~~.
- (12) ~~Part 503(Effective on date of approval by EPA of state program to manage sewage sludge;~~

All as adopted as final rules (including "interim final rules" and "technical amendments") by the United States Environmental Protection Agency on or before ~~April 14, 2003~~ October 28, 2011.

- (B) The Director, within 180 days after the date of promulgation of any new or revised federal National Pollutant Discharge Elimination System regulations, shall conduct rulemaking procedures with reference to this Regulation necessary to maintain a state National Pollutant Discharge Elimination System program as stringent as the federal program. Such new or revised federal regulations, upon their publication as final rules by Environmental Protection Agency, shall constitute minimum guidelines to the Director in formulating rulemaking proposals to this Regulation but shall not be construed to limit or interfere with the adoption of provisions more stringent than federal regulations.

Reg.6.105 Confidentiality

In addition to the provisions of 40 CFR 122.7(b) and (c), which are adopted by reference in Reg. 6.104, the following provisions apply:

- (A) Any information submitted to the Department may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in accordance with the provisions of this section. If no claim is made at the time of submission, the Department may make the information available to the public without further notice. If a claim is asserted, the Director will make a determination of whether the material, if made public, would divulge trade secrets entitled to protection.
- (B) It shall be the responsibility of the person claiming any information as confidential under the provisions of subsection (A) above to clearly make each page containing such information with the words "CONFIDENTIAL" and to submit an affidavit setting forth the reasons that said person believes that such information is entitled to protection as a trade secret.
- (C) Any document submitted to the Department which contains information for which the claim of confidential information is made shall be submitted in a sealed envelope marked "CONFIDENTIAL" and addressed to the Director. The document shall be submitted in two separate parts. The first part shall contain all information which is not deemed by the submitter as confidential and shall include appropriate cross -references to the second part which contains data, words, phrases, paragraphs or pages and appropriate affidavits containing or relating to information which is claimed to be confidential.
- (D) No information shall be protected as confidential information by the Director unless it is submitted to him in accordance with the provisions of subsections (B) and -(C) above. No information shall be afforded protection as confidential information unless the Director finds that such protection is necessary to protect trade secrets and that such protection will not hide from public view the characteristics of waste materials and probable effects of the introduction of such waste or by-products into the environment. The person who submits information claimed as confidential shall receive written notice from the Director as to whether the information has been accepted as confidential or not.
- (E) All information which the Director determines is entitled to protection shall be marked with the term "ACCEPTED" and shall be protected as confidential information. Whenever the Director finds that information which has been submitted does not meet the criteria of subsection (D) above, he shall promptly notify the person submitting such information of his finding and shall give that person reasonable opportunity to further justify his contention that the information deserves protection as a trade secret or to further limit the scope of information for which the request for protection is made. If said person fails to satisfactorily demonstrate to the Director that such information in the form presented to him meets the criteria of subsection (D) above, the Director shall mark the information "REJECTED" and promptly return such information to the person submitting such information. Such person shall have 30 days to resubmit the information in acceptable form or request review of the decision of the Director in accordance with ~~Part III~~ Chapter 6 of Regulation No. 8.

Exhibit A

- (F) All information which is accepted by the Director as confidential shall be stored in locked filing cabinets and only those personnel of the Department specifically designated by the Director shall have access to the information contained therein. The Director shall not designate any persons to have access to confidential information unless the person requires such access in order to carry out his responsibilities and duties. No person shall disclose any confidential information except in accordance with the provisions of this section.
- (G) NPDES permits and permit applications and all information contained in them are required by 40 CFR 122.7 to be publicly available. No claim of confidentiality will be accepted hereunder for such material. Consequently, applications containing confidential information will be returned to the applicant.

Reg.6.106 Violations

Violation of any of the following prohibitions shall be considered a violation of this Regulation and shall be subject to the penalties provided in the Arkansas Water and Air Pollution Control Act, (~~Act 472 of 1949, as amended; Ark. Code Ann. § 8-4-103~~)Ark. Code Ann. § 8-4-103:

- (A) No person shall construct, install, alter, modify or operate any disposal system or any part thereof or any extension or addition thereto that will discharge into any of the waters of the State without first having obtained a permit from the Department for such activity.
- (B) No person shall increase in volume or strength any sewage, industrial waste or other wastes in excess of the permitted discharges specified under any existing permit.
- (C) No person shall construct, install or operate any building plant, works, establishment or facility or any extension or modification thereto, the operation of which would result in discharge of any wastes into the waters of the State or would otherwise alter the physical, chemical, or biological properties of any waters of the State in any manner not already lawfully authorized.
- (D) No person shall construct or use any new outlet for the discharge of any wastes into the waters of the State without having first obtained a permit for such activity from the Department.
- (E) No person shall discharge sewage, industrial wastes or other wastes into any of the waters of the State without having first obtained a permit for such activity from the Department.
- (F) No person shall violate any other provision of this Regulation or the Act.

CHAPTER TWO: PERMIT PROCEDURES

Reg.6.201 Status and Continuation of Permits

Conditions of a National Pollutant Discharge Elimination System permit issued by the Arkansas Department of Environmental Quality will continue in effect past the expiration date pending issuance of a new permit, if:

- (1) The permittee has submitted a timely and complete application as described in 40 CFR 122.21; and
- (2) The Director, through no fault of the permittee, does not issue a new permit prior to the expiration date of the previous permit.

Reg.6.202 Application Requirements for Construction and Operation of Wastewater Facilities

- (A) Any person who desires to construct, operate or modify any disposal system which will discharge to the waters of the State or to discharge any sewage, industrial waste or other wastes into the waters of the State or to do any other act for which Ark. Code Ann. § 8-4-217(b) requires a permit shall submit an application for a permit for such activity. In addition to the permit application procedures set forth in 40 CFR Parts 122, 123, and 124, that are incorporated by reference in Reg.6.104, hereof, the applicant must also submit Arkansas Department of Environmental Quality Form 1. ~~For domestic wastewater discharges only, a copy of a written request seeking an approval letter from the Arkansas Department of Health ("ADH") is also required prior to issuance of the final permit.~~ The application must be submitted, approved, along with the approval letter from Arkansas Department of Health (ADH) for domestic discharges and a permit issued and effective before the activity applied for can begin.
- (B) A state permit for construction or modification of a wastewater treatment facility does not constitute an National Pollutant Discharge Elimination System permit. Issuance of a state permit for construction or modification of a treatment system in no way guarantees or assumes that an application for an National Pollutant Discharge Elimination System permit to operate the system will be approved or the National Pollutant Discharge Elimination System permit issued, nor does issuance of an National Pollutant Discharge Elimination System permit assume or require a prior permit for construction or a satisfactory review of the design or construction of the treatment facility. Arkansas Department of Environmental Quality Form 1 plans and specifications, and design calculations are required for a state construction permit. Plans and specifications and design calculations must be stamped and signed by a Registered Professional Engineer in the State of Arkansas. The basic design criteria for wastewater treatment plants in the State of Arkansas should be based on the latest addition of the "Recommended Standards for Sewage Works," published by the Great Lakes-Upper Mississippi Board of State Sanitary Engineers known as 10 States Standards, with the following modifications. Exception to these criteria will only be approved by the Department when fully justified.

Exhibit A

The following exceptions to 10 States Standards, as provisions adopted through Arkansas Pollution Control and Ecology Commission Minute Order 80-21, are allowed:

Combined Sewer Interceptors

- Combined sewers will not be approved

(1) Biological Treatment

Waste Sludge Facilities

Activated sludge treatment plant of 10,000 gallons per day or more capacity shall be provided with an aerated waste sludge holding tank or other sludge disposal facility.

(2) Disinfection

Disinfection shall be required when necessary to meet the State's ~~W~~water ~~Q~~quality ~~S~~standards for the receiving stream or to protect public water supplies and recreational use areas.

(3) Wastewater Treatment Ponds (Lagoons)

Basis of Design

The maximum design loading rate for the primary cell(s) will be thirty (30) pounds of BOD5 per acre per day, with a minimum surface area of one (1) acre.

Multiple Units

- a. Two cell systems must be followed by sand or rock filtration, or other —solids removal devices.

The second cell of a two-cell system will be designed on the same biological loading rate as a primary cell, with at least thirty (30) days detention time.

- b. For three (or more) cell systems, the cells following the primary will have a combined detention time of at least thirty (30) days. The final cell shall be designed to facilitate solids reduction and minimize algae growth.

(4) Control Structures and Interconnecting Piping

Control structures shall be provided for interconnecting cell piping and for final cell effluent flow. The structures shall have the ability to vary the water depth in each cell a range of, at least, twenty-four (24) inches. Non-corrosive stop-logs, slide gates, or slide tubes are the devices that shall be utilized to regulate the wastes level. A baffle of the

Exhibit A

same type of material as the control devices shall extend a minimum of six (6) inches below the low-water surface.

(5) Appendix – Ground Disposal of Wastewaters

Land treatment of wastewater shall be in accordance with the Land Application Guidelines as promulgated by this department and the Arkansas Department of Health. ~~Plans and specifications and design calculations must be stamped and signed by a Registered Professional Engineer in the State of Arkansas. At the discretion of the Director, the provisions of Reg.6.202(B) may not apply to minor, routine repair, replacement (i.e. aerator) or maintenance.~~

(C) At the discretion of the Director, the provisions of Reg.6.202(B) may not apply to minor revision to the existing treatment system, routine repair, replacement (i.e. aerator) or maintenance.

~~(C) For modifications or alterations to an existing permitted facility, not affecting the discharge or effluent limitations of a State NPDES permit, the permittee need submit only ADEQ Form 1.~~

(D) Prior to obtaining a construction permit for domestic wastewater discharges from ADEQ, an approval letter from Arkansas Department of Health is required.

All information supplied to this Department shall be available for public inspection unless the information constitutes a trade secret and a claim of confidentiality is submitted in accordance with the procedures specified in Reg.6.105 above.

Reg. 6.203 Permitting Requirements for stormwater discharge associated with a Small Construction Site

Operators of a small construction sites shall be deemed to have a permit by rule for the purposes of the federal Clean Water Act, 33 U.S.C. § 1342, and the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 et seq., if the following conditions are met:

(A) A completed Notice of Coverage must be posted at the site for automatic permit coverage prior to commencing construction; and

(B) A Stormwater Pollution Prevention Plan must be prepared in accordance with good engineering practices as follows:

(1) Identify potential, site-specific sources of pollution which may reasonably be expected to affect the quality of stormwater discharges from the construction;

(2) Identify, describe and ensure the implementation of site-specific Best Management Practices, with emphasis on initial site stabilization, which are to

Exhibit A

be used to reduce pollutants in stormwater discharges from the construction site;

- (3) Identify the responsible party for on-site Stormwater Pollution Prevention Plan implementation;
- (4) Develop a legible site map (or multiple maps, if necessary) complete to scale, showing the entire site, that identifies, at a minimum, the following:
 - a. Pre-construction topographic view;
 - b. Direction of stormwater flow (i.e., use arrows to show which direction stormwater will flow) and approximate slopes anticipated after grading activities;
 - c. Delineate on the site map areas of soil disturbance and areas that will not be disturbed;
 - d. Location of major structural and nonstructural controls identified in the plan;
 - e. Location of main construction entrance and exit;
 - f. Location where stabilization practices are expected to occur;
 - g. Locations of off-site materials, waste, borrow area, or equipment storage area;
 - h. Location of areas used for concrete wash-out;
 - i. Location of all surface water bodies (including wetlands);
 - j. Locations where stormwater is discharged to a surface water and/or municipal separate storm sewer system if applicable;
 - k. Locations where stormwater is discharged off-site (should be continuously updated);
 - l. Location of areas where final stabilization has been accomplished and no further construction phase permit requirements apply.

Reg.6.2034 **Permitting Requirements for Industrial Users of Publicly Owned Treatment Works**

- (A) Industrial users discharging to publicly owned treatment works shall be deemed to have a permit by rule for construction and discharge for the purposes of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-2-101 et seq., if either of the following conditions are met:

Exhibit A

- (1) The industrial user is discharging into a receiving publicly owned treatment works with an approved local pretreatment program; or
- (2) The industrial user is not subject to categorical pretreatment standards set forth in 40 CFR Parts 400-471 (Subchapter N) and not likely to introduce pollutants to the publicly owned treatment works which would pass through or interfere with the treatment works or which would contaminate the sewage sludge of the treatment works.

An "approved pretreatment program" means a program approved by either the U.S. Environmental Protection Agency pursuant to 40 CFR Part 403.11 or the Department pursuant to 40 CFR Part 403.11, as incorporated in Reg. 6.102. The determination of which industrial users are likely to introduce pollutants which would pass through or interfere with a publicly owned treatment works or which are likely to contaminate sewage sludge from the treatment works shall be made by the Director subject to the provisions of Regulation No. 8 and Ark. Code Ann. § 8-4-216.

- (B) With the exception of industrial users qualifying for a permit-by-rule pursuant to subsection (A) above, all industrial users discharging or proposing to discharge to publicly owned treatment works shall obtain a permit hereunder in accordance with Reg.6.202 prior to construction or modification of the disposal system, and a permit prior to discharge in accordance with the requirements incorporated in Reg.6.102 and the other applicable provisions of this Regulation.

Reg.6.205 Financial Assurance Permitting Requirements

- (A) The Department shall not issue, modify, or renew a National Pollutant Discharge Elimination System permit for a non-municipal domestic sewage treatment works without the permit applicant first demonstrating to the Department its financial ability to cover the estimated costs of operating and maintaining the non-municipal domestic sewage treatment works for a minimum period of five (5) years.
- (B) State or federal facilities, schools, universities, and colleges are specifically exempted from the requirements of this section.
- (C) Each permit application for a non-municipal domestic sewage treatment works submitted under this section shall be accompanied by a cost estimate for a third party to operate and maintain the non-municipal domestic sewage treatment works each year for a period of five (5) years.
- (D) The department shall not issue or modify a National Pollutant Discharge Elimination System permit for a non-municipal domestic sewage treatment works that proposes to use a new technology that, in the discretion of the Department, cannot be verified to meet permit requirements without the applicant first demonstrating its financial ability to replace the new technology with a non-municipal domestic sewage treatment works that uses technology acceptable to the Department.

Exhibit A

- (E) Each permit application for a non-municipal domestic sewage treatment works that proposes to use a new technology that, in the discretion of the Department, cannot be verified to meet permit requirements shall be accompanied by a cost estimate to replace the proposed system with a non-municipal domestic sewage treatment works that uses technology acceptable to the Department.
- (F) The applicant's financial ability to operate and maintain the non-municipal domestic sewage treatment works for a period of five (5) years shall be demonstrated to the Department by:
- (1) Obtaining insurance that specifically covers operation and maintenance costs;
 - (2) Obtaining a letter of credit;
 - (3) Obtaining a surety bond;
 - (4) Obtaining a trust fund or an escrow account; or
 - (5) Using a combination of insurance, letter of credit, surety bond, trust fund, or escrow account.
- (G) The Department may reduce or waive the amount of the required financial assurance if the permit applicant can demonstrate to the Department's satisfaction that:
- (1) For a renewal permit, during the five (5) years preceding the application for a renewal permit, the non-municipal domestic sewage treatment works facility has:
 - (1) Remained in continuous operation;
 - (2) Received no more than three (3) permit violations within a six-month period, as set out in the permit issued by the Department;
 - (3) Maintained the services of a certified wastewater treatment operator, where applicable;
 - (4) Remained financially solvent; and
 - (5) Operated the facility's non-municipal domestic sewage treatment works to prevent the discharge of waterborne pollutants in unacceptable concentrations to the surface waters or groundwater of the State as defined in the permit or as defined in the State's water quality standards; or
 - (2) For a new permit, that the reduction or waiver is necessary to accommodate important economic or social development in the area of the proposed non-municipal domestic sewage treatment works facility and that the applicant has shown a history of financial responsibility and compliance with regulatory requirements in other relevant ventures.

Exhibit A

- (H) The Department has discretion to withdraw a reduction or waiver granted under this subsection at any time in order to protect human health or the environment.
- (I) A financial instrument required by this section shall be posted to the benefit of the Department and shall remain in effect for the life of the permit.
- (J) It is explicitly understood that the Department shall not directly operate and shall not be responsible for the operation of any non-municipal domestic sewage treatment works.

CHAPTER THREE: LOSING STREAM SEGMENTS

Reg.6.301 Effluent Discharges to Losing Stream Segments

- (A) In addition to all applicable effluent standards and conditions required by State and federal laws and regulations, wastewater discharged to losing stream segments shall comply with subsections (B) through (E) below.
- (B) For purposes of this regulation, a "losing stream segment" is defined as a stream segment which, beginning at the point of existing or proposed discharge and extending two (2) miles downstream, distributes thirty percent (30%) or more of its flow at a 7Q10 flow or one (1) cfs, whichever is greater, through natural processes such as permeable subsoil or cavernous bedrock into an aquifer.
- (C) Effluent Limitations for Discharges into Losing Stream Segments:
 - (1) Discharges to losing stream segments shall be permitted only after other alternatives including (a) land application of wastewater, (b) discharge to non-losing stream segment, and (c) connection to a regional wastewater treatment facility, have been evaluated and determined to be unacceptable for environmental and/or economic reasons.
 - (2) If the Department agrees to allow a discharge to a losing stream segment, the permit will be written using the limitations described below, as a minimum. Discharges from wastewater treatment facilities, which receive primarily domestic waste, or from publicly owned treatment works (POTWs) shall undergo treatment sufficient to conform to the following limitations:
 - (a) CBOD₅ equal to or less than a monthly average of ten (10) mg/1 and a seven (7) day average of fifteen (15) mg/1.
 - (b) Total Suspended Solids (TSS) equal to or less than a monthly average of fifteen (15) mg/1 and a seven (7) day average of twenty-three (23) mg/1;
 - (c) ~~p~~Provisions of 40 CFR 133.102(c);
 - (d) ~~†~~The fecal coliform content of discharges shall not exceed a monthly average of 200 colonies per 100 milliliters and a weekly average of 400 colonies per 100 milliliters. However, at no time shall the fecal coliform content exceed 200 colonies per 100 milliliters in any water defined as an Extraordinary Resource Water or Natural and Scenic Waterway;
 - (e) ~~n~~Nitrate plus nitrite nitrogen levels shall not exceed ten (10) mg/1;
 - (f) ~~a~~Ammonia (as N) limitations shall be included as necessary to prevent ammonia toxicity in-stream and/or to maintain instream dissolved oxygen.

Exhibit A

(g) ~~Other~~ parameters as deemed appropriate by ~~ADEQ~~the Department.

(D) Implementation of Losing Stream Regulation

- (1) Existing discharges. At the time of permit renewal, or when deemed necessary by the Department, National Pollutant Discharge Elimination System permittees discharging to stream segments which may be losing stream segments, as defined above, shall submit documentation as part of the renewal permit application, showing that the segment is or is not a losing stream segment. If the discharge is into a losing stream segment, then the facility must be capable of meeting the effluent limitations described above, as a minimum.
- (2) New discharges. New facilities proposing to discharge to a stream which may be a losing stream segment shall submit documentation as part of the initial National Pollutant Discharge Elimination System permit application demonstrating that the segment is or is not a losing stream segment. This documentation includes, but is not limited to, stream studies or other data, showing the stream segment does or does not meet the criteria in Reg.6.301(B) above. If the proposed discharge is into a losing stream segment, then the facility must be designed and operated to meet the effluent limitations described above, as a minimum.
- (3) For facilities in both Reg.6.301(D)(1) and (2) above, stream studies for determining classification as a losing stream segment must be conducted during the critical low flow season, when stream flow is at least 1 cfs and representative of seasonal flow. Effluent flow, when existing, can be included in the minimum 1 cfs stream flow.
- (4) The Department shall determine the requirement for, and the content and level of detail of, stream studies, based on local topography, geological data, file data, other dischargers in area, stream flow, etc.

(E) Review of Applications by Arkansas Department of Health for Discharges of Domestic Effluents.

- (1) Nothing in this regulation limits the authority of the Arkansas Department of Health to include additional requirements as a prerequisite to its approval of the treatment/disposal system.

CHAPTER FOUR: WASTEWATER DISCHARGES

Reg.6.401 Determination of Domestic Wastewater Effluent Limitations

(A) Small discharges (less than or equal to 0.05 MGD)

- (1) The most stringent effluent limitations for oxygen demanding flows from small dischargers will be 10/15 (CBOD₅/TSS), with nutrient removal where appropriate, which is considered as Best Conventional Treatment (BCT) for dischargers in this flow range.
- (2) On a case-by-case basis, less stringent effluent limitations may be permitted if stream modeling shows that water quality standards will be maintained.

(B) Outstanding State Resource Waters

Outstanding State Resource Waters include all water bodies designated in the Arkansas Water Quality Standards (Regulation No. 2) as ~~e~~Extraordinary ~~r~~Resource ~~w~~Waters, ~~n~~Natural and ~~s~~Scenic ~~w~~Waterways, or ~~e~~Ecologically ~~s~~Sensitive ~~w~~Waterbodies.

- (1) ~~For Extraordinary/natural and scenic waterways named in WQS Resource Waters and Natural and Scenic Waterways:~~ In no event shall the effluent limitations be greater than 10/15 (CBOD₅/TSS).
- (2) ~~For Ecologically sSensitive streamsWaterbodies:~~ Limitations shall be determined on a case-by-case basis to protect the specific species ~~residing~~ in the ~~streamwaterbody~~.

(C) Reservoirs/Domestic Water Supply

- (1) In all cases, applicable water quality standards shall be met.
- (2) All oxygen demanding effluent flows which are discharged into any lake shall have effluent limitations of 10/15 (CBOD₅/TSS) with nutrient removal as appropriate.

(D) Discharge of Domestic Wastewater to the Illinois River Basin

- (1) No permit for discharge of domestic wastewater into the Illinois River or its tributaries by the cities of Fayetteville, Springdale, Rogers, and Siloam Springs, shall authorize more than 1.0 mg/l Total Phosphorus based on a monthly average.
- (2) Compliance with (D)(1) of this section shall be attained as soon as feasible, but no later than January 1, 2012.

(E) Discharge of Domestic Wastewater to the Osage Creek Basin, a tributary of the Kings River

Exhibit A

- (1) No permit for discharge of domestic wastewater into Osage Creek or its tributaries, by the City of Berryville, shall authorize more than 1.0 mg/l Total Phosphorus based on a monthly average.
 - (2) Compliance with (E)(1) of this section shall be attained as soon as feasible, but no later than January 1, 2012.
- (F) Discharge of Domestic Wastewater to Little Sugar Creek Basin
- (1) No permit for discharge of domestic wastewater into Little Sugar Creek or its tributaries by the City of Bentonville shall authorize more than 1.0 mg/l Total Phosphorus based on a monthly average.
 - (2) Compliance with (F)(1) of this section shall be attained as soon as feasible, but no later than January 1, 2012.
- (G) Discharge of Domestic Wastewater to Spavinaw Creek Basin
- (1) No permit for discharge of domestic wastewater into Spavinaw Creek or its tributaries by the City of Decatur shall authorize more than 1.0 mg/l Total Phosphorus based on a monthly average.
 - (2) Compliance with (G)(1) of this section shall be attained as soon as feasible, but no later than January 1, 2012.

Reg.6.402 Discharge of Treated Wastewater to the Ouachita River

No permit for the discharge of treated wastewater into the Ouachita River commencing at or downstream of the H.K. Thatcher Lock and Dam in segment 2D of the Ouachita River Basin shall authorize a total phosphorous limit in excess of the following:

- (A) A proposed permit with a design flow of less than or equal to 13.5 MGD shall have a total phosphorous mass limit calculated using a total phosphorous concentration of 1.0 mg/l year-round.
- (B) A proposed permit with a design flow greater than 13.5 MGD but less than 20.0 MGD shall have a total phosphorous mass limit calculated using a total phosphorous concentration of 1.0 mg/l for the months of November through June and 0.7 mg/l total phosphorus for the months of July through October.
- (C) The above mass calculations are considered to be on a monthly average basis. A daily maximum mass limit, if applicable, will be 1.5 to 2.0 times the monthly average mass limit.
- (D) At the director's discretion, the permit may include concentration limits in addition to the mass limit(s).

**CHAPTER FIVE: ~~CONCENTRATED ANIMAL FEEDING OPERATION~~
~~(CAFO) DRY LITTER PROGRAM (RESERVED)~~**

~~Reg.6.501 — Federal Regulations Not Incorporated by Reference~~

~~The Department will seek an exception to specific provisions of 40 CFR Parts 122 and 412, effective April 14, 2003, which have not been adopted by reference into this regulation by the Commission.~~

~~In December 2004, the Department of Environmental Quality proposed a general NPDES permit ARG590000 to cover CAFOs. However, the CAFO permit was put on hold due to a federal court case. In February 2005, the Second Circuit Court of Appeals ruled on a lawsuit regarding the federal CAFO rule that only CAFOs that have a discharge or a potential to discharge must apply for a permit. EPA will be issuing a proposed rule to revise the 2003 CAFO regulations more broadly in order to address the Second Circuit Court of Appeals decision in a subsequent Federal Register notice. Until such time, concentrated animal feeding operations (CAFOs) that have an actual discharge are considered a point source of pollution and are regulated under the National Pollution Discharge Elimination System (NPDES) permitting process, 40 CFR 122.21(a). ADEQ's NPDES permit must be consistent with the federal rule and the court decision. EPA will soon provide guidance to states and the regulated community as to the appropriate manner in which to proceed with implementation of the CAFO rule.~~

~~Pending final program approval from EPA, the following provisions are anticipated to be included in the Department's CAFO dry manure program:~~

~~(A) — New Sources~~

~~New sources that have an actual discharge will be required to obtain coverage under the CAFO Dry Manure Handling System General Permit, ARG590000, by submitting a Notice of Intent (NOI) to the Department at least thirty (30) days prior to the time the CAFO commences operation, as allowed by 40 CFR Part 122.21(e), in lieu of the one hundred eighty (180) day requirement for new sources contained in 40 CFR 122.23(g)(4).~~

~~(B) — Annual Manure and Soil Sampling~~

~~Sampling of dry manure and soils will be performed in accordance with Acts 1059, 1060, and 1061 of 2003, and the regulations promulgated thereunder by the Arkansas Natural Resources Commission, in lieu of the annual manure and soil sampling requirements pursuant to 40 CFR 412.4(e)(3).~~

~~(C) — Duty to Apply~~

~~During this interim period while EPA is revising its 2003 CAFO regulations in response to the Second Circuit Court Decision in *Waterkeeper Alliance et al. v EPA*, 399 F.3d 486~~

Exhibit A

~~(2005), the operator of a CAFO does not have a duty to apply for a NPDES permit for a potential discharge. Only CAFO operations with actual discharges have an obligation to apply for a NPDES permit from this Department.~~

CHAPTER SIX: ADMINISTRATIVE PROCEDURES

Reg.6.601 Penalty Policy and Administrative Procedures

Arkansas Pollution Control and Ecology Commission Regulation No. 7, CIVIL PENALTIESCivil Penalties, and Regulation No. 8:~~ADMINISTRATIVE PROCEDURES~~, Administrative Procedures, apply to this Regulation.

Reg.6.602 Severability

If any provision of this ~~R~~regulation or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ~~R~~regulation which can be given effect with the invalid provision or application, and, to this end, provisions of this ~~R~~regulation are declared to be severable.

CHAPTER SEVEN: EFFECTIVE DATE

Reg.6.701 Effective Date

This regulation is effective ten (10) days after filing with the Secretary of State, the State Library, and the Bureau of Legislative Research.

**ARKANSAS POLLUTION CONTROL & ECOLOGY
COMMISSION
ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT
ANALYSIS**

Rule Number & Title: Regulation No. 6, Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES)

Petitioner: Arkansas Department of Environmental Quality, Water Division

Contact/Phone/Electronic mail: Jamie Ewing
(501) 682-0918
ewing@adeq.state.ar.us

2A. ECONOMIC IMPACT

1. Who will be affected economically by this proposed rule? State: a) the specific public and/or private entities affected by this rulemaking, indicating for each category if it is a positive or negative economic effect; and b) provide the estimated number of entities affected by this proposed rule.

The proposed rule that will have a financial impact will be the incorporation of federal regulations for the permitting of discharges from concentrated animal feeding operations (“CAFOs”) and the necessity for certain facilities to obtain NPDES permits. Affected facilities will be required to pay a permit fee of \$200. ADEQ determines that less than ten (10) facilities will probably be required to obtain a permit.

The incorporation of a permit by rule for stormwater discharges for small construction sites and financial assurance for non-municipal sewage treatment works are existing requirements found in other laws and, therefore, will not have any additional financial impact on the regulated community.

Sources and Assumptions:

APC&EC Regulation No. 9, Fee Regulation (CAFO permit fee). ARR150000, Construction Stormwater General Permit (permit by rule for small construction sites). Ark. Code Ann. § 8-4-203(b) (financial assurance for non-municipal sewage treatment works).

2. What are the economic effects of the proposed rule? State: 1) the estimated increased or decreased cost for an average facility to implement the proposed rule; and 2) the estimated total cost to implement the rule.

As stated above, affected facilities will be required to pay a \$200 permit fee. Those facilities will also be required to submit waste management plans, which are generally prepared free of charge by the U.S. Department of Agriculture Natural Resources Conservation Service ("NRCS"). ADEQ anticipates that less than ten (10) facilities will be required to be permitted under this provision.

Sources and Assumptions:

40 C.F.R. § 122.23; ARG590000, NPDES general permit for CAFOs; and APC&EC Regulation No. 9, Fee Regulation.

3. List any fee changes imposed by this proposal and justification for each.

The fee for coverage under the CAFO general permit will be \$200. This fee was previously adopted in Regulation No. 9. Reg. 9.404.

4. What is the probable cost to ADEQ in manpower and associated resources to implement and enforce this proposed change, and what is the source of revenue supporting this proposed rule?

There will be negligible costs to ADEQ in terms of manpower and associated resources because there will be few entities permitted under the new CAFO permitting requirements and those that are permitted will most likely be covered under the general permit, which requires minimal administrative processing.

Sources and Assumptions:

ARG590000, NPDES general permit for CAFOs.

5. Is there a known beneficial or adverse impact to any other relevant state agency to implement or enforce this proposed rule? Is there any other relevant state agency's rule that could adequately address this issue, or is this proposed rulemaking in conflict with or have any nexus to any other relevant state agency's rule? Identify state agency and/or rule.

There is no known beneficial or adverse impact to any other relevant state agency.

Sources and Assumptions:

Not applicable

6. Are there any less costly, non-regulatory, or less intrusive methods that would achieve the same purpose of this proposed rule?

This proposed rule incorporates federal permitting regulations for CAFOs and incorporates existing provisions from other permits and state law. Therefore, there are no other appropriate methods that would achieve the same purpose of this proposed rule.

Sources and Assumptions:

Not applicable

2B. ENVIRONMENTAL BENEFIT

1. What issues affecting the environment are addressed by this proposal?

The proposed amendments in this rulemaking address: 1) discharges from CAFOs; 2) a permit by rule for stormwater discharges from small construction sites; and 3) financial assurance for non-municipal sewage treatment works.

2. How does this proposed rule protect, enhance, or restore the natural environment for the well being of all Arkansans?

The proposed rules will prevent pollution from CAFOs and small construction sites through operational requirements. Financial assurance for non-municipal sewage treatment works will ensure continual operation of those treatment systems, which will protect the environment from untreated discharges.

Sources and Assumptions:

40 C.F.R. § 122.23 and ARG590000, NPDES general permit for CAFOs. ARR150000, Construction Stormwater General Permit (permit by rule for small construction sites). Ark. Code Ann. § 8-4-203(b) (financial assurance for non-municipal sewage treatment works).

3. What detrimental effect will there be to the environment or to the public health and safety if this proposed rule is not implemented?

Failure to implement the proposed rule may result in untreated discharges from CAFOs, small construction sites and non-municipal sewage treatment works.

Sources and Assumptions:

40 C.F.R. § 122.23 and ARG590000, NPDES general permit for CAFOs. ARR150000, Construction Stormwater General Permit (permit by rule for small construction sites). Ark. Code Ann. § 8-4-203(b) (financial assurance for non-municipal sewage treatment works).

4. What risks are addressed by the proposal and to what extent are the risks anticipated to be reduced?

NPDES permitting for CAFOs will require the CAFOs to implement waste management practices that reduce the amount of pollutants that may enter waters of the State from waste storage and land application. The permit by rule for small construction sites requires the small sites to implement certain best management practices to reduce pollution from stormwater runoff while also reducing the administrative burden on the operator. The financial assurance requirement provides a means for continual operation of a sewage treatment system to prevent the discharge of untreated wastewater into waters of the State.

Sources and assumptions:

40 C.F.R. § 122.23 and ARG590000, NPDES general permit for CAFOs. ARR150000, Construction Stormwater General Permit (permit by rule for small construction sites). Ark. Code Ann. § 8-4-203(b) (financial assurance for non-municipal sewage treatment works).

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF PROMULGATION OF)
REGULATION NO. 6, REGULATIONS FOR THE STATE) DOCKET NO. 11-____-R
ADMINISTRATION OF THE NATIONAL POLLUTANT)
DISCHARGE ELIMINATION SYSTEM (NPDES))

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION NO. 6

The Arkansas Department of Environmental Quality (hereinafter "ADEQ"), for its
Petition to Initiate Rulemaking to Amend Regulation No. 6, Regulations for the State
Administration of the National Pollutant Discharge Elimination System (NPDES), states:

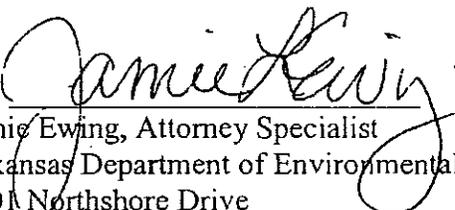
1. ADEQ proposes that Chapter 5 of the regulation be removed. This Chapter addresses permitting requirements for concentrated animal feeding operations (hereinafter "CAFOs") that utilize dry litter systems. In 2008, the U.S. Environmental Protection Agency (hereinafter "EPA") finalized federal regulations governing NPDES permits for CAFOs. 40 C.F.R. § 122.23. The proposed change will delete this separate chapter for those facilities and incorporate the new federal regulations in the list of referenced federal regulations found in Regulation 6.104(A).
2. ADEQ proposes to add Reg. 6.203 which creates a permit by rule for stormwater discharges from small construction sites. These sites are smaller than five (5) acres but greater than one (1) acre. This provision was previously included in the Construction Stormwater general permit issued by ADEQ. However, ADEQ believes that a permit by rule is more properly located within the NPDES regulation. The requirements for small construction sites will remain unchanged from what was included in the general permit.
3. ADEQ proposes to add Reg. 6.205 which governs the financial assurance permitting requirements for non-municipal sewage treatment works. This new provision is copied directly from the financial assurance requirements found in the Arkansas Water and Air

Pollution Control Act, § 8-4-203(b)(1)(B). The General Assembly passed these provisions in 2007.

4. ADEQ also proposes several minor changes to bring the regulation into compliance with the Commission's Regulation Drafting Guidelines.
5. Jamie Ewing and Steve Drown from ADEQ will be available to answer questions concerning this proposed rulemaking. A red-lined version of the regulation showing the proposed changes is attached as Exhibit "A" and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as Exhibit "B", and a copy of the Financial Impact Statement for the proposed revisions is attached as Exhibit "C", both of which are incorporated by reference. The Economic Impact Statement filed with the Arkansas Economic Development Commission is attached as Exhibit "D" and is hereby incorporated by reference. A copy of the Economic Impact/Environmental Benefit Analysis is attached hereto as Exhibit "E" and is hereby incorporated by reference. A proposed minute order is attached as Exhibit "F" and is hereby incorporated by reference.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process and adopt the proposed Minute Order.

Respectfully Submitted,

By: 
Jamie Ewing, Attorney Specialist
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT: Petition to
Initiate Rulemaking
Regulation No. 6**

Docket No. 11- -R

MINUTE ORDER NO. 11-

PAGE 1 OF 3

On October 14, 2011, the Arkansas Department of Environmental Quality, (“ADEQ”) filed a Petition to Initiate Rulemaking to Amend Regulation No. 6, Regulations for the State Administration of the National Pollutant Discharge Elimination System (“NPDES”). Pursuant to Ark. Code Ann. § 8-4-202(c), the Arkansas Pollution Control and Ecology Commission (“Commission”) has sixty (60) days in which to either institute rulemaking proceedings or to give written notice denying the petition for rulemaking. The Petition has been designated as Docket No. 11-___-R.

The Commission’s Regulations Committee met on October 28, 2011, to review the Petition and it recommends that the Commission institute a rulemaking proceeding to consider adopting the proposed amendments to Regulation No. 6. The Regulations Committee also recommends adoption of the following procedures and schedule.

1. The Arkansas Department of Environmental Quality (“ADEQ”) shall file an original and one (1) copy and an electronic copy of all materials required under this Minute Order. This requirement does not apply to transcripts.

2. Persons submitting written public comments shall submit them to ADEQ and ADEQ will deliver the originals of all comments to the Commission Secretary at the conclusion of the proceeding.

3. A public hearing shall be conducted on the December 19, 2011 at 3:00 p.m. or immediately following the public hearing for proposed amendments to Regulation No. 5, Docket No. 11-___-R, which will be held on the same date. The hearing will be held in the Commission Room, ADEQ Headquarters, 5301 Northshore Drive, North Little Rock or as otherwise determined by availability.

4. The period for receiving all written comments shall conclude ten (10) business days after the date of the public hearing, unless an extension of time is granted.

5. ADEQ shall file, not later than 14 days before the Commission meets to consider adoption of the proposed regulation, a Statement of Basis and Purpose and Responsive Summary as required by Reg. 8.814 and Reg. 8.815. In addition, ADEQ shall file a proposed Minute Order deciding this matter.

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT: Petition to
Initiate Rulemaking
Regulation No. 6**

Docket No. 11- -R

MINUTE ORDER NO. 11-

PAGE 2 OF 3

6. ADEQ shall seek review of the proposed rule from the Joint Interim Committee on Public Health and Welfare and/or from the Joint Interim Committee on Administrative Rules and Regulations.

7. The Regulations Committee and the Commission may consider this matter at their March 2012 meeting. In the event the appropriate legislative committees do not complete review of the proposed rule by the above date, the Regulations Committee and the Commission will consider the proposed amendments to the regulation after review by the appropriate legislative committees. Members of the Regulations Committee may ask questions of any persons that made oral or written comments and it will make a recommendation to the Commission.

8. At the Commission meeting, the presentation of oral statements and legal arguments will be regulated as follows:

a. The Chair of the Commission will permit members of the public to make a statement to the Commission. No more than three (3) minutes will be allowed for each statement. The period for statements will close at the end of one (1) hour, or sooner if all interested persons have completed their statements. At the discretion of the Chair, the one (1) hour oral statement period may be extended.

b. At the discretion of the Chair, an attorney representing one or more individuals, a corporation or other legal entity may be permitted five (5) minutes in which to address the Commission.

c. ADEQ shall be permitted ten (10) minutes in which to address the Commission.

d. At the conclusion of all statements, the Chair will call on each Commissioner for the purpose of asking the attorneys or persons sponsoring statements who are present, any questions they may have. Attorneys will not be permitted to respond or ask follow-up questions of any person questioned by a Commissioner.

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT: Petition to
Initiate Rulemaking
Regulation No. 6**

MINUTE ORDER NO. 11-

Docket No. 11- -R

PAGE 3 OF 3

After each Commissioner has had an opportunity to ask questions, the Chair will entertain a motion on the matter, allow discussion, and call for a vote of the Commission members.

9. Pursuant to Act 143 of 2007, the Commission finds the proposed regulation does not affect small businesses.

The Commission accepts the recommendation of the Regulations Committee and initiates the rulemaking proceeding in this docket. The Commission adopts, without modification, the procedural schedule set forth above.

COMMISSIONERS:

_____ **J. Bates**
_____ **L. Bengal**
_____ **D. Hendrix**
_____ **S. Jorgenson**
_____ **D. Samples**
_____ **J. Shannon**

_____ **J. Simpson**
_____ **L. Sickel**
_____ **W. Thompson**
_____ **B. White**
_____ **R. Young**
_____ **(Vacant)**

_____ Submitted by: Jamie Ewing **DATE PASSED: October 28, 2011**
John Chamberlin, Chair

NOTICE OF PROPOSED REGULATION CHANGES, PUBLIC HEARINGS

The Arkansas Pollution Control and Ecology Commission (APC&EC) will hold two public hearings at North Little Rock December 19, 2011, to receive public comments on proposed changes to APC&EC Regulations 5 (Liquid Animal Waste Management Systems) and 6 (Regulations for State Administration of the National Pollutant Discharge Elimination System [NPDES]). The deadline for submitting written comments on the proposals is 4:30 p.m. January 5, 2012.

The hearings will be held in the Commission Room of the Arkansas Department of Environmental Quality (ADEQ) headquarters building, 5301 Northshore Drive, North Little Rock. The Regulation 5 hearing will begin at 2:00 p.m., and the Regulation 6 hearing will start immediately after all comments on Regulation 5 have been submitted.

In the event of inclement weather or other unforeseen circumstances, a decision may be made to postpone the hearings. If the hearings are postponed and rescheduled, a new legal notice will be published to announce the details of the new hearing date and comment period.

APC&EC authority to revise Regulations 5 and 6 is found in the Arkansas Code Annotated, Section 8-4-101, et seq.

Proposed significant changes to Regulation 5 include:

- Inclusion of an exemption from Regulation 5 requirements for liquid animal waste management systems covered under an individual or general NPDES permit for Concentrated Animal Feeding Operations (CAFOs).
- Elimination of the continuing education requirements for operators of liquid animal waste management systems.
- Addition of a provision that would consider the removal of educational requirements from waste management plans for existing permits under Regulation 5 as a minor permit modification.

Proposed significant changes to Regulation 6 include:

- Elimination of the regulation's Chapter 5, which deals with permit requirements for Concentrated Animal Feeding Operations (CAFOs), since the United States Environmental Protection Agency (EPA) has adopted federal regulations for CAFOs under the NPDES program, and these federal CAFO regulations will be added to the list of federal regulations incorporated into Regulation 6 by reference.
- Addition of a new provision which creates a permit by rule for storm water discharges from small construction sites, defined as greater than one acre but smaller than five acres.
- Addition of a new section dealing with financial assurance permitting requirements for non-municipal wastewater treatment plants.

In addition, proposed revisions to both regulations include changes in the definitions sections, as well as language changes throughout the regulations made in order to make the regulations conform to format changes adopted by the APC&EC.

Copies of the proposed changes to Regulations 5 and 6 are available for public inspection during normal business hours at the Public Outreach and Assistance (POA) Division in the ADEQ's headquarters building in North Little Rock, and in ADEQ information depositories located in public libraries at Arkadelphia, Batesville, Blytheville, Camden, Clinton, Crossett, El Dorado, Fayetteville, Forrest City, Fort Smith, Harrison, Helena, Hope, Hot Springs, Jonesboro, Little Rock, Magnolia, Mena, Monticello, Mountain Home, Pocahontas, Russellville, Searcy,

Stuttgart, Texarkana, and West Memphis; in campus libraries at the University of Arkansas at Pine Bluff and the University of Central Arkansas at Conway; and in the Arkansas State Library, 900 W. Capitol, Suite 100, Little Rock. In addition, a copy of the draft regulation showing the proposed changes, along with related support documents, is available for viewing or downloading on the draft regulations page of the ADEQ's Internet web site at www.adeq.state.ar.us.

Oral and written statements will be accepted at the hearings, but written comments are preferred in the interest of accuracy. In addition, written and electronic mail comments will be accepted if received no later than 4:30 p.m. January 5, 2012. Written comments should be mailed to Doug Szenher, POA Division, Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, AR 72118. Electronic mail comments should be sent to: reg-comment@adeq.state.ar.us.

Published November 2 and 3, 2011,
Teresa Marks, Director,
Arkansas Department of Environmental Quality