

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF PROMULGATION OF)
REGULATION NO. 5, LIQUID ANIMAL WASTE) DOCKET NO. 11-004-R
MANAGEMENT SYSTEMS)

RESPONSE TO COMMENTS

On October 28, 2011, the Arkansas Pollution Control and Ecology Commission (“APC&EC”) passed Minute Order 11-28, which initiated rulemaking procedures for amendments to APC&EC Regulation No. 5, Liquid Animal Waste Management Systems. A public hearing on the proposed changes was held on December 19, 2011. The public comment period closed on January 5, 2012.

One written comment was received regarding the proposed amendments. That comment is set out below, with the Department’s response following. A copy of the faxed comment is attached as Exhibit A.

Comment from Connie Burks, Harrison, Arkansas:

Here is comment of opposition including, but not limited to the following: On behalf of all those in Boone, Newton, 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. 5 are not related to the Total Maximum Daily Load (“TMDL”) developed for Crooked Creek or any other waterbody. The proposed amendments are based on changes to federal regulations governing

concentrated animal feeding operations (“CAFOs”). The amendments: 1) offer an exemption from Regulation No. 5 permitting requirements for operators of liquid animal waste management systems that choose to obtain a National Pollutant Discharge Elimination System (“NPDES”) permit under APC&EC Regulation No. 6; and 2) remove the continuing education requirements from the regulation to be consistent with NPDES permitting.

The changes to Regulation No. 5 were developed following extensive stakeholder meetings and input from the regulated industry. In addition, the Department has requested that the Environmental Protection Agency (“EPA”) withdraw the Crooked Creek TMDL. Therefore, there are no changes necessary to the regulation based on public comments.

Respectfully Submitted,

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

Re: Public Notice CAFO - new proposed changes

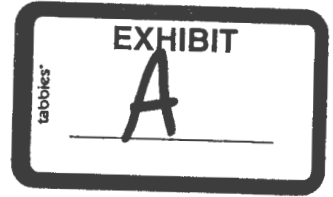
Date: 12-16-11

Fax to 5046820880

TO ADEQ

whom it may concern

Time: 2:20 p.m.



From: Connie Burks
 1602 Hwy 7 N
 Harrison, Ark 72601

Message:

I believe today is the deadline for responding to the public notice re new proposed CAFO rules or regs. Here is comment of opposition including, but not limited to the following:

On behalf of all those in Boone, Newton, 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 ^{and} potential nexus with TMDL proposals and CAFO, etc. present or proposed issues.

By FOIA I request copies of all comments received by ADEQ pertaining to the proposed CAFO (public noticed) changes.