

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 6, REGULATIONS) DOCKET NO. 06-001-R
FOR STATE ADMINISTRATION OF)
THE NATIONAL POLLUTANT)
DISCHARGE ELIMINATION SYSTEM)
(NPDES))

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

Pursuant to Ark. Code Ann. § 8-4-202(d)(4)(C) and Regulation No. 8, Section 3.6.2(2), a responsive summary groups public comments into similar categories and explains why the Arkansas Pollution Control and Ecology Commission (“Commission”) accepts or rejects the rationale for each category.

On January 12, 2006, the Arkansas Department of Environmental Quality filed a Petition to Initiate Rule-making to Amend Regulation No. 6, Regulations for State Administration of the National Pollutant Discharge Elimination System. Commissioner Ephrain Valdez conducted a public hearing on March 27, 2006, at which time no oral or written comments were received.

However, On March 8, 2006, Mr. Randy Thurman, Executive Director of the Arkansas Environmental Federation, offered the following written comments:

COMMENT 1: While we appreciate the issues related to developers’ responsibilities, the definition of “operator” found in the draft of Reg. 6 appears to be overly inclusive. Particularly, the last line which states, “The operator is responsible for ensuring compliance with all applicable environmental regulations and conditions”. The AEF suggests two possible

clarifications:

Defer to the definition of an operator found in 40 CFR 122.2, which is already incorporated by reference in Reg. 6.104(A)(3).

We try to clear this definition:

Add: Reg. 6.103 “Operator” shall have the same meaning as Act 211 of 1971.

RESPONSE TO COMMENT 1: The Department declines to adopt this suggested language. The purpose of adding the definition of “operator” to the Regulation 6 definitions section is to clarify the meaning and reduce confusion.

COMMENT 2: Our understanding of the history and purposes of the Ten States Standards is that it specifically relates to municipal wastewater treatment facilities. To incorporate those purposes, we recommend the following:

Reg. 6.202 (B)—Edit the proposed revision to read as follows: "The basic design criteria for conventional municipal wastewater treatment plants in the State of Arkansas should be based on the latest addition of the "Recommended Standards for Wastewater Facilities," (commonly known as the Ten States Standards) developed by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers and published by Health Education Services, with the modifications presented hereinafter. Nothing in the Ten States Standards shall be construed to prevent the use of treatment technologies not specifically addressed in the Standards, provided the use of the proposed technology is supported by adequate documentation of its ability to meet the performance objective for a given system.

The design criteria for industrial wastewater treatment facilities shall be based upon sound engineering practice with specific consideration to the characteristics of the wastewater and site specific operational constraints. The need for Engineering Reports and Facility Plans (Chapter 10 of Ten States Standards) for industrial wastewater collection and treatment systems will be determined on a case-by-case basis."

Other alternative language that could be inserted into Reg. 6.202 (B), as the last two sentences in the first paragraph changed to read:

.....The latest addition of “Recommended Standards for Wastewater Facilities” published by the Great Lakes—Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers is intended to serve as a guide for the design and preparation of plans and specifications for conventional municipal wastewater collection and treatment systems in the State of Arkansas. Innovative approaches to collection and treatment for municipal systems are not included in this guide and the design engineer is encouraged to contact the Department prior to submittal of the plans and specifications when any such system is being considered.

Reg. 6.202 (B) All subsequent sections should be deleted with the exception of the last Paragraph which should be changed to read:

Appendix – Ground Disposal of Wastewaters

As a guide to the land treatment of wastewater the design professional should consider the “Land Application Guidelines” as promulgated by the Department and the Arkansas Department of Health.

RESPONSE TO COMMENT 2: The Department declines to adopt this suggested language because an objective minimum standard is needed for wastewater treatment systems in Arkansas. Further, the Commission adopted Minute Order Number 80-21 which states in part “with the following modification, as basic design criteria for wastewater treatment plants in the State of Arkansas.” (Emphasis added).

Conclusion:

The Department has carefully considered the two comments submitted to this Department concerning the revisions to Regulation Number 6.

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