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Short Term Activity Authorizations/Water Quality Standards: Arkansas Department of Energy & Environment - Division of Environmental Quality Considering Proposed Changes

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The Arkansas Department of Energy & Environment - Division of Environmental Quality (“DEQ”) is considering proposed changes to its Short-Term Activity Authorizations (“STAAs”) application process.

The Arkansas Environmental Federation recently circulated a draft of DEQ’s proposed changes soliciting input.

DEQ’s objective in considering proposed changes is to make the application process:

... simpler, faster, and more efficient for both permittees and OWQ staff.

“OWQ” refers to DEQ’s Office of Water Quality.

Arkansas Pollution Control & Ecology Commission (“APC&EC”) Rule 2 provides for STAAs which allows applicants (under certain circumstances) to exceed the water quality standards (mainly due to turbidity) for work that involves in-stream activities.

APC&EC 2.305 notes that a STAA authorization is contingent upon the provisions that such activity is:

... essential to the protection or promotion of the public interest and that no permanent or long-term impairment of beneficial uses is likely to result from such activity. Nothing herein shall be intended to supersede existing state and federal permitting processes or requirements.

DEQ states activities that may be eligible for STAA authorization include, but are not limited to:

- Wastewater treatment facility maintenance
- Dredge and fill projects (gravel removal)
- Construction activities
- Bridge or crossing repair/maintenance
- Culvert replacement
- Pipeline repair/replacement
- Utility repair/replacement
- Activities which result in overall enhancement or maintenance of beneficial uses

- Bank stabilization
- Debris removal
- Flood control projects

Note that a Clean Water Act individual or Nationwide United States Corps of Engineers 404 permit may also be needed in certain circumstances.

The draft DEQ Office of Water Quality document lists the following four possible changes to the STAAs:

1. TERM – Rather than the existing six-month time from permittee notification to OWQ Compliance Branch of commencement of in-stream activities, OWQ is proposing that STAAs be issued for a one-year term without commencement notification. The one-year term would begin on STAA approval / issuance by OWQ. The applicant would then have one-year of the date of the approval letter to complete the in-stream activity covered by the STAA.
2. FEES - Pursuant to Ark. Code Ann §8-4-234(b) and APC&EC Rule 9, the STAA fee shall not exceed two hundred dollars (\$200) for each stream crossing, in-stream activity, or other eligible activity. DEQ shall waive twenty-five percent (25%) of the STAA fee for state agency, board, commission, or municipality, city, or county. Fees will be assessed based upon the terms outlined above unless alternative arrangements are agreed to by both OWQ and the permittee, such as an MOU / MOA for longer term arrangements.
3. RENEWALS - If the applicant wishes to continue the activity regulated by the STAA after the expiration date of the approval letter, the applicant shall apply for and obtain a STAA renewal. The complete application shall be submitted at least thirty (30) calendar days before the expiration date of the STAA letter. Renewals will also be for one-year terms.
4. FORMALIZATION - When prudent, OWQ will propose any needed statutory or regulatory changes to formalize the program. Until that time, OWQ will continue issuing STAAs in accordance with existing statutory and regulatory authority.

A copy of the draft DEQ document can be downloaded [here](#).