2023 Triennial Review/ Arkansas Water Quality Standards U.S. Environmental Protection Agency Letter Addressing Revisions to 8 CAR § 21 (Rule 2)



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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“ ADEQ”) announced that the Region 6 Office of United States Environmental Protection Agency (“EPA”) has completed its review of the 2023 Triennial Review 8 CAR pt. 21 (Rule 2).

EPA notified ADEQ of its completed review in an October 3rd letter to Stacie Wassel, ADEQ Deputy Director, Office of Water Quality.

The Revised Water Quality Standards in 8 CAR § 21 were adopted by the Arkansas Pollution Control and Ecology Commission via minute order No. 25-060 on April 25.

EPA notes in its October 3rd letter that it is approving the majority of the new and/or revised revisions within its discretionary authority pursuant to Section 303 (Clean Water Act) in its implementing regulations at 40 CFR § 131.

EPA also states in the letter:

“The approval of the new or revised provisions and appendices, in part or in their entirety, is described in Section II of the enclosed Technical Support Document (TSD). These provisions are effective for CWA purposes as of today’s action. Section III details new as well as previously adopted provisions where the EPA does not have enough information to take an action or additional discussion with the DEQ is needed. State-adopted water quality standards are not effective for CWA purposes unless and until approved by the EPA as specified at 40 CFR §131.21(c). Other provisions described in Section III that do not require EPA action are effective as State law. Section IV details that portion of 8 CAR § 21-511 (Mineral Quality) that was previously disapproved by the EPA. Those provisions the EPA disapproved are not effective for CWA purposes.”

Section 303 of the Clean Water Act requires that each state develop WQS for jurisdictional Waters of the United States within their borders. They establish the water quality goals for a specific waterbody and also serve as a regulatory basis for the

development of water-quality based effluent limits and strategies for individual point source discharges.

WQS consists of three parts:

1. The designated use of a waterbody;
2. The water quality criteria that are necessary to protect existing uses and to attain the beneficial uses designated by the state; and,
3. An antidegradation statement of policy to protect existing uses in high quality water.

Section 303 specifies the adoption of WQS as primarily the responsibility of the states and tribes. The states must adopt uses consistent with Clean Water Act objectives and water quality criteria sufficient to protect the chosen uses. However, EPA is required to ensure that the state WQS meet the minimum requirements of the Clean Water Act. Therefore, the Clean Water Act regulations provide for EPA review of any state WQS changes.

A copy of the October 3rd Letter and the Technical Support Document can be found here.