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Arkansas Water Quality Standards Revisions (Regulation No. 2): U.S. Environmental Protection Agency Letter Announcing Approval

Arkansas Environmental, Energy, and Water Law Blog

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The Region 6 Office of the United States Environmental Protection Agency ("EPA") approved in an October 31st letter certain Arkansas Department of Environmental Quality ("ADEQ") revisions to Arkansas's Water Quality Standards ("WQS").

Arkansas's WQS are found in Arkansas Pollution Control and Ecology Commission Regulation No. 2.

Section 303 of the Clean Water Act requires that each state develop WQS for jurisdictional waters of the United States within their borders. WQS serve a dual purpose. They establish the water quality goals for a specific body of water and also serve as the regulatory basis for the development of water-quality based effluent limits and strategies for individual point source discharges. The particular WQS deemed applicable to a waterbody can therefore be an important determinant of the effluent limits a discharging facility will need to attain.

A WQS consists of three parts:

1. The designated uses 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
3. An anti-degradation statement or policy to protect existing uses and high quality water

WQS may be expressed either as a numeric concentration level or a narrative standard.

Section 303(c) specifies that the adoption of WQS is primarily a responsibility of the states. A state must adopt uses consistent with Clean Water Act objectives and water quality criteria sufficient to meet the chosen uses. However, EPA is required to ensure that state WQS, along with any revisions, meet the minimum requirement of the Clean Water Act. EPA will assess whether the WQS protects state criteria and/or designated uses have taken into account the water's use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, navigation and other purposes. As a result, EPA must review and approve any state WQS revisions.

ADEQ submitted revisions to its WQS (Regulation No. 2) to EPA for review and approval on March 14, 2014. EPA approved a majority of the revisions as well as partial approval of several provisions. Other

ADEQ WQS revisions resulted in a determination by EPA that it did not have enough information to act. These two provisions are related to “compliance schedules” and “minerals”.

EPA disapproved of a revision related to turbidity.

As to minerals, ADEQ notes:

In addition, EPA and Arkansas have committed to a path forward on minerals criteria. Arkansas will have twelve months to create a plan for how the State will proceed with developing alternative minerals criteria for inclusion in Regulation No. 2.

The EPA decision is documented in an August 31st letter to Caleb Osborne who is the ADEQ Associate Director of the Office of Water from William K. Honker, P.E., Director of EPA Region 6’s Water Division and an accompanying technical support document.

[A link to both documents can be found below.](#)