



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

# Arkansas Administration of the National Pollutant Discharge Elimination System (Rule No. 6): Arkansas Pollution Control and Ecology Commission Initiates Rulemaking to Amend the National Pollutant Discharge Elimination System (NPDES)

08/01/2024

The Arkansas Pollution Control and Ecology Commission (“Commission”) has adopted the following:

*Petition to Initiate Rulemaking to Approve Amendments to Regulation 6: Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES) (“Petition”).*

The Petition was adopted at the July Commission meeting.

Arkansas obtained delegation of the Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) program in 1986. Therefore, since that time Arkansas facilities have obtained NPDES permits from Arkansas Department of Energy – Division of Environmental Quality (“DEQ”) as opposed to the United States Environmental Protection Agency.

An NPDES permit must be acquired if the following jurisdictional elements are present:

- A person,
- adds a,
- pollutant,
- to navigable waters,
- from a point source.

The NPDES permit must reflect the applicable federal technology standards and any additional necessary restrictions to meet Arkansas Water Quality Standards.

A substantial portion of the substantive and procedural framework for the Arkansas NPDES program is found in Arkansas Pollution Control and Ecology Rule No. 6. The Rule incorporates by reference the majority of the federal NPDES regulatory provisions. However, it does address a number of issues that are substantive and Arkansas specific.

Some of the issues addressed in the petition include:

- Amendments to incorporate changes to federal regulations.
- Amendments to incorporate several Acts of the Arkansas General Assembly require revisions to Regulation 6.205.
- Amendments to incorporate Acts 9, 10, and 315 of 2019, changing the name of the Arkansas Department of Environmental Quality to Division of Environmental Quality in references of “regulation” to “rule”.
- Amendments to provide clarification to sections of the regulation and minor corrections to make the regulation more illustrative of the regulatory intent.
- Amendments throughout the regulation for consistency with the statutory changes made by the Arkansas General Assembly and regulatory changes made by the United States Environmental Protection Agency, primarily concerning terminology and program name changes.
- Amendments to make the watershed specific regulations for the Buffalo National River Watershed consistent with the rules proposed by the Arkansas Department of Agriculture for Liquid Animal Waste Management Systems.
- Minor, non-substantive stylistic and formatting corrections throughout the regulation.

Note that the federal Clean Water Act regulations are a baseline requirement for DEQ to maintain delegation. As a result, DEQ rules must be as stringent as the federal program administered by the United States Environmental Protection Agency to maintain delegated authority to administer the NPDES permit program.

A link to the petition that was adopted by the Arkansas Pollution Control and Ecology Commission can be found [here](#).