

# Arkansas Impaired Waterbody Lists (Clean Water Act 303(d)): July 19th U.S. Environmental Protection Agency Approval Letter



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The Region 6 Office of the United States Environmental Protection Agency (“EPA”) sent a July 19th letter to Arkansas Department of Environmental Quality (“ADEQ”) Director Becky Keogh addressing impaired waterbodies lists the state agency had submitted as required by Section 303(d) of the Clean Water Act.

The July 19th EPA letter was authored by William K. Honker, P.E., who is Director of the Water Division of EPA Region 6.

Arkansas had previously submitted 2010, 2012, 2014 and 2016 State of Arkansas § 303(d)/§ 305(b) Integrated Reports. These reports contained the State’s Section 303(d) lists of water quality limited segments.

The documents were submitted to EPA on April 1, 2010, March 30, 2012, April 1, 2014, and April 1, 2016, respectively.

Mr. Honker states by way of summary that the EPA:

. . . has coordinated its review of Arkansas’ submissions and is today taking action to approve all of the waterbodies identified by the State of Arkansas as impaired on all four lists.

Two enclosures are appended to EPA’s July 19th letter. They include:

- Enclosure 1 – State of Arkansas’ approved 2016 § 303(d) List with Deferred Waterbody Pollutant Pairs

Enclosure 2 includes the Review of Arkansas’ 2010, 2012, 2014, and 2016 Section 303(d) Waterbody Lists.

The federal agency analysis in Enclosure 2 included:

- Identification of Water Quality Limited Segments for Inclusion on Section 303(d) List
- Consideration of Existing and Readily Available Water Quality-Related data and Information
- Priority Ranking
- Applicable Water Quality Standards
- Analysis of Arkansas’ Submission
- Identification of Waters and Consideration of Existing and Readily Available Water Quality-Related Data and Information
- Waters Requiring No Further Action

- Waters Removed from the Section 303(d) List
- Priority Ranking and Schedule for Development of TMDLS for Listed Waters and Pollutants
- Final Recommendation
- References

Section 303 of the Clean Water Act requires that each state develop water quality standards (“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.

A WQS consists of three parts:

- The designated uses of a waterbody
- The water quality criteria that are necessary to protect existing uses and to attain the beneficial uses designated by the State
- 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 the responsibility of the states.

The state 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, along with any changes, meet the minimum requirements 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. Clean Water Act regulations provide for EPA review of any state WQS changes.

Section 303 of the Clean Water Act also requires each state to identify those waters within its boundaries for which the technology-based effluent limitations required by the Clean Water Act and defined by EPA are not stringent enough attain the applicable WQS. Waters so designated are known as “water quality limited segments” or “impaired water”. Each state is required to submit this list of waters to EPA bi-annually (accompanied by a listing determination).

EPA’s July 19th letter notes that 40 C.F.R. § 130.7(b)(5) requires that states “assemble and evaluate all existing and readily available water quality-related data and information to develop the list required by Section 303(d) of the Clean Water Act.” The federal agency concludes that Arkansas met the requirements of the previously referenced regulatory provision with regards to all waters listed by the state in an enclosure to the agency’s letter.

EPA also states:

While the EPA is approving all impairments identified by the State of Arkansas on these four lists, the EPA is deferring action on forty-five (45) potential water body pollutant pairs not listed by the State to allow continued review of all existing and readily available water quality related data and further discussion with the Arkansas Department of Environmental Quality. The EPA is therefore taking a partial approval/further review pending action on the Arkansas 2010, 2012, 2014, and 2016 lists.

[A copy of the July 19th EPA letter with the enclosures can be downloaded here.](#)