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State NPDES Authority Statutes:

Arkansas



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[AR Code § 8-4-206](#)

[AR Code § 8-4-207](#)

[AR Code § 8-4-208](#)

[AR Code § 8-4-209](#)

Current through the 2022 legislative session.

§ 8-4-206. State Water Pollution Control Agency – General Authority.

(a) In addition to any other powers which it may have under this chapter or any other legislative act, the Division of Environmental Quality is authorized and empowered to act as the “state water pollution control agency” for the State of Arkansas for the purposes of the Federal Water Pollution Control Act Amendments of 1972.

(b) As the state water pollution control agency, the division may, among other things, approve projects for the construction of disposal systems for the purposes of loans and grants from the United States Environmental Protection Agency or any other federal agency and may take any other action necessary or appropriate to secure for the state the benefits of the Federal Water Pollution Control Act, as amended.

§ 8-4-207. State Water Pollution Control Agency – Powers and Duties Generally.

Without limiting the generality of the provisions of this chapter or of the powers which the Director of the Division of Environmental Quality and the Arkansas Pollution Control and Ecology Commission may have under this or any other legislative act:

(1)

(A) The director is authorized to require conditions in permits issued under this chapter regarding the achievement of effluent limitations based upon the application of such levels of treatment technology and processes as are required under the Federal Water Pollution Control Act, as amended, or any more stringent effluent limitations necessary to meet water quality criteria or toxic standards established pursuant to any state law or rule or federal law or regulation. Such effluent limitations shall be achieved in the shortest reasonable



period of time consistent with state law and the Federal Water Pollution Control Act, as amended, and any regulations or guidelines promulgated thereunder.

(B) The director is further authorized to set and revise schedules of compliance and include such schedules within the terms and conditions of the permits and prescribe other terms and conditions for permits issued under this chapter to assure compliance with applicable state and federal effluent limitations and water quality criteria, including requirements concerning recording, reporting, monitoring, entry, inspection, and sampling as provided in this chapter and such other requirements as are consistent with the purposes of this chapter.

(C) The director is authorized to require conditions in permits issued under this chapter regarding the dredge and fill permitting program established in Section 404 of the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq., and regulations promulgated under Section 404 of the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.;

(2) The director shall not issue a permit under this chapter if the discharge of any term of the permit would violate the provisions of any federal law or rule or regulation promulgated thereunder, including the duration of such permit;

(3) Permits for publicly owned treatment works shall include as a condition for the permit that the permittee provide information to the director concerning new introductions of pollutants or substantial changes in the volume or character of pollutants, whether sewage, industrial waste, or other wastes are being introduced into such treatment works, and appropriate measures to establish and ensure compliance by industrial users with any system of user charges required under state law or federal law or any federal regulations or guidelines promulgated thereunder;

(4) The director may apply and enforce toxic effluent standards and pretreatment standards against industrial users of publicly owned treatment works for the introduction into the publicly owned treatment works of sewage, industrial wastes, or other wastes which interfere with, pass through, or otherwise are incompatible with the publicly owned treatment works;

(5) The director and the commission shall ensure public notice, public participation, and an opportunity for public hearing in respect to National Pollutant Discharge Elimination System permit applications and actions related to them in accordance with applicable state law and rules and federal law, rules, and regulations; and

(6)

(A)

(i) Any records, reports, or information obtained under this chapter and any permits, permit applications, and related documentation shall be available to the public for inspection and copying.



(ii) However, information submitted to the Division of Environmental Quality may be claimed as confidential if its disclosure would divulge trade secrets.

(B) The division shall deny any claim for confidentiality for the name and address of any permit applicant or permittee or for any National Pollutant Discharge Elimination System permit applications, National Pollutant Discharge Elimination System permits, and effluent data.

(C) Information required by National Pollutant Discharge Elimination System application forms, including any information submitted on the forms themselves and any attachments used to supply information required by the forms, shall not be claimed confidential nor afforded this protection.

(D) Any person adversely affected by a determination by the division on a claim of confidentiality may appeal the determination as provided in §§ 8-4-222 and 8-4-223.

§ 8-4-208. State Water Pollution Control Agency – Administration of Permit Program Generally.

(a)

(1) The Division of Environmental Quality is authorized, subject to the approval of the Governor, to administer on behalf of the state its own permit program for discharges into navigable waters within its jurisdiction in lieu of that of the United States Environmental Protection Agency. The division is also authorized to submit to the Administrator of the United States Environmental Protection Agency for approval a full and complete description of the program which the division proposes to establish and administer under state law, as provided by § 402(b) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1342(b). To that end, the division and the Arkansas Pollution Control and Ecology Commission are vested with all necessary authority and power to meet the requirements of § 402(b) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1342(b), and the guidelines promulgated by the United States Environmental Protection Agency pursuant to § 304(h)(2) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1314(h), to engage in an approved continuing planning process under § 303(e) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1313(e), and to perform any and all acts necessary to carry out the purposes and requirements of the Federal Water Pollution Control Act Amendments of 1972 relating to this state's participation in the National Pollutant Discharge Elimination System established under the Federal Water Pollution Control Act Amendments of 1972, subject to all restrictions contained in the Federal Water Pollution Control Act Amendments of 1972 and guidelines.

(2)



(A) Subject to the approval of the Governor, the division may administer on behalf of the state its own permit program for the dredge and fill permitting program established in Section 404 of the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq., and regulations promulgated under Section 404 of the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

(B) Any rule, standard, or other requirement adopted for purposes of obtaining authorization for the permitting program under subdivision (a)(2)(A) of this section may not become effective or otherwise enforceable until the United States Environmental Protection Agency has approved the state's application for the state permit program for the dredge and fill permitting program established in Section 404 of the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

(C) The legislative authority under subdivision (a)(2)(A) of this section is intended to be sufficient to enable the division to assume and implement the federal Section 404 dredge and fill permitting program in conjunction with the other permitting programs established in this chapter.

(b) The division shall further have the authority to accept a delegation of authority from the Administrator of the United States Environmental Protection Agency under the Federal Water Pollution Control Act Amendments of 1972 and to exercise and enforce the authority delegated.

(c) Any public hearing that may be held by the Director of the Division of Environmental Quality preliminary to acting on a permit application as required by the Federal Water Pollution Control Act Amendments of 1972 and guidelines, unless otherwise designated in the notice of hearing, shall be for informational purposes only and shall not be deemed a hearing before the commission within the meaning of § 8-4-205. No appeal may be taken therefrom.

§ 8-4-209. State Water Pollution Control Agency – Participation of Certain Persons Prohibited in Approval of Permit Applications.

Any provision of state law to the contrary notwithstanding, no member of the Division of Environmental Quality or the Arkansas Pollution Control and Ecology Commission or other state agency who receives or has during the previous two (2) years received a significant portion of his or her income directly or indirectly from permit holders or applicants for a permit shall participate in the approval of the National Pollutant Discharge Elimination System permit applications or portions thereof.

