

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

**DEPARTMENT/AGENCY** Arkansas Department of Environmental Quality  
**DIVISION** Water Division  
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**INSTRUCTIONS**

- A. Please make copies of this form for future use.**
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.**
- C. If you have a method of indexing your rules, please give the proposed citation after “Short Title of this Rule” below.**
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:**

**Donna K. Davis**  
**Subcommittee on Administrative Rules and Regulations**  
**Arkansas Legislative Council**  
**Bureau of Legislative Research**  
**Room 315, State Capitol**  
**Little Rock, AR 72201**

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What is the short title of this rule? Regulation 6, Regulations for the State Administration of the National Pollutant Discharge Elimination System (NPDES)

- 2. What is the subject of the proposed rule? Emergency adoption of new EPA Concentrated Animal Feedlot Operations (CAFO) provisions for NPDES permits.
- 3. Is this rule required to comply with federal statute or regulations? Yes   X   No

If yes, please provide the federal regulation and/or statute citation.

Federal Water Pollution Control Act, (a.k.a. “Clean Water Act”) 33 U.S.C. § 1251 et seq. This program is delegated to the State of Arkansas and administered pursuant to the Arkansas Water and Air Pollution Control Act, A.C.A. § 8-4-101 et seq. On February 12, 2003, EPA promulgated the National Pollutant Discharge Elimination System (NPDES) Permit Regulation and Effluent Limitations Guidelines and Standards for Concentrated Animal Feedlot Operations (CAFOs), 40 CFR 122 and 412, also known as the CAFO Rule (68 Fed. Reg. 7176), which became effective April 14, 2003.

- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

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Yes \_\_\_\_\_ No \_\_\_\_\_ X—it was filed under the Emergency provisions of A.C.A. § 8-4-202(e)(1), which allows the rule to remain in effective no longer than 180 days. \_\_\_\_\_

If yes, what is the effective date of the emergency rule? \_\_\_\_\_  
December 5, 2003

When does the emergency rule expire? \_\_\_\_\_  
June 2, 2004

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes \_\_\_\_\_ No \_\_\_\_\_ X—it will be promulgated pursuant to A.C.A. § 8-4-202

5. Is this a new rule? Yes \_\_\_\_\_ No \_\_\_\_\_ X If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes \_\_\_\_\_ No \_\_\_\_\_ X If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes \_\_\_\_\_ X No \_\_\_\_\_ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

Arkansas Water and Air Pollution Control Act, A.C.A. § 8-4-101 et seq.; A.C.A. § 8-4-202.

7. What is the purpose of this proposed rule? Why is it necessary? The purpose of this regulation is to adopt regulations necessary to receive authorization to continue implementation of the State water pollution control permitting program in lieu of the federal NPDES program. In order to receive authorization for the CAFO program, it is necessary for the Arkansas Department of Environmental Quality to have regulations as stringent as the federal program administered by the USEPA.

8. Will a public hearing be held on this proposed rule? Yes \_\_\_\_\_ X No \_\_\_\_\_  
If yes, please complete the following:

Date: Hearings beginning week of January 26, 2004 until week of February 9, 2004, at the following locations: Springdale, Russellville, Hope, Fort Smith, and Little Rock

Time: To be announced via public notice the week of December 7, 2003

Place: To be announced via public notice the week of December 7, 2003.

9. When does the public comment period expire for permanent promulgation? (Must provide a date.) \_\_\_\_\_

10 business days after the date of the last public hearing; week of February 23, 2004

10. What is the proposed effective date of this proposed rule? (Must provide a date.) \_\_\_\_\_

EXHIBIT B1

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December 5, 2003

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11. Do you expect this rule to be controversial? Yes  X  No \_\_\_\_\_ If yes, please explain.

Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

It is possible the rule will be controversial because EPA expanded the regulated universe for CAFOs; however, ADEQ has been working diligently with the regulated community and various agencies to ensure all stakeholders have a voice in the process. Many in the regulated community would rather have a program implemented by ADEQ than by EPA.

Arkansas Environmental Federation (unknown); Arkansas Poultry Federation (unknown)