

On April 24, 2002, The Arkansas Environmental Federation ("AEF") filed a Petition to initiate Rulemaking to Amend Regulation No. 2, Water Quality Standards for Surface Waters of the State of Arkansas ("Petition"). Pursuant to Ark. Code Ann. § 8-4-202(c), The Arkansas Pollution Control and Ecology Commission ("Commission") has sixty (60) days in which to either institute rulemaking proceedings or to give written notice denying the petition for rulemaking. The Petition has been designated as Docket No. 02-008-R.

The Commission's Regulations Committee met on May 23, 2002, to review the AEF's Petition. Having considered the Petition, the Regulations Committee recommends the Commission institute a rulemaking proceeding to consider adopting the Petition's proposed revision to Regulation No. 2 as a part of the next Amendment to Regulation No. 2 resulting from its Triennial Review, which will be filed in the second half of 2002.

1. AEF and the Arkansas Department of Environmental Quality ("ADEQ") shall file an original and two (2) copies of all materials required under this Minute. Each party shall serve the other with materials filed. This requirement does not apply to transcripts.

2. Persons submitting written public comments shall submit their written comments to ADEQ. Within ten (10) business days following the adoption or denial of the proposed rule, the ADEQ shall deliver the originals of all comments to the Commission Secretary.

3. AEF has filed with the Petition a red-lined version of the section of Regulation No. 2 which will be amended by the proposed rule.

4. AEF will submit to the ADEQ's public affairs office the following:

- a. A proposed public notice to be used in mailing notice to interested persons, for publishing in appropriate industry, trade, or professional publications as the Commission may select. The proposed public notice may, in the ADEQ's discretion, be approved for use or the ADEQ may choose to prepare its own public notice. The public notice shall conform to the requirements of Regulation No. 8, Part 3, Section 3.1.3. The public notice shall be published not later than 45 days prior to public hearing. By agreement, AEF shall pay the costs of newspaper publications and the costs of the appropriate industry, trade, or professional publications chosen by the Commission. AEF shall file only the original proof of publication with the Commission. The ADEQ shall be responsible for mailing the public notice to all persons who have requested advance notice of rulemaking proceedings and the cost of the mailing.

- b. Sixty-five (65) copies of the executive summary of the proposed rulemaking.
- c. Eight (8) bound copies of the Petition and all supporting documentation.

5. A public hearing or hearings on this Petition shall be held concurrently with the public hearings to be scheduled for ADEQ's Amendments of Regulation No. 2 resulting from its Triennial Review. The exact date, time and location of the public hearing or hearings will be determined by ADEQ's Public Affairs Office.

6. The period for receiving all written comments by the public, AEF and the ADEQ shall conclude ten (10) business days after the date of the public hearing pursuant to Regulation No. 8, Part 3, Section 2.2.3, unless an extension of time is granted.

7. AEF and ADEQ shall file a Statement of Basis and Purpose as required by Regulation No. 8, Part 3, Section 3.6.2(1), (2) and (3) on the same date the ADEQ is required to file the Statement of Basis and Purpose for its Amendments to Regulation No. 2 resulting from its Triennial Review.

8. AEF and ADEQ shall file a proposed Minute Order deciding this matter on the same date the ADEQ is required to file a Proposed Minute Order for its Amendments to Regulation No. 2 resulting from its Triennial Review.

9. The ADEQ shall seek review of the proposed rule from the Joint Interim Committee on Public Health and Welfare and/or from the Joint Interim Committee on Administrative Rules and Regulations.

10. The Regulations Committee will consider this matter when it considers ADEQ's Amendments to Regulation No. 2 resulting from its Triennial Review. Members of the Regulations Committee may ask questions of the ADEQ and any person that made oral or written comments. The Regulations Committee will make a recommendation to the Commission.

11. The presentation of oral statements and legal arguments shall be scheduled at the same time as ADEQ's Amendments to Regulation No. 2 resulting from its Triennial Review and shall be regulated as follows:

- a. The Chair of the Commission will permit members of the public to make a statement to the Commission. No more than three (3) minutes will be allowed for each statement. The period for statements will close at the end of one (1) hour, or sooner if all interested persons have completed their statements. At the discretion of

the Chair, the one (1) hour oral statement period may be extended.

- b. At the discretion of the Chair, an attorney representing one or more individuals, a corporation or other legal entity may be permitted five (5) minutes in which to address the Commission.
- c. Legal counsel or other designated persons representing AEF and the ADEQ will be permitted ten (10) minutes in which to address the Commission.
- d. At the conclusion of all comments, the Chair will call on each Commissioner for the purpose of asking the attorneys or persons sponsoring statements who are present, any questions they may have. Attorneys will not be permitted to respond or ask follow-up questions of any person questioned by a Commissioner.

After each Commissioner has had an opportunity to ask questions, the Chair will entertain a motion on the matter, allow discussion, and call for a vote of the Commission members.

12. If AEF desires a transcript of the public hearing, Regulations Committee meeting, and Commission meetings, or if required by the Commission, AEF agrees to pay all costs for the preparation of a transcript of the public hearing, Regulations Committee meetings and Commission meetings which concern this docket and occur after the adoption of this Minute Order. If transcript of the rulemaking proceedings is required, the court reporter will be employed by AEF, and the court reporter shall deliver the original transcript to the Commission Secretary.

13. The Commission authorizes the Chair of the Regulations Committee, in consultation with the Chair of the Commission, to revise the procedures and schedules set out above.

The Commission accepts the recommendation of the Regulations Committee and agrees to initiate the AEF's rulemaking proceeding in Docket No. 02-008-R concurrent with the ADEQ's Amendment to Regulation No. 2 resulting from its Triennial Review, which will be submitted in the second half of 2002. The Commission adopts, without modification, the procedural schedule set forth above.

COMMISSIONERS:

_____	B. Ackerman	_____	T. Schueck
_____	G. Black	_____	J. Shannon
_____	B. Bush	_____	L. Sickel
_____	H. Durham	_____	W. Thompson
_____	F. Featherstone	_____	S. Varnell
_____	J. Hill	_____	R. Young
_____	R. Mathis		

Chair

SUBMITTED BY: R. Thurman

PASSED: 5/23/02