

**EXHIBIT C**

**LEGISLATIVE QUESTIONNAIRE  
AND  
FINANCIAL IMPACT STATEMENT**

**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  
 DIVISION DIRECTOR Ellen Carpenter  
 CONTACT PERSON Ellen Carpenter  
 ADDRESS 5301 Northshore Drive, North Little Rock, AR 72118  
 PHONE NO. 682-0665 FAX NO. 682-0880 E-MAIL carpenter@adeq.state.ar.us  
 NAME OF PRESENTER AT COMMITTEE MEETING Ellen Carpenter  
 PRESENTER E-MAIL carpenter@adeq.state.ar.us

**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  
 Administrative Rules Review Section  
 Arkansas Legislative Council  
 Bureau of Legislative Research  
 One Capitol Mall, 5<sup>th</sup> Floor  
 Little Rock, AR 72201**

\*\*\*\*\*

1. What is the short title of this rule? Arkansas Pollution Control and Ecology Commission Regulation No. 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas.

2. What is the subject of the proposed rule? Technical Adjustment of the Arkansas Water Quality Standards (WQS) for the Red River from the Arkansas/Oklahoma state line to the Arkansas/Louisiana state line.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No   
 If yes, please provide the federal rule, regulation, and/or statute citation. \_\_\_\_\_

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes  No   
 If yes, what is the effective date of the emergency rule? \_\_\_\_\_

When does the emergency rule \_\_\_\_\_

expire?

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes  No

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

Does this repeal an existing rule? Yes  No   
If yes, a copy of the repealed rule is to be included with your completed questionnaire.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  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 the Arkansas Code citation. Act 472 of 1949, as amended, ARK. CODE ANN. § 8-4-101, et seq. and Ark. Act 401 of 1997, ARK. CODE ANN. § 8-5-901 et seq.

7. What is the purpose of this proposed rule? Why is it necessary? The purpose of the proposed rule is to amend APCEC Regulation No. 2 to:

(1) make a technical adjustment to the total dissolved solids ("TDS") and sulfate water quality criterion of the Red River from the Arkansas/Oklahoma state line to the mouth of the Little River; and

(2) make a further technical adjustment to the sulfate water quality criterion of the Red River from the mouth of the Little River to the Arkansas/Louisiana state line.

The rule is necessary to adjust the sulfate and TDS criterion to levels that reflect current and historic water quality conditions which are controlled by naturally occurring conditions in Texas and Oklahoma. There are no economically feasible treatment technologies capable of reducing the dissolved mineral concentration to levels of the current standards in the affected segment of the Red River.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). [http://www.adeq.state.ar.us/regs/drafts/draft\\_regs.htm](http://www.adeq.state.ar.us/regs/drafts/draft_regs.htm)

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

Date: January 26, 2015

Time: 6:00 p.m  
General Use Room of the Ashdown

Place: Campus of UA Cossatot, 1411 N.

Constitution Ave., Ashdown, AR  
72822

---

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

February 9, 2015

---

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

August, 2015

---

12. Do you expect this rule to be controversial? Yes  No

If yes, please  
explain. \_\_\_\_\_

13. 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.

For or Neutral:

Arkansas Department of Environmental Quality  
Arkansas Department of Health  
Arkansas Natural Resources Commission  
Region VI, US Environmental Protection Agency  
Arkansas Game and Fish Commission

Against:

Unknown

---

**ATTACHMENT A TO**  
**LEGISLATIVE QUESTIONNAIRE**  
**(MARK UP OF PROPOSED TECHNICAL ADJUSTMENT)**

# **ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION**



## **REGULATION NO. 2**

### **REGULATION ESTABLISHING WATER QUALITY STANDARDS FOR SURFACE WATERS OF THE STATE OF ARKANSAS**

Submitted to the Arkansas Pollution Control and Ecology Commission: December 5, 2014

**Stream****Concentration-mg/L**  
**Chlorides**      **Sulfates**      **TDS**  
**(Cl<sup>-</sup>)**              **(SO<sub>4</sub><sup>=2</sup>)**

Dismukes Creek	26*	ER	157*
Big Creek from Dismukes to Bayou Dorcheat	20*	ER	200*
Bois d'Arc Creek from Caney Creek to Red River	113*	283*	420*
Caney Creek	113*	283*	420*
Bodcau Creek	250	70	500
Poston Bayou	120	40	500
Kelley Bayou	90	40	500
<b><u>Red River from Arkansas/Oklahoma state line to the mouth of the Little River</u></b>	<b>250</b>	<b>250</b>	<b>940</b>
<b><u>Red River from mouth of the Little River to Arkansas/Louisiana state line</u></b>	<b>250</b>	<b>225</b>	500
Sulphur River	120	100	500
Days Creek	250	250	500
McKinney Bayou	180	60	480
Little River	20	20	100
Little River from Millwood Lake to the Red River	20	20	138
Saline River	20	10	90
Mine Creek from Hwy 27 to Millwood Lake	90	65	700
Cossatot River	10	15	70
Upper Rolling Fork	20	20	100
Rolling Fork from unnamed trib A to DeQueen Lake	130	70	670
Unnamed tribs A and A1 at Grannis	135	70	700
Mountain Fork	20	20	110
Mississippi River (Louisiana state line to Arkansas River)	60	150	425
Mississippi River (Arkansas River to Missouri state line)	60	175	450

ER - ecoregion value

\* - developed using background flow of 4 cfs

\*\* - These limits shall apply to all tributaries of Bayou Meto and Bayou Two Prairie listed in Appendix A. Any modification of these values must be made in accordance with Reg. 2.306.

† Not applicable for Clean Water Act purposes until approved by EPA.

**(B) Ecoregion Reference Stream Minerals Values**

The following values were determined from Arkansas' least-disturbed ecoregion reference streams are considered to be the maximum naturally occurring levels. For waterbodies not listed above, any discharge which results in instream concentrations more than 1/3 higher than these values for chlorides (Cl<sup>-</sup>) and sulfates (SO<sub>4</sub><sup>=2</sup>) or more than 15 mg/L, whichever is greater, is considered to be a significant modification of the maximum naturally occurring values. These waterbodies should be considered as candidates for site specific criteria development in accordance with Regs. 2.306 and 2.308. Similarly, site specific criteria development should be considered if the following TDS values are exceeded after being increased by the sum of the increases to Cl and SO<sub>4</sub>. Such criteria may be developed only in accordance with Regs. 2.306 and 2.308. The values listed in

## SPECIFIC STANDARDS: GULF COASTAL ECOREGION

(Plates GC-1, GC-2, GC-3, GC-4)

	<u>Typical Streams</u>	<u>Spring Water Streams</u>	<u>Lakes and Reservoirs</u>
Temperature °C (°F)* Ouachita River (state line to Little Missouri River) Red River	30 (86)  32 (89.6) 32 (89.6)	30 (86)	32 (89.6)
Turbidity (NTU) (base/all) Red River (base/all)	21/32 50/150	21/32	25/45
Minerals	see Reg. 2.511		see Reg. 2.511
Dissolved Oxygen (mg/L) **	<u>Pri.</u> <u>Crit.</u>		see Reg. 2.505
<10 mi <sup>2</sup> watershed	5      2		
10 mi <sup>2</sup> - 500 mi <sup>2</sup>	5      3		
>500 mi <sup>2</sup> watershed	5      5		
All sizes (springwater influenced)		6	5
All other standards	(same as statewide)		

\*Increase over natural temperatures may not be more than 2.8°C (5°F).

\*\*At water temperatures ≤10°C or during March, April and May when stream flows are 15 cfs and greater, the primary season dissolved oxygen standard will be 6.5 mg/L. When water temperatures exceed 22°C, the critical season dissolved oxygen standard may be depressed by 1 mg/L for no more than 8 hours during a 24-hour period

### Site Specific Standards Variations Supported by Use Attainability Analysis

- Loutre Creek - from headwaters to railroad bridge, critical season dissolved oxygen standard - 3 mg/L; primary season - 5 mg/L; from railroad bridge to mouth, critical season dissolved oxygen - 2 mg/L (GC-2, #1)
- Unnamed tributary to Smackover Creek - headwaters to Smackover Creek, year round dissolved oxygen criteria - 2 mg/L (GC-2, #2)
- Unnamed tributary to Flat Creek - from headwaters to Flat Creek, year round dissolved oxygen criteria - 2 mg/L (GC-2, #4)
- Dodson Creek - from headwaters to confluence with Saline River, critical season dissolved oxygen standard - 3 mg/L (GC-4, #5)
- Jug Creek - from headwaters to confluence with Moro Creek, critical season dissolved oxygen standard - 3 mg/L (GC-2, #6)
- Lick Creek - from headwaters to Millwood Reservoir, critical season dissolved oxygen standard - 2 mg/L (GC-1, #7)
- Coffee Creek and Mossy Lake - exempt from Reg. 2.406 and Chapter Five (GC-3, #8)
- Red River from Oklahoma state line to confluence with Little River - total dissolved solids - 850 mg/L (GC-1, #9)
- Bluff Creek and unnamed trib. - sulfates 651 mg/L; total dissolved solids 1033 mg/L (GC-1, #10)
- Muddy Fork Little Missouri River - sulfates 250 mg/L; total dissolved solids 500 mg/L (GC-1, #24)
- Little Missouri River - sulfates 90 mg/L; total dissolved solids 180 mg/L (GC-1, #25)
- Mine Creek from Highway 27 to Millwood Lake - chlorides - 90 mg/L; sulfates - 65 mg/L; total dissolved solids - 700 mg/L (GC-1, #11)



Caney Creek - chlorides 113 mg/L; sulfates 283 mg/L; total dissolved solids 420 mg/L (GC-1,#12)  
 Bois d'Arc Creek from Caney Creek to Red River - chlorides 113 mg/L; sulfates 283 mg/L; total dissolved solids 420 mg/L (GC-1,#13)  
 Town Creek below Acme tributary - sulfates 200 mg/L; total dissolved solids 700 mg/L (GC-4,#14)  
 Unnamed trib. from Acme - sulfates 330 mg/L; total dissolved solids 830 mg/L (GC-4,#14)  
 Gum Creek - chlorides 104 mg/L; total dissolved solids 311 mg/L (GC-2,#15)  
 Bayou de Loutre from Gum Creek to State line - Chlorides 250 mg/L; total dissolved solids 750 mg/L (GC-2,#16)  
 Walker Branch - chlorides 180 mg/L; total dissolved solids 970 mg/L (GC-2,#17)  
 Ouachita River - from Ouachita River mile (ORM) 223 to the Arkansas-Louisiana border (ORM 221.1), site specific seasonal dissolved oxygen criteria: 3 mg/L June and July; 4.5 mg/L August; 5 mg/L September through May. These seasonal criteria may be unattainable during or following naturally occurring high flows,(i.e., river stage above 65 feet measured at the lower gauge at the Felsenthal Lock and Dam, Station No.89-o, and also for the two weeks following the recession of flood waters below 65 feet), which occurs from May through August. Naturally occurring conditions which fail to meet criteria should not be interpreted as violations of these criteria (GC-3, #26)  
 Alcoa unnamed trib. to Hurricane Cr. and Hurricane Cr. - see Reg. 2.511 (CG-4. #19)  
 Holly Creek - See Reg. 2.511 (CG-4, #20)  
 Saline River bifurcation - see Reg. 2.511 (GC-4, #23)  
 Dry Lost Creek and tributaries - see Reg. 2.511 (GC-4, #21)  
 Lost Creek - see Reg. 2.511 (GC-4, #22)  
 Albemarle unnamed trib (AUT) to Horsehead Creek - chlorides 137 mg/L; total dissolved solids 383 mg/L (GC-2, #27)  
 Horsehead Creek from AUT to mouth - chlorides 85 mg/L; total dissolved solids 260 mg/L(GC-2,#27)  
 Bayou Dorcheat - sulfates 16 mg/L (GC-2,#27)  
 Dismukes Creek – chlorides 26 mg/L; total dissolved solids 157 mg/L (GC-2, #28)  
 Big Creek from Dismukes to Bayou Dorcheat – chlorides 20 mg/L; total dissolved solids 200 mg/L (GC-2, #28)  
 Bayou de Loutre from Chemtura outfall to Loutre Creek – maximum water temperature 96°F (GC-2, #29)  
 Unnamed tributary of Lake June below Entergy Couch Plant to confluence with Lake June – maximum water temperature 95 degrees F (limitation of 5 degrees above natural temperature does not apply) (GC-1, #30).  
 Unnamed tributary to Flat Creek from EDCC Outfall 001 d/s to confluence with unnamed tributary A to Flat Creek Chloride 23 mg/L, Sulfate 125 mg/L, TDS 475 mg/L, (GC-2, #37) †  
 Unnamed tributary A to Flat Creek from mouth of EDCC 001 ditch to confluence with Flat Creek, Chloride 16 mg/L, Sulfate 80 mg/L, TDS 315 mg/L, (GC-2, #38) †  
 Boggy Creek from the discharge from Clean Harbors El Dorado LCC downstream to the confluence of Bayou de Loutre. Chloride, 631mg/L; Sulfate, 63 mg/L, total dissolved solids, 1360; Selenium, 15.6 u/L  
 McGeorge Creek (headwaters to Willow Springs Branch) Sulfate, 250 mg/L; total dissolved solids, 432 mg/L (GC-4. #52)  
 Willow Springs Branch (McGeorge Creek to Little Fourche Creek) Sulfate, 112 mg/L; total dissolved solids 247 mg/L (GC-4. #53)  
 Little Fourche Creek (Willow Springs Branch to Fourche Creek) total dissolved solids, 179 mg/L (GC-4. #54)

† Not applicable for clean water act purposes until approved by EPA.

**Variations Supported by Environmental Improvement Project**

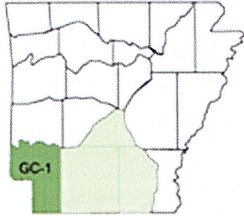
Holly Creek; Selenium, Chronic Standard, 17µg/L (GC-4, #1)

**Site Specific Standards Variations Supported by Technical Adjustment**

**Red River from the Arkansas/Oklahoma state line to the mouth of the Little River; sulfate, 250 mg/L, TDS 940 mg/L (GC-1, #57)**

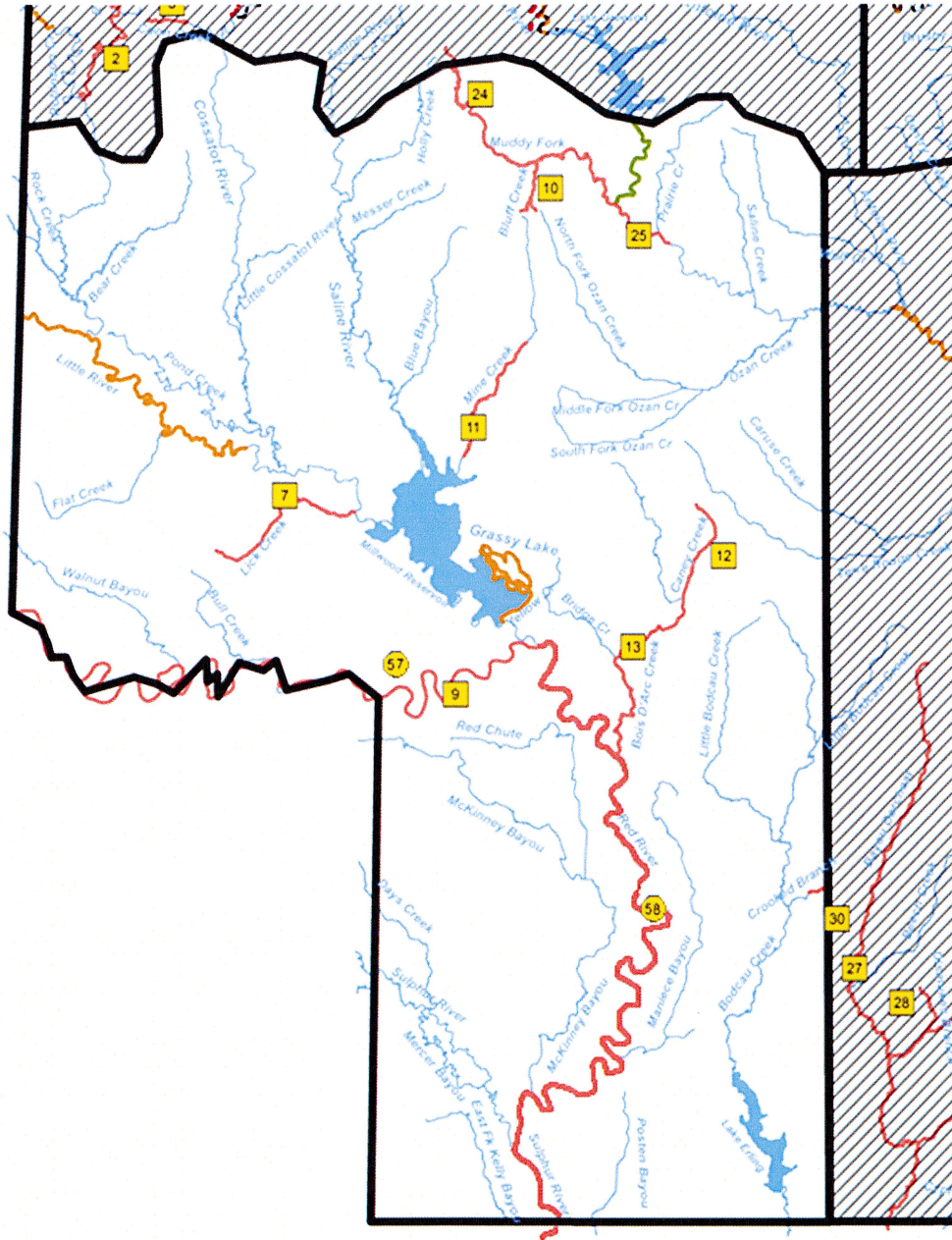
**Red River from the mouth of the Little River to the Arkansas/Louisiana state line; sulfate, 225 mg/L (GC-1, #58)**

# Plate GC-1 (Gulf Coastal Plain)



**LEGEND**

- • Extraordinary Resource Waters
- • Natural and Scenic Waterways
- Variation by UAA
- Ecologically Sensitive Waterbodies
- ESW Caves, Springs, and Seeps
- Trout\_Waters



**ATTACHMENT B TO  
LEGISLATIVE QUESTIONNAIRE  
(EXECUTIVE SUMMARY)**

## EXECUTIVE SUMMARY

Domtar A.W. LLC (“Domtar”) owns and operates a paper mill at Ashdown, Arkansas which discharges treated wastewater from a single outfall to the Red River under the provisions of NPDES Permit No. AR0002968 issued by ADEQ.

The Red River contains elevated levels of dissolved solids caused by input from natural salt springs and seeps in Oklahoma and Texas. The states of Texas, Oklahoma, Arkansas and Louisiana each have established total dissolved solids (“TDS”) and sulfate criteria for the river which are spatially inconsistent. As it enters Arkansas, the Red River has a Texas TDS criterion of 1,100 mg/L and a sulfate criterion of 250 mg/L while, at the same time, the river has an Oklahoma TDS criterion of 1,220 mg/L and a sulfate criterion of 277 mg/L. The current TDS criterion for the segment of the Red River from the Arkansas/Oklahoma state line to the mouth of the Little River is 850 mg/L which was set during a 1994 Third-Party Rulemaking which also removed the domestic drinking water use designation for this segment of the Red River. The current TDS criterion for the segment of the Red River from the mouth of the Little River to the Arkansas/Louisiana state line is 500 mg/L and is the subject of an on-going rulemaking filed by Southwestern Electric Power Company asking that the TDS criterion be established at 860 mg/L. The sulfate criterion of the Red River from the Arkansas/Oklahoma state line to the Arkansas/Louisiana is 200 mg/L.

The Red River is listed as impaired for TDS and chlorides in the Arkansas 2008 303(d) list. The consequence of the listing is that the limitations set in the facility’s NPDES permit adversely impacts the operations of the facility despite the fact that the minerals loading/concentrations in the facility’s discharge at full operation has a minor effect on the concentration of dissolved minerals in the Red River.

Domtar is requesting a technical adjustment to the TDS and sulfate water quality criteria of the Red River as follows:

- modification of the TDS and sulfate water quality criteria for the Red River from the Arkansas/Oklahoma state line to the mouth of the Little River as follows:
  - TDS from 850 mg/L to 940 mg/L
  - Sulfate from 200 mg/L to 250 mg/L;
- modification of the sulfate water quality criterion for the Red River from the mouth of the Little River to the Arkansas/Louisiana state line as follows:
  - Sulfate from 200 mg/L to 225 mg/L.

Domtar’s proposed site-specific technical adjustments are supported by the following:

- Several unique circumstances including: (a) well known and long-term naturally occurring elevated levels of minerals in the Red River caused by input from natural salt springs and seeps in Texas and Oklahoma; (b) the highly inconsistent and conflicting minerals standards on the Red River established by the various agencies with jurisdiction over the water quality standards of the Red River; (c) no other water body in Arkansas has such an inconsistent and conflicting set of mineral water quality standards; and (d) the currently pending (before the APCE&C) SWEPCO request to amend water quality standards on the Red River supported by its Use Attainability Analysis (UAA)..

- The Red River situation is unique. There is no similar water body in Arkansas with the inconsistent and conflicting water quality minerals criteria;
- TDS and sulfate criterion in the Red River are spatially inconsistent because of the criteria separately established on the same segments of the river by Oklahoma, Texas and Arkansas;
- TDS concentrations in the Red River historically exceed the current TDS criterion of 850 mg/L due to elevated levels of dissolved solids caused primarily by input from natural salt springs and seeps in Oklahoma and Texas.
- The TDS and sulfate criterion in the Red River make no sense and have no rational connection to the longstanding historical reality in the river;
- The technical adjustments reflect current conditions, bring consistency to the criteria on the Red River, and allow Domtar to operate efficiently and within projected permit limits while protecting designated uses for the Red River;
- There is no current economically feasible treatment technology for the removal of the minerals to meet the current criteria. Reverse osmosis treatment technology does exist; however, this technology is not cost effective and generates a concentrated brine which is environmentally difficult to dispose of. The technology is not required to meet the designated uses and would produce no significant additional environmental protection.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Environmental Quality  
**DIVISION** Water Division  
**PERSON COMPLETING THIS STATEMENT** Marcella Taylor  
**TELEPHONE NO.** 688-8851 **FAX NO.** 918-7851 **EMAIL:** mtaylor@mwlaw.com

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** Arkansas Pollution Control and Ecology Commission  
Regulation No. 2, Regulation Establishing Water Quality  
Standards for Surface Waters of the State of Arkansas.

- 1. Does this proposed, amended, or repealed rule have a financial impact?      Yes       No
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?      Yes       No
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered?      Yes       No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;  
\_\_\_\_\_
- (b) The reason for adoption of the more costly rule;  
\_\_\_\_\_
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;  
\_\_\_\_\_
- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.  
\_\_\_\_\_

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$ 0 \_\_\_\_\_

Total \$ 0 \_\_\_\_\_

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$ 0 \_\_\_\_\_

Total \$ 0 \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

**Next Fiscal Year**

\$ 0 \_\_\_\_\_

\$ 0 \_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

**Next Fiscal Year**

\$ 0 \_\_\_\_\_

\$ 0 \_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes  No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.