

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 2, REGULATIONS ESTABLISHING) DOCKET NO. 07-____-R
WATER QUALITY STANDARDS FOR SURFACE)
WATERS IN THE STATE OF ARKANSAS)

PETITION TO INITIATE RULEMAKING FOR REGULATION NO. 2, REGULATIONS
ESTABLISHING WATER QUALITY STANDARDS FOR SURFACE WATERS
IN THE STATE OF ARKANSAS

The Arkansas Department of Environmental Quality (hereinafter “the Department”), for its Petition to Initiate Rulemaking to Amend Regulation No. 2, states:

1. The Clean Water Act requires that States review their water quality standards every three years. The Department began the current Triennial Review process with a series of public meetings beginning in February 2006.
2. The Department chose to address the issues of the current Triennial Review in a two-phase process. The first phase addressed issues related to Extraordinary Resource Waters. On September 22, 2006, the Arkansas Pollution Control and Ecology Commission (hereinafter “Commission”) granted the Department’s petition to initiate rulemaking to amend Regulation No. 2 with regard to the first phase of the Triennial Review process.
3. The second phase of the Triennial Review has addressed technical issues. The second phase of the Triennial Review process began in October 2006.
4. Proposed amendments to the Water Quality Standards include:
 - (A) Add the definition of “Base-Flows” to Section 2.106;
 - (B) Add the definition of “*Escherichia coli*” to Section 2.106;

- (C) Add the definition for “ground water under the influence of surface water” to Section 2.106;
- (D) Add the definition for “Storm Flows” to Section 2.106;
- (E) Update the reference to the Arkansas Natural Resources Commission in Section 2.203;
- (F) Changing the common name of the “Grass pickerel” to “Redfin pickerel” in Section 2.302(F)(3)(e) & (f);
- (G) Deleting “tracers used in hydrological studies” from the list of activities that require a short-term activity authorization in Section 2.305;
- (H) Adding language to Section 2.404, Mixing Zones, to protect domestic water supply intakes from mixing zones;
- (I) Replace term “Primary Values” with “Base-Flow Values” in Section 2.503, Turbidity;
- (J) Revise language related to maximum allowable levels of bacteria in primary and secondary contact waters in Section 2.507;
- (K) Revise 2.507(C) to clarify that *E. coli* will be used for ambient water quality assessment;
- (L) Delete Beryllium from the list of Human Health Criteria standards in Section 2.508, Toxic Substances;
- (M) Delete language in Section 2.511, Mineral Quality to make the standard consistent with current assessment methodology;

(N) Add Lost Creek Ditch (Cache River) to the list of streams with mineral standards in Section 2.511. This segment will have the same standards as Bayou DeView;

(O) Add “Hurricane Creek” to clarify descriptions of two streams listed in Section 2.511; and

(P) Revise the language of Section 2.511 regarding maximum naturally occurring levels of minerals as determined by the least-disturbed ecoregion reference streams.

5. Jamie Ewing, attorney for ADEQ, and/or Martin Maner, Chief of the Water Division, will be available to answer questions concerning this proposed rulemaking. A version of the regulation showing the proposed changes is attached as Exhibit “A” and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as Exhibit “B”, a copy of a financial impact statement for the proposed revision is attached as Exhibit “C”, a memo regarding the Department’s compliance with Act 143 of 2007 is attached as Exhibit “D”, and a copy of the Economic Impact/Environment Benefit Analysis is attached as Exhibit “E,” all of which are hereby incorporated by reference. A proposed minute order is attached as Exhibit “F” and is hereby incorporated by reference.

WHEREFORE, the ADEQ requests that the Commission adopt the proposed Minute Order, and initiate the rulemaking on Regulation No. 2.

Respectfully submitted,

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