

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

DEPARTMENT/AGENCY	<u>Arkansas Department of Environmental Quality</u>	
DIVISION	<u>Water Division</u>	
DIVISION DIRECTOR	<u>Martin Maner, Chief, Water Division</u>	
CONTACT PERSON	<u>Mary Leath, Chief Deputy Director</u>	
ADDRESS	<u>8001 National Drive, P. O. Box 8913, Little Rock,</u> <u>AR 72219-8913</u>	
PHONE NO.	<u>501-682-0959</u>	FAX NO. <u>501-682-0798</u>
E-MAIL	<u>leath@adeq.state.ar.us</u>	

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:

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

- 1. **What is the short title of this rule?** Regulation No. 2 of the Arkansas Pollution Control and Ecology Commission
- 2. **What is the subject of the proposed rule?** Amendments to the Arkansas Water Quality Standards
- 3. **Is this rule required to comply with federal statute or regulations?** Yes
If yes, please provide the federal regulation and/or statute citation. Federal Water Pollution Control Act ("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, Ark. Code Ann. §8-4-101 *et seq.*

EXHIBIT B

4. **Was this rule filed under the emergency provisions of the Administrative Procedure Act?** No
If yes, what is the effective date of the emergency rule? N/A
When does the emergency rule expire? N/A
Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? N/A
5. **Is this a new rule?** No
If yes, please provide a brief summary explaining the regulation.
Does this repeal an existing rule? 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If yes, a copy of the repealed rule is to be included with your completed questionnaire.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
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.** Ark. Code Ann. § 8-4-201(b)(1) authorizes the Arkansas Pollution Control and Ecology Commission to adopt water quality standards for the State of Arkansas.
7. **What is the purpose of this proposed rule? Why is it necessary?**
Please see the attached summary of the proposed rule. Pursuant to the Clean Water Act, the Arkansas Department of Environmental Quality is federally mandated to complete a triennial review of water quality standards. The proposed rule represents technical and housekeeping changes to the regulation as deemed necessary through the triennial review process.
8. **Will a public hearing be held on this proposed rule?** Yes
If yes, please complete the following:
The public hearing will be June 20, 2007 at 2:00 p.m. in Arkansas Department of Environmental Quality Building G, Commission Room, No. 1 State Police Plaza, Little Rock.
9. **When does the public comment period expire for permanent promulgation?**
On or about July 5, 2007
10. **What is the proposed effective date of this proposed rule?** On or about August 31, 2007

EXHIBIT B

11. **Do you expect this rule to be controversial? No. If yes, please explain.**
12. **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.**
Arkansas Environmental Federation; The Federation's ultimate position is unknown, however, ADEQ is in communication with the Federation about any concerns with the proposed rule.

Summary of Proposed Rule

ADEQ proposes to amend Regulation No. 2 to:

- (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;

EXHIBIT B

(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.