

**APC&EC Regulation No.2,
Regulation Establishing Water Quality Standards for Surface Waters of the State of
Arkansas
Proposed Amendments – Executive Summary**

The Department of Energy and Environment, Division of Environmental Quality (DEQ) proposes this rulemaking before the Arkansas Pollution Control and Ecology Commission to Regulation No. 2 to incorporate statutory revisions made by the Arkansas General Assembly, clarify several provisions, and make stylistic and formatting corrections throughout the Regulation.

Under the federal Clean Water Act, states are given the responsibility to establish water quality standards, and at least once every three (3) years, states are to review the applicable water quality standards to determine whether any modifications are appropriate.¹ Any changes to water quality standards adopted by a state during the Triennial Review must be submitted to EPA for review and approval or disapproval. The standards adopted by the state are submitted to EPA along with any supporting information² and a certification that the standards were adopted pursuant to state law.³ This submittal is to be provided to EPA within thirty (30) days of the final State action to adopt and certify the revised standards.⁴ After the State submits its revised water quality standards, EPA must approve or disapprove the revisions.⁵ If EPA approves the new state standards, then those standards can be used for purposes of implementing the federal Clean Water Act, including such actions as listing water quality impairments, calculating TMDLs, and developing effluent limits for NPDES permits.⁶

If the revised water quality standards are disapproved by EPA, then the standards are not applicable water quality standards for purposes of implementing the federal Clean Water Act. If the water quality standards adopted by a State are disapproved by EPA, then those standards cannot be used to implement the provisions of the federal Clean Water Act until the standards have been revised through a new rulemaking and re-submitted to EPA for review and approval.

The Commission's authority for amending Regulation No. 2 is found in Ark. Code Ann. §§ 8-6-207(b)(1), 8-4-202(a), and 8-1-203(b)(1)(A).

¹ Section 303(c) of the Clean Water Act.

² 40 CFR § 131.20 (c).

³ 40 CFR § 131.6(e).

⁴ 40 CFR §131.20(c).

⁵ 40 CFR §131.21

⁶ 40 CFR § 131.21(d).

Proposed changes to Regulation No.2 include:

- **Incorporation of Updates to Arkansas Law.** Acts 315 and 910 of 2019 were enacted by the Arkansas General Assembly and require revisions to Regulation No. 2 concerning the name change from Arkansas Department of Environmental Quality to Division of Environmental Quality and the use of Rule in lieu of Regulation;
 - **Amendments to Provide Clarification and Minor Corrections.** Clarification of sections of the regulation that were otherwise unclear, and minor corrections to make the regulation more illustrative of the legislative and regulatory intent;
 - **Regulatory Amendments for Consistency with Statutory Changes.** To amend other Chapters of the Regulation for consistency with the statutory changes made by the General Assembly and federal regulations, primarily concerning terminology and program name changes;
 - **Amendments to Reflect Changes in Rule 6.** Amendments to remove permitting language from Reg. 2 (Rule 2) that is being adopted into Rule 6 – Regulations For State Administration Of The National Pollutant Discharge Elimination System (NPDES);
- and
- **Stylistic and Formatting Corrections.** To make minor, non-substantive stylistic and formatting corrections throughout the Regulation.