

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

**DEPARTMENT/AGENCY:** Arkansas Department of Environmental Quality

**DIVISIONS:** Water Division

**DIVISION DIRECTOR:** Steven Drown, Division Chief, Water Division

**CONTACT PERSON:** Ryan Benefield, Deputy Director, ADEQ

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**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**  
**Subcommittee on Administrative Rules and Regulations**  
**Arkansas Legislative Council**  
**Bureau of Legislative Research**  
**Room 315, State Capitol**  
**Little Rock, AR 72201**

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- 1. What is the short title of this rule? *Regulation No. 6, Regulations for the Administration of the National Pollutant Discharge Elimination System (NPDES)*
- 2. What is the subject of the proposed rule? *This proposed rule will create a permit-by-rule to authorize, upon meeting certain conditions, construction for individual treatment facilities generating less than 1000 gallons of domestic waste per day.*
- 3. Is this rule required to comply with federal statute or regulations? Yes \_\_\_\_\_ No X \_\_\_\_\_  
If yes, please provide the federal regulation and/or statute citation.
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?  
Yes \_\_\_\_\_ No X \_\_\_\_\_  
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 X \_\_\_\_\_

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

Does this repeal an existing rule? Yes \_\_\_\_\_ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire.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 X 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."

*This proposed rule will create a permit-by-rule to authorize construction for individual treatment facilities generating less than 1000 gallons of domestic waste per day. The rule sets forth three requirements that are necessary for coverage under the rule. The proposed rule is not lengthy and has been provided in its entirety with this questionnaire.*

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

*Ark. Code Ann. §8-4-203(k) stated that the Arkansas Pollution Control and Ecology Commission "may promulgate rules to establish a permit-by-rule."*

7. What is the purpose of this proposed rule? Why is it necessary?

*Ark. Code Ann. §8-4-217(b)(1)(A) states, "It shall be unlawful for any person to engage in any of the following acts without having first obtained a written permit from the department:*

*(A) To construct...any disposal system or any part thereof, or any extension or addition thereto, that will discharge into any waters of this state...."*

*The permit-by-rule will authorize construction of previously approved systems under certain conditions, rather than through the permit process for individual construction permits, which requires opportunity for full public participation, including public notice and a thirty day comment period. This rulemaking does not affect the requirement to obtain a general permit from ADEQ for the operation of the system.*

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

Date: May 19, 2010

Time: 2:00 P.M.

Place: *Commission Room, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas.*

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

*The period for receiving all written comments shall conclude ten (10) business days after the public hearing pursuant to Regulation No. 8.806(B). The projected date for the close of public comment period will be approximately June 3, 2010.*

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

*Final promulgation of the rule is anticipated on August 27, 2010. The rule will become effective 10 days after filing with the Arkansas Secretary of State, the State Library and the Bureau of Legislative Research, which is anticipated to be September 13, 2010.*

## EXHIBIT B

11. Do you expect this rule to be controversial? Yes X No \_\_\_\_\_ If yes, please explain.  
*Currently, entities seeking to discharge to waters of the State through an individual treatment system that generates less than 1000 gallons of domestic waste per day must obtain an individual construction permit to construct that system, even though the operation of the system can be authorized under a general permit issued by ADEQ, which provides coverage through a streamlined permitting process. This permit-by-rule will eliminate the requirement to submit a permit application to ADEQ, as well as public notice of, and public comment on, the draft permit for construction of an individual treatment system. Some persons or groups may object to this and express the desire to have public notice and an opportunity to comment on the construction of each system.*
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.  
*Beaver Water District (possibly opposed)*  
*Central Arkansas Water (possibly opposed)*

**Proposed Rule (in its entirety):**

Reg.6.203          Permitting Requirements for Construction of Individual Treatment Facilities of Domestic Waste

Individual Treatment Facilities Generating less than 1000 gallons per day of domestic waste shall be deemed to have a permit by rule for construction for the purposes of the Arkansas Water and Air Pollution Control Act, if all the following conditions are met:

- (1) The treatment system design is approved by the Department;
- (2) The treatment system is approved by the Arkansas Department of Health; and
- (3) At least 10 days written notice is provided to the Department prior to commencing construction which shall include a copy of the approval of the treatment system from the Arkansas Department of Health.

Each individual treatment unit shall be designed or equipped so that effluent discharged by the system will be in compliance with effluent limitations 10 mg/l of BOD<sub>5</sub> and 15 mg/l TSS regardless of unusual patterns or frequencies of wastewater flow into the system.

The Department will maintain a list of evaluated and approved treatment system designs. Permit coverage for construction of individual treatment units under this section does not guarantee coverage for discharge and operation under an NPDES Permit.