

**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

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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**

- 1. What is the short title of this rule?
Regulation No. 6, Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES)
- 2. What is the subject of the proposed rule?
This proposed rule will:
 - 1) Incorporate a reference to new federal regulations for discharges from concentrated animal feeding operations ("CAFOs") and eliminate previous text regarding dry litter systems;
 - 2) Incorporate a permit by rule for stormwater discharges from small construction sites; and
 - 3) Incorporate the state law that requires financial assurance for non-municipal sewage treatment works.

- 3. Is this rule required to comply with federal statute or regulations? Yes X No

If yes, please provide the federal regulation and/or statute citation.

This regulation must comply with the federal Clean Water Act, 33 U.S.C. 1251 *et seq.* and regulations promulgation thereunder.

- 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_____

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 Yes _____ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire.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? _____ No X 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."

See Question 7 below for a summary of the proposed changes and the purpose for each.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.
The Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, including but not limited to Ark. Code Ann. § 8-4-203.

7. What is the purpose of this proposed rule? Why is it necessary?
In addition to minor formatting changes, there are three substantive changes to the rule. First, Chapter 5 of the regulation has been removed. This Chapter previously addressed permitting requirements for CAFOs that utilized dry litter systems. In 2008, the U.S. Environmental Protection Agency ("EPA") finalized federal regulations governing NPDES permits for CAFOs. The proposed change will delete this separate chapter for those facilities and incorporate the federal regulations in the list of referenced federal regulations found in Reg. 6.104(A). This change is necessary to incorporate current federal regulations into our NPDES regulation and to avoid confusion regarding permitting of concentrated animal feeding operations.

Second, the rule will add Reg. 6.203 which creates a permit by rule stormwater discharges from small construction sites. These sites are smaller than five (5) acres. This provision was previously included in the Construction Stormwater general permit issued by ADEQ. However, this change is necessary because ADEQ believes that a permit by rule is more properly located within a regulation. The requirements for small construction sites are unchanged.

Third, the rule will add Reg. 6.205 which governs the financial assurance permitting requirements for non-municipal sewage treatment works. This new provision is copied directly from the financial assurance requirements found in the Arkansas Water and Air Pollution Control Act, § 8-4-203(b)(1)(B). The General Assembly passed these provisions in 2007. This change is necessary to ensure the continued operations of these treatments systems in order to prevent discharge of untreated wastewater.

EXHIBIT B

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

<u>Date/Time</u>	<u>Location</u>
December 19, 2011	ADEQ Headquarters, 5301 Northshore Drive, North Little Rock

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 Reg. 8.806(B). The projected date for the close of public comment period will be approximately January 2, 2012.
10. What is the proposed effective date of this proposed rule? (Must provide a date.)
Final promulgation of the rule is anticipated on March 23, 2012. 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 April 2, 2012.
11. Do you expect this rule to be controversial? Yes No X 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 Farm Bureau
Tyson
Cargill
Arkansas Pork Producers Association
The Poultry Federation
Arkansas Natural Resources Commission
USDA Natural Resources Conservation Service
University of Arkansas Cooperative Extension Service
Arkansas Homebuilders' Association