

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

DEPARTMENT/AGENCY Arkansas Department of Environmental Quality
DIVISION Water Division
DIVISION DIRECTOR Ryan Benefield, P.E., ADEQ Deputy Director
CONTACT PERSON Ryan Benefield, P.E., ADEQ Deputy Director
ADDRESS 5301 North Shore Drive, N. Little Rock, AR 722118
(501) 682- E-
PHONE NO. (501) 682-0960 FAX NO. 0891 MAIL benefield@adeq.state.ar.us
NAME OF PRESENTER AT COMMITTEE
MEETING Teresa Marks, ADEQ Director
PRESENTER E-MAIL marks@adeq.state.ar.us

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
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
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? Implementation of Act 402 of 2013
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☒ No ☐
The regulation must comply with the regulations promulgated thereunder. Additionally, the proposed changes are made in accordance with Acts 402 of 2013.
If yes, please provide the federal rule, regulation, and/or statute citation. _____
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes ☒ 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?

Yes ☐

No ☒

5. Is this a new rule? Yes ☐ No ☒

If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes ☐ 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If yes, a copy of the repealed rule is to be included with your completed questionnaire.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 ☒

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."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the 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. § 8-4-202, including new provisions included in Act 402 of 2013.

7. What is the purpose of this proposed rule? Why is it necessary? Act 402 of the 2013 update the financial assurance requirements for nonmunicipal domestic sewage treatment works and those changes should be incorporated into this regulation. As APC&EC Regulation No. 6 is the regulation governing the development and issuance of NPDES permits by ADEQ, this regulation should be amended to incorporate and fully implement the provisions of Act 402.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). After initiation of the rulemaking process by the Arkansas Pollution Control and Ecology Commission, the proposed rule and all related documents, including this form, will be available here: http://www.adeq.state.ar.us/regs/drafts/draft_regs.htm

9. Will a public hearing be held on this proposed rule? Yes ☒ No ☐

If yes, please complete the following:

Date: Sept. 23, 2013

Time: 2:00 P.M.

ADEQ Headquarters, Commission

Place: Room, North Little Rock, AR

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

Oct. 7, 2013

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

February 2014

12. Do you expect this rule to be controversial? Yes ☐ No ☒

If yes, please
explain. _____

13. 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.

1. Arkansas Chapter of the Sierra Club, Tom McKinney
 2. Ross Moore
 3. Jay Johnston
 4. James Metzger
 5. Joy Fox
 6. Dana Steward
 7. Shawn Porter
 8. Dane Schumacher
 9. Jack Kroeck
 10. Vela Giri
 11. Justin Leflar
 12. Cindy Rimkus
 13. Pamela E. Stewart
 14. Annee Littell
 15. Arkansas Environmental Federation
 16. Ross Noland, and other concerned parties
 17. The Energy and Environmental Alliance of Arkansas
 18. Arkansas Department of Health
 19. Ouachita River Park Commission
 20. Friends of the White and North Fork Rivers
 21. Beaver Water District
 22. Judy and John Gibson
 23. Pamela Dawkins
 24. Gayne SchmidtNone
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FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Environmental Quality
DIVISION Water Division
PERSON COMPLETING THIS STATEMENT Ryan Benefield, ADEQ Deputy Director
TELEPHONE NO. (501) 682-0960 **FAX NO.** (501) 682-0891 **EMAIL:** benefield@adeq.state.ar.us

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Regulation No. 6, Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES)

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;
Not applicable.
 - (b) The reason for adoption of the more costly rule;
Not applicable.
 - (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
Not applicable.
 - (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
Not applicable.
4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:
- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total 0

Total 0

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total 0

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total 0

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

The proposed changes to Regulation No. 6 should not subject any party to any costs

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

The proposed changes to Regulation No. 6 should not subject any party to any costs

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.