

**Stakeholder Meeting Notes – July 21, 2020**  
**Questions and Comments on Draft Continuing Planning Process (CPP) and Draft**  
**Antidegradation Implementation Methodology (AIM)**

1. **[Introductory Procedural Comments] Bryan Leamons (DEQ):** I want to make note of a few burning questions that came up in the last meeting that had to do with our plans for moving forward with comment period, and also our plans for when, if, and how we were to make changes to these plans for moving forward...We will have a 30-day comment period. It will begin Sunday, July 26<sup>th</sup>. We'll publish that, open for comments, in the Arkansas Democrat Gazette statewide publication...And that'll be an opportunity for not only stakeholders to comment and provide information for any support of these plans, but also any suggested changes or comments. But it will also be opened for any and all public citizens who wish to comment, provide views, data, and arguments on these plans. And we'll be waiting on those comments and evaluating those as they come in. We're evaluating as they come in, but we also decided to not change these plans in their current form during the remainder of these comment periods. So we're going to continue to accept stakeholder views today and accept these 30-day comments for consideration, but we're moving forward with the entire process with the two plans in their draft forms as they stand today. After the remaining 30-day and the end of the 30-day comment period, we will consider those comments and we will make note and make changes as needed for the final edits. We'll present those to our director, DEQ Secretary of Department of E&E [Energy and Environment]. And eventually we hope and plan to submit these plans to EPA around the first part of October.
2. **[Comment] Colene Gaston (Beaver Water District):** I'm very concerned that DEQ has decided after literally years, if not decades, of working on these two documents or contemplating these two documents that you have decided to roll them out without considering the stakeholder comments first and considering changes to the draft documents, and that you're only giving a 30-day comment period for two very complicated documents that will be at public notice at the same time, I might add, as the proposed changes to the state water quality standards. I just don't know what to say about it. Obviously [this is] very concerning to me, and I think it makes this whole process with stakeholders questionable.
  - **Bryan Leamons (DEQ):** I appreciate the comment and acknowledge the thoughts on that. We chose to move forward with two consistent documents to get consistent comments, and also facilitate and expedite the process to move it on board. Other than that, I don't have a whole lot of further comment.

3. **[Comment] Teresa Turk (Buffalo River Watershed Alliance):** Many of us are volunteers. We were taking our time. We appreciate the opportunity of the stakeholder meeting, but the fact that you are not actually incorporating our ideas, our concerns before you go out for public comment, I find is really disappointing and I think it's a skewing of the public process. And these documents that we're considering here, they've been worked on or shoved to the side for the past 20 years, or never implemented before. And now you're only going to give the public 30 days to comment? That's quite a show. I think it would be helpful for you all to reconsider, your bosses to reconsider, how that looks to the public. That's something that is so important as this, where you're really not taking the stakeholders comments and incorporating them in here despite having four meetings, and then you're only going to give the public 30 days to review. It is a scam of the public system, and I just think you really need to reconsider that.
- **Bryan Leamons (DEQ):** I appreciate the comment. I would point out that we are recording all of the comments from these meetings and we're also keeping notes on the discussions. The comments will be considered after the 30-day comment period.
4. **[Question] Russell Nelson (EPA):** Since you're moving forward with the CPP and the AIM, I believe Dr. Blanz in one of the earlier meetings said that these two documents will not be commingled, [that] you won't include the Antidegradation Implementation [AIM] in the CPP, is that correct? And for the public's information, you can also provide your comments to EPA as well when the documents [are] submitted. We always take into consideration public concerns.
- **Bryan Leamons (DEQ):** I appreciate that Russell, and yes, the current understanding is that the documents are tracking separately in case one was to be approved and another one got held up. That way we could at least have part of it approved.
5. **[Comment + Question] Teresa Turk (Buffalo River Watershed Alliance):** [Regarding Slide 12 of accompanying PowerPoint, 'How is a "waterbody" defined'] I'm wondering how you're going to be able to capture this because, as you nicely point out, you have different kinds of contaminants and they either persist or diminish very quickly. And so making a judgement about how far down these things go, and how they're likely to contaminate, I'm just wondering how you're able to capture that with some discrete good language that would reflect this. Because I think this is really critical...You've got some good examples here with mercury, but there could be other nutrients or other constituents that would be much more amorphous as

**how far they disperse and they don't. My point is, how many samples are you going to take? How far down would you incorporate your review of these different kinds of contaminants? And how can you capture that in a regulation or in a policy?**

- Zachary Carroll (DEQ): Yeah, that's definitely going to be some stuff we're going to have to consider. I think at this time we don't have anything concrete per pollutant out. That may be something we need to think about.
  - Teresa Turk (BRWA): I would really encourage you all to put something in there where you were able to define the boundary of where it's a contaminant and it's not. So in other words, sample further downstream where you actually get back to the non-contaminated water. Something like that, so you can actually really define this appropriately for whatever contaminant is in there.
  - Zachary Carroll (DEQ): Yes, definitely a good point. We'll need to consider how we'll be implementing these for each parameter.
  - Teresa Turk (BRWA): [Regarding Slide 11, 'How is a "waterbody" defined', "not restricted to a single waterbody"] I hope that that is also really understood within the document as well. As we all know, water moves. So trying to get a handle on the definitions and the impacts is really very, very important in terms of the assessment and the policy.
  - Zachary Carroll (DEQ): Yeah, we'll look back on that and see if it's clear within the document or not.
  - Carrie McWilliams (DEQ): A lot of that's already baked into how we evaluate in our CPP and how we're currently doing it. A good example of that is the actual model itself, how far downstream to where it gets into the DO [dissolved oxygen] equilibrium. That's already built into our system. That's not to say there won't be things that will reveal themselves to consider, but a lot of that is how we are currently processing, and how we evaluate. It's not like we're just saying we don't know. There are a lot of instances. It's already built in to our current CPP.
- 6. [Question] Russell Nelson (EPA): [Regarding graph on Slide 4, "Cumulative Cap Example"] In effect, you're allowing a potential use of 100% of the assimilative capacity, is that right? So you're leaving no margin of safety for anything. In effect, taking a Tier 2 waterbody to a Tier 1 waterbody, is that right?**
- Zachary Carroll (DEQ): That would be the absolute maximum degradation that

would be allowed. Part of the antidegradation is that they have to do the alternatives analysis, and presumably there would be an economically-feasible alternative that would not use all of the assimilative capacity. But theoretically, you could use it all. That would be the absolute worst case.

**7. [Questions] Jessie Green (White River Waterkeeper): [Regarding Slide 4, “Cumulative Cap Example”] I had a question regarding assimilative capacity and also with how baseline water quality [BWQ] is going to be established and then set. Is it fair to say then that there won't be an attempt to continue to try to track or account for nonpoint source pollution?**

- Zachary Carroll (DEQ): As it's written right now, we don't have anything in there as far as tracking nonpoint source pollution.
- Jessie Green (WRW): So in that scenario, how will these data be used to ensure that the assimilative capacity is not being exceeded then? Will the discharge monitoring data in some way be incorporated into assessments, like during the 303(d) and 305(b) reviews?
- Zachary Carroll (DEQ): I'm honestly not very familiar with how the 303(d) and 305(b) reviews work. It's a different section that does those [Office of Water Quality's Planning Section]. We can look into that and try and ask them how it works, though.
- Jessie Green (WRW): With baseline water quality, I know there are still a lot of questions there, but have you guys discussed the safer sites where you already have your ambient long-term monitoring stations, how you will use those data that currently exist to calculate the baseline water quality right now?
- Zachary Carroll (DEQ): I guess we have not sent out a specific time period at the moment, which might be something worth thinking about. But we definitely would be using data from those stations if we have it available.

**8. [Question] Shawn Hodges (National Parks Service): It was mentioned that the BWQ is a fixed value once determined. How does this allow for changes in non-point source pollution?**

- Zachary Carroll (DEQ): It does not allow for change in nonpoint source pollution as it is currently. That may be something we need to consider.

9. **[Comments/ Teresa Turk (Buffalo River Watershed Alliance):** I just want to follow up on that point. We have lots of expansion of CAFOs [concentrated animal feeding operations], especially chicken CAFOs, and you're going to have nonpoint source pollution coming out of those. And so really taking a look at that, how you account for nonpoint degradation, I think, is extremely important during this review. I would hope that you would focus in on that. Secondly, if you allow a Tier 2 stream to have all of its 100% assimilative capacity used, then you're going down to a Tier 1. Why would you not have a margin of caution? Why would you not have a 20% safety margin right there? Because there is so much uncertainty in our sampling and our water quality measurements. And then also, as we know, recreation is the second largest employer in the state of Arkansas. This is an economic driver and is increasing 4-5% every year in terms of employment and revenue brought into the state. So I would think that you would want to have some kind of margin of caution, given the uncertainty principle, and also how important this is to our economic opportunities and revenue in this state. I'd really appreciate it if you all could go back and think about that a little harder. Leave some room in there because there are lots of unknowns that happen, especially with climate change that we're obviously experiencing now.
- **Zachary Carroll (DEQ):** [Though] it's not explicitly built in there, I would like to point out that we're doing this at our worst-case scenario conditions—typically the critical low flow conditions. So most of the time of the year, the stream would be at better conditions than whenever we estimate this assimilative capacity, so there is at least some conservative estimate there on that. But we will definitely take your comment into consideration about margin of safety.
  - **Carrie McWilliams (DEQ):** In that illustration that Zach had up on the screen and it shows the total assimilative capacity left [Pg. 4 of accompanying slides, 'Cumulative Cap Example'], I think the demonstration was intended mainly to show what happens when all the 10% is used up. The whole process of the antidegradation is to show how we go about that, and to define that total assimilated capacity. We're never saying we're waiting for the first person to come along and use it all up—that's not our intent. It's just basically to show the framework and to define the lines that you color in. When you get further on into the process and specific instances where they're expanding or there's a new facility, that's looked at more in depth and those things are taken into consideration in addition to those built-in factors of safety, like extreme conditions [and] like 7Q10.

10. **[Comment] Justin Stroman (Arkansas Game & Fish Commission):** I just wanted to piggyback on some of the previous comments, especially about accounting for nonpoint source pollution when we're looking at our baselines. [I have] been spending a lot of time lately on the rivers all around the state and we have some major erosion problems. And all that sediment contributes a ton of nutrients to these waters. So just because we're looking at things coming out of a pipe doesn't mean that the water quality in that river stays the same if you haven't permitted a new facility. The stream bank erosion and other stuff definitely contributed a whole lot of nutrient loading. I don't know how to do it necessarily, but it's something that needs to be evaluated, I think, periodically. Just know that our baseline is not actually staying the same over time, so just wanted to raise that comment. [I] don't have an answer for you but something definitely to consider.

- Zachary Carroll (DEQ): Yeah, I think that is a good point. Something we'll need to consider.

11. **[Comment] Russell Nelson (EPA):** EPA will be providing specific separate comments on the entire CPP portion into the week, I believe.

12. **[Comment] Shawn Hodges (National Parks Service):** [Regarding CPP, Chapter 1] I think this section needs to include a review timeline for this document. This section gives an overview to other documents that have set review time frames.

13. **[Comment] Teresa Turk (Buffalo River Watershed Alliance):** **[Regarding AIM Definitions]** I hope that some of my previous comments will be incorporated into this, especially really cross-referencing other documents to make sure that you have the same definitions. I just think that a lot of these need to really be shortened up quite a bit, and I've made those comments previously. If you could incorporate those, that would be very helpful.

14. **[Question] Shawn Hodges (National Parks Service):** [Regarding CPP, Chapter 4] Section 4.13.2.2 mentions 7Q10. How often are sites monitored to calculate this value?

- Zachary Carroll (DEQ): For the most part, it's established based on that USGS Low Flow report from 2008 ["Low-Flow Characteristics and Regionalization of Low-Flow Characteristics for Selected Streams in Arkansas", U.S. Dept. of the Interior, U.S. Geological Survey, Scientific Investigations Report 2008-5065], or using equations that, I think, were developed out of that project and are

implemented into the StreamStats program. We don't actually take any of these measurements that are used to determine the 7Q10—that's all from USGS.

15. **[Comment] Teresa Turk (Buffalo River Watershed Alliance):** **[Regarding AIM, Chapter 3]** I think it's important to identify how you're determining your tier levels, what that process is. I don't know if this is the right location but it would certainly be helpful to know exactly how that determination is done. And then secondly, on the first sentence, “An Antidegradation Policy provides a means for maintaining and protecting surface water quality by requiring all activities...” I would advocate including, for example, nutrient trading. There's no reference at all to nutrient trading in this document, and I think that will be an issue that will be upcoming here real soon and I want to make sure that nutrient trades are included in an antidegradation review. Some kind of reference to that would be helpful, and if it's not included, then explicitly state that it's not included. There's a lot of ambiguity in the document and having a little bit more detailed information, I think, would be very helpful [and] useful to the public.
16. **[Comment] Russell Nelson (EPA):** **[Regarding alternatives analysis in AIM]** EPA recommends structuring the alternatives analysis to compare different practicable options that prevent or lessen degradation.
17. **[Question] Shawn Hodges (National Parks Service):** **[Regarding definitions in AIM]** Will BWQ have minimum requirements to help ensure established values are representative?
  - Bryan Leamons (DEQ): I would just say on that whether we prescribe minimum standards or not, it will have to be sound and defensible and subject to technical review and public comment as well. Carrie or Zach might have pointed out a while back in today's discussion that we might not outline every single technical question and requirement we may face in the future in a particular application. But we will continue to review [based] on sound scientific principle and technical and engineering judgment. We may not know every situation we may face.
18. **[Request] Russell Nelson (EPA):** **[Regarding “existing activities” definition in AIM]** Please clarify how the phrase “...results in significant degradation...” would be determined.
  - Carrie McWilliams (DEQ): [This] falls into that red zone that Zach had shown in his illustrations [Pg. 4 of accompanying slides, “Cumulative Cap Example”]. If you exceed that 10%, it's assumed to be providing significant degradation.

19. **[Comment] Russell Nelson (EPA):** [Regarding “less-degrading alternative” definition in AIM] EPA also recommends adding a definition of practicable consistent with 40 CFR 131.3(n): Practicable, in the context of §131.12(a)(2)(ii), means technologically possible, able to be put into practice, and economically viable.
20. **[Comment] Russell Nelson (EPA):** [Regarding “parameter by parameter basis” definition in AIM] Recommend that ADEQ expand this definition to add: When an activity is proposed, the state, territory, or authorized tribe determines which parameters have water quality that is better than the applicable criteria developed to protect the CWA section 101(a)(2) uses. The water body is then considered high quality for those parameters. Using this method, a water body can be tier 2 for some parameters and tier 1 for others. Determinations of protection are made at the time of the antidegradation review.
21. **[Question] Shawn Hodges (National Parks Service):** [Regarding AIM, Chapter 5] Will General Antidegradation reviews be open for public comment?
- Carrie McWilliams (DEQ): The answer is yes, it's baked into the process when those actual applications come through.
22. **[Question] Jessie Green (White River Waterkeeper):** [Regarding AIM, Chapter 6 ‘Revising Tier Protection Levels’] Which 303(d) list will be utilized? And by that I mean, will only the EPA-approved 303(d) list or will the draft list also be used for this purpose as well?
- Bryan Leamons (DEQ): Generally speaking, we don't make any permit decisions on the draft 303(d) list. We have to work off of final approved lists.
23. **[Comment] Russell Nelson (EPA):** [Regarding AIM, Chapter 4B ‘Tier 2 – High Quality Protection (HQP) Evaluation] The language is confusing here since it was previously used to discuss setting BWQ. EPA has recommended alternative language to clarify that Tier 2 reviews include an alternatives analysis in addition to a socio-economic analysis. Tier 2 reviews are specific to all waters of the state except Tier 3 waters, since the state has chosen a parameter-by-parameter approach for identifying high quality waters. Every water of the U.S. or state must be evaluated for each parameter, as described. If the state has a separate process for identifying Tier 1 waters, that is not clear.
24. **[Question] Justin Stroman (Arkansas Game & Fish Commission):** I just had a question about the socioeconomic analysis when you have this significant



degradation. Who performs that? Do the engineers review the socioeconomic argument to say that it's valid to degrade the waters, or do you guys have an economist on staff or a sociologist? I'm used to working with the [U.S. Army] Corps of Engineers for big planning projects, and they have specific economics folks that work side by side with the engineers. Because it's kind of a different world than the science of water quality or fisheries biology. So I was just wondering how that happens on your end.

- Bryan Leamons (DEQ): At this time, I would just say we don't have a sociologist or economist that I'm aware of, but we do have various types of staff in both the Permits and Planning sections. Presumed for now, when this starts, it would have to be at least a large portion of review among Permits and Planning in the Office of Water Quality.
- Justin Stroman (AGFC): For utility lines, the Public Service Commission, they evaluate stuff and they look at a certificate of public need—if it's going to benefit society. But I think there's more of a sociology kind of question and answer there. It's something to look into. Maybe you guys should probably look at even hiring a socioeconomic person to help you with these reviews. I realize you don't have that on staff now and you got to do what you got to do in the meantime. But yeah, that would be a comment as well. Maybe you all should look into that.
- Russell Nelson (EPA): EPA has guidance for economic analyses: <https://www.epa.gov/wqs-tech/economic-guidance-water-quality-standards>

25. **[Comment] Shawn Hodges (National Parks Service): [Regarding AIM, Chapter 5] Since the department only uses approved 303(d) list for permitting that should be clarified in the document.**

26. **[Question] Shawn Hodges (National Parks Service): [Regarding AIM, Chapter 8] It was mentioned that a permittee could just assume a significant impact and will not have to complete a BWQ calculation. Is that correct?**

- Carrie McWilliams (DEQ): Yes. Once they just assume [that] they don't have to go through the number-crunching and determine all that background information. And I think that was one of the things that Zach had discussed in clarification on that. One of the things that's done at that point is that it's not an accounting system. You're not actually taking into account where that number would be. They just go ahead and assume that is taking place and that puts them in the process of going through the antidegradation review, the alternatives analysis.

- Shawn Hodges (NPS): So how is TAC [total assimilative capacity] calculated?
- Randy Easley (Arkansas Water and Wastewater Managers Association): When would the total assimilative capacity be determined in these cases?
- Carrie McWilliams (DEQ): The TAC is going to be that difference between the baseline and what's existing at that moment in time...I know for existing facilities, it would be based on how their discharges are affecting the streams.
- Shawn Hodges (NPS): Or how is it assured that the stream does not become Tier 1?
- Bryan Leamons (DEQ): I would say the same way it is now with the methods spelled out in the current CPP and the upcoming CPP, which evaluate streams at critical condition—that's usually minimum low flow. And also evaluating the facility at its highest discharge rate at the limits, which is often not the case. Especially with the background flow, the stream is often not at minimum low flow. In all those worst-case scenarios, the limits are set at the limit available for the facility. But the stream will be protected through evaluating that through those worst-case scenarios.
- Carrie McWilliams (DEQ): It's usually difficult for me to respond to that because that's pretty much our existing current permitting process. It does what it's supposed to do to ensure that water quality is met. This is just another layer that shows you've got some wiggle room here, but you still never go below that water quality.
- Shawn Hodges (NPS): A better question might be: With no BWQ how is TAC calculated?
- Zachary Carroll (DEQ): I think if you're assuming significant degradation, we may just not calculate the TAC. For example, if you take a situation where the receiving stream critical flow is just zero, so it's a dry stream, then there's not really an assimilative capacity in that stream because there's no water there, nothing to assimilate the flow. So we'd be setting the permit limits such that the water coming out of this facility is not going to cause any impairments—with no dilution allowed whatsoever.
- Carrie McWilliams (DEQ): I was just going to add one thing to clarify or add

some additional clarification on Zach's point about the 7Q10 being zero. At that point, that pretty much establishes what your baseline is and that there can't be any additional. Without actually quantifying it, you would say that antidegradation procedure has to go through because you have to assume significant degradation in the case of an expanding facility for 7Q10. So it negates the accounting procedure. They just have to go through the process...So that's kind of an illustration of whether you know what that baseline is or not. You have to assume it because once the 7Q10 is zero, it resets all the numbers.

27. **[Comment] Russell Nelson (EPA): [Regarding AIM, Chapter 8] Consumption of less than or equal to 10% of the assimilative capacity - should expand to ensure that analysis must be done on a cumulative basis and must incorporate all degradation from all activities that have occurred in this water body since the determination of the BWQ. Recommended language from prior comments not addressed in this draft.**
28. **[Comment] Russell Nelson (EPA): [Regarding AIM, Chapter 8] With regard to allowing lowering of water quality in high-quality waters, EPA recommends the state lay out the steps for assuring the highest statutory and regulatory requirements for point sources are achieved and also assuring that the lowering that is being authorized will not impair existing uses as required by 40 CFR 131.12(a)(2).**
29. **[Questions] Justin Stroman (Arkansas Game & Fish Commission): [Regarding AIM, Chapter 11, 'Intergovernmental Coordination and Review'] What does that look like practically? Is there a specific number of agencies that get contacted, and which agencies would that be? Can you just provide some more details in there? What's a relevant entity?**
  - **Bryan Leamons (DEQ):** I'd say that's a good point that we should consider. Potentially some more specificity on exactly who and what and how. But right now, I could say the way we issue permits, what we've gone to notifying other agencies is—I want to say or want to call—a listserv, but I'm told that's a proprietary software program. It's an email workgroup that we notify other agencies through by way of email that a particular draft permit has been issued and notified in the newspaper. That would probably, at least for now, be the process. Now, specifying which agencies is a good question we should consider.
  - **Justin Stroman (AGFC):** I'd just like to add that Game & Fish would definitely like to be notified of these sort[s] of projects.

30. **[Comment] Colene Gaston (Beaver Water District):** I'm just going to add to what Justin said in terms of the notification. This is something that Beaver Water Utilities have repeatedly requested DEQ do, but we believe that downstream public drinking water utilities also should be part of the process and notified in advance.

31. **[Comment] Colene Gaston (Beaver Water District):** I think at least for some of us the failure to make some specific comments today is driven by the fact that they're not going to be taken into consideration before this goes out to public notice. I will say I think there are a lot of things that still need to be worked on in this these documents. One example: there's very little implementation language regarding lakes and reservoirs which, of course, for Beaver Water District is an important issue. There is some discussion, for example, of jet plume models, but it's very, very limited and DEQ knows that reservoirs and lakes and streams have different hydrodynamics and they should have unique implementation language. So that's one hole in this document. I guess we'll save our comments for the written comment period. Again, you guys say you're going out to public notice in a matter of days on this...[First question] At the conclusion of this process, is there going to be any response to comments? [Second question] What is driving the rush to apparently get this to EPA in October?

- **Bryan Leamons (DEQ):** [Regarding the first question] As far as response to comments goes, this is not being done as a permit activity or a regulation change in the sense that responses may not look like you see on a regulation or a permit. Our reaction to comment will probably be written in the final plan changes and likely won't be a long, extravagant response document. But it really hasn't been determined what that may look like, if any, but any reaction on our part would be written into the final plan document for sure—which is how we would envision at least part of that working. [Regarding the second question] I don't acknowledge a rush at all except for the fact that we want to update the CPP as it's been a long time. We also want to get our Antidegradation Implementation Methodology moving forward as it's been some time coming. So I wouldn't exactly call it a rush except for more of a goal on our end to try to move these things forward by this fall. So that's really where we are and those are our goals and that's where we intend to head.
- **Colene Gaston (BWD):** From the public's perspective, it's definitely in a rush when you consider that DEQ has had 20 years to revise the CPP, that it's had since, I don't know, '87...? Actually I would like to know when the Antidegradation Implementation policy went into Reg. 2, if you could tell me that please. But, say you've had another 20+ years to come up with the

Antidegradation Implementation methods. So DEQ has taken all that time and yet it's giving the public 30 days. I just find that in interesting contrast.

- Bryan Leamons (DEQ): I don't know the exact date that policy went into Reg. 2, but you are correct. It's been some time. I can say that there were revisions to the CFR in 2015 that [have] caused a lot of states to go and re-examine their implementation methodology. So you should see that pretty much nationwide, I would expect. I don't know exactly which Reg. 2, if not the very beginning. I don't know. We can look into that.
- Russell Nelson (EPA): I can speak to that a little bit. I think the policy has been in most states' standards from at least 1987 on, but what's important to understand is [that] most states' policy is just a repeat of what's in the federal reg. What's important is [that] the reg. has always required implementation and the revisions in 2015 made it more specific that they had to be adopted and tied to that policy. So it's important, and actually I appreciate DEQ's efforts because it's going to be a lot of work for me to review not only their triennial revision that's coming up, CPP, and the AIM document. But really the reg. requires that the implementation be in place before they issue a permit. So it's important to them and I understand their rush.
- Russell Nelson (EPA): [I] just want to make sure that July 26—is that for comments on both CPP and the AIM?
- Bryan Leamons (DEQ): Yes, that's the plan and that would be the beginning of the 30-day [comment] period.
- Russell Nelson (EPA): We'll be sending written comments on both.
- Colene Gaston (BWD): Thank you, Russell, for that additional information and acknowledging that, in fact, the requirements do go back to 1987. I will say that [Bryan] said a lot of states are having to modify based on the 2015 regulations, but those states have had implementation methodologies in place for a number of years, whereas Arkansas is one of only two states that does not have and has never had an implementation methodology. And so what Russell says...yes, you need the antidegradation implementation methods in order to issue permits, and that's a reason for doing this as quickly as possible. I understand that but, in fact, ADEQ has managed to issue permits without it for the last 20 years and so taking the time to get this right to allow the public to have a meaningful opportunity to submit comments to DEQ, I think is, is critically important.

**32. [Question] Shawn Hodges (National Parks Service): Is it possible for EPA's comments on these documents to be shared with this stakeholder group?**

- Bryan Leamons (DEQ): Yes, we anticipate posting all of the comments as they come in on the same webpage as we've had up all the other information posted, similar to the way we have the stakeholder comments that were presented last year also posted. We will continue to post things on that webpage [<http://www.adeq.state.ar.us/water/cpp/>].

**33. [Comment] Jessie Green (White River Waterkeeper): I just want to follow and reiterate comments that Colene made and Teresa made earlier...I am very excited that the CPP [and] Antideg Implementation Methodology, as well as the triennial review, are all moving forward. Them all being out for public comment at the exact same time is a bit overwhelming for those that do want to thoroughly review them and provide meaningful comments. And it makes it very difficult there only being a 30-day public comment period for the CPP and Antideg to provide meaningful comments within that short turnaround time, especially given the other documents that are out for public comment and review right now as well.**

- Bryan Leamons (DEQ): Appreciate that. We'll take that into consideration.

**34. [Question] Teresa Turk (Buffalo River Watershed Alliance): When comments come in, you will post those immediately to the website? Because I know last year when comments came in, they were held until the very end and after the deadline. And then they were posted all at one time. So I'd like to be very clear on the process you're going to implement in this case.**

- Bryan Leamons (DEQ): I'd be very careful with the word 'immediately' because we often run into some delay in time with the transmittal of the files and the posting onto the internet. Carrie, please clarify...Isn't that the intention of what we decided: to post comments as fast as possible to the website?
- Carrie McWilliams (DEQ): Yeah, and as we've progressed in this stakeholder series of meetings we've gotten faster and faster. But the process is, we've got the folks in our office right now who are listening in who are transcribing it [list of questions/comments/responses from the meeting], plus we record it. They go over it, it's reviewed by all the folks who would be responding—like in this case, myself, Bryan, Zach Carroll, even Colby, if need be. And they would respond or review to make sure the information is correct and accurate. And then we submit

it to our IT to post and that alone takes some time. And when you look at the comments from the last meeting, they're quite lengthy. So that takes a moment to actually go through. That's the process, and...we have had more comments just in this meeting, much less during the formal public notice period.

- Bryan Leamons (DEQ): When they submit written letters and so forth, especially after Sunday, I think the stakeholders are asking, Will those be posted fairly timely or immediately? We plan to post those as well as they come in.
- Teresa Turk (BRWA): So is that one to two to three days? I'm just trying to get a little clear on this.
- Bryan Leamons (DEQ): What's been your experience, Carrie?
- Carrie McWilliams (DEQ): I've just recently handed off that work to our staff engineers, Faizan Khan and Zachary Carroll, and they have been very quick, and IT has been very quick. If we had written comments and we looked through them today, it would not be unrealistic to say that those would be posted by Friday. There's a lot of moving parts and you have to account for that.
- Zachary Carroll (DEQ): I do also want to note, especially if you send something in the postal mail, that that will have to go through our mailroom and get digitized before it gets to us, so that sometimes may create some additional delay before it would get posted.
- Teresa Turk (BRWA): Will any addresses be excluded? And what I mean is that in the past that you've excluded email addresses from, say, Hotmail accounts and Yahoo, and some of these older original email addresses, and I want to know what your policy is on that because at least five or six and possibly a lot more comments were excluded from those email addresses.
- Bryan Leamons (DEQ): I don't know about that, and I would hope nothing is excluded that are true comments. You could certainly ask for a confirmation of receipt.
- Teresa Turk (BRWA): Could you please check on that? Because I know that many people that still have—myself included, but many others—that their comments were blocked in the past because of the email address. So it would be nice to see what your software is doing now; that would be helpful. The additional thing is [that] oftentimes, and I mean almost every time, the email address that

you give us to make comments—it's down or it's not working or there's something wrong with it. Could I ask you to check on that daily to make sure that it's functioning properly?

- Colby Ungerank (DEQ): I want to add on the list of blocking emails and stuff like that. We had had issues receiving comments from Hotmail accounts. We've had to work with IT to get through the firewall. We have a firewall set up to try to block out spam. If you do have a Hotmail account, please ask for a read receipt or ask for a confirmation and we'll respond to you with the confirmation.
- Teresa Turk (BRWA): Well that is just really amazing. This is the only agency where I've ever had this this kind of problem. Can you implement an automatic confirmation of receipt so that whenever you submit it, that sender will know that you've received it?
- Colby Ungerank (DEQ): We'll have to look into that. I believe there is a way of doing that, but if you want to request receipt, that would be the best way.
- Teresa Turk (BRWA): It's not just me; it's a lot of other people. So we're just making sure that our voices are heard. Can you also check on your email address? Because that frequently goes down and that would be nice to have that checked daily especially since you're only giving us 30 days to comment, and I don't want any public comments lost on this, or industry comments for that matter.
- Colby Ungerank (DEQ): We'll look into that, but if you do notice it's down, please notify us.

**35. [Question] Shawn Hodges (National Parks Service): Could you give a list of the documents ADEQ is currently revising? And if open for comment, when it closes?**

- Bryan Leamons (DEQ): The documents are the [draft CPP](#) and the [draft Antidegradation Implementation Methodology \[AIM\]](#). They will be on the [webpage](#) and we can certainly post any other documents that were relevant in developing those drafts. But the ones open for comment will be those two.
- Colby Ungerank (DEQ): Mary [Barnett] from Planning branch said she's going to give us those dates [for the Rule 2 revision] in just a moment.
- Colene Gaston (BWD): I think the deadline for comments on Reg. 2 is September 8th. So it is the same exact time frame as this [CPP and AIM] 30-day comment



period now.

**36. [Question] Colene Gaston (Beaver Water District): At some point in the last couple of years, DEQ moved from posting public comments pretty quickly, within the same day that they were submitted if they were electronic. DEQ moved from doing that to holding all of them until the end of the public comment period. So I also wanted confirmation that that was not going to be the case for the CPP and AIM—that the comments would be posted promptly as they come in. I would assume that the technology that was available to do that, say, three years ago has only improved [and] hasn't got worse...I guess I want a second confirmation [that] that is what you're going to do, post them as they come in?**

- Bryan Leamons (DEQ): Yes, we will post as they come in. It's just that defining how 'fast' is something a little difficult to do depending on the handling inside either the mailroom or Office of Water Quality, and then the handling by IT. That makes it a little unclear how fast and how promptly that occurs.
- Colene Gaston (BWD): Will you also be able to do that for comments on Reg. 2?
- Bryan Leamons (DEQ): That I don't think I will speak to today. I'd be more for if Mary or Joe were on the line today; they might speak to that.
- Colby Ungerank (DEQ): [Information provided by Mary Barnett (DEQ) on dates for Rule 2] It was sent out for public comment in July; there is a public hearing going to be held on July 29th at 2:00PM. And then the comment period closes on September 8th for Rule 2 [formerly named Reg. 2].
- [More information here: [https://www.adeg.state.ar.us/regs/drafts/reg02/20-004-R/reg02\\_draft\\_docket\\_20-004-R\\_public\\_notice\\_20200701.pdf](https://www.adeg.state.ar.us/regs/drafts/reg02/20-004-R/reg02_draft_docket_20-004-R_public_notice_20200701.pdf)]

**37. [Question] Russell Nelson (EPA): I believe you mentioned something about a responsiveness document on comments. Did you all say you were going to do that or are not going to do a responsiveness comment?**

- Bryan Leamons (DEQ): I don't have a final decision on that. But potentially no, or not the same format. At least not the same format as previous rule changes or previous permitting comments. So it's just not clear; I can't answer that right now.
- Russell Nelson (EPA): Sure, I understand.

**38. [Question] Shawn Hodges (National Parks Service): Question pertaining to [all] public hearings: will these be held virtually due to COVID?**

- Colby Ungerank (DEQ): Rule 2 [public hearing] will be held virtually due to COVID.
- Bryan Leamons (DEQ): My understanding right now: we're generally staying out of the office and out of the Commission Room, and things are staying—for the most part—virtual. Unless there's some indication or special case to why they should not be. But we're running things virtually still, as far as I know.

**39. [Comment] Colene Gaston (Beaver Water District): So in terms of the Reg. 2 public hearing at the end of the month, which is coming up soon, when will the public notice go out that provides information for connecting—if that's going to be an option, which I would encourage DEQ to make that an option. The public notice that's out there right now does not provide [information] for remote connection. I wasn't clear what Mary said. Maybe she could again say what the options are and whether that will be in a public notice issued by DEQ, and when it will be issued, and when it will be posted on the website.**

- Mary Barnett (DEQ): The public notice was published on July 4<sup>th</sup> and 5<sup>th</sup>. The public notice is posted on the Commission's regulation website, and it's a really long notice because it does have some different items added to it. So if you just want to view the hearing, there is an Energy & Environment [E&E] YouTube channel [[https://www.youtube.com/channel/UCMr\\_txISHivnxRjg3dmOZ0A](https://www.youtube.com/channel/UCMr_txISHivnxRjg3dmOZ0A)] where you can view the hearing. If you anticipate wanting to make a comment at the hearing, then there is a phone number for you to call. It's (501) 682-0907. You call that number or you email [Comment@adeq.state.ar.us](mailto:Comment@adeq.state.ar.us) and you let them know that you would like to make an oral comment at the hearing and they will send you a Zoom link. So there are two options: either just listening in via the YouTube [livestream] or participating via Zoom. You just have to request that Zoom number.

**40. [Comment] Colene Gaston (Beaver Water District): [Regarding the responsiveness document] Originally, at first in this meeting you said there would not be one. Now you don't know. I'm wondering how that decision's going to be made and also, as a member of the public, follow up on Russell's comment that we can send comments on the final document that's sent to EPA. But it'd be great to know the basis for DEQ's decisions on changing or not changing any of the provisions before we communicate with EPA because we may agree with what DEQ's done. So a**

responsiveness summary, I believe, would be very helpful in this process. I just ask that be done.

- Bryan Leamons (DEQ): I appreciate the comment. We'll take that into consideration.

**41. [Question] Russell Nelson (EPA): For written comments, the official way to get them to the Commission is through the public communications officer, is that right? And I think that's changed...Can you clarify that or send out an email on that or something of that effect?**

- Colby Ungerank (DEQ): [Information provided by Mary Barnett (DEQ)] Yes, that is how you get those comments to the Commission.
- Colene Gaston (Beaver Water District): My understanding is there's a specific email address...It never hurts to send it to individual email addresses as well. But again, DEQ can correct me if I'm wrong, but there is a dedicated email address for submitting comments on Regulations, or Rules now, that are out for in draft form for public comment.
- Russell Nelson (EPA): We usually like to make sure that our comments go through the public process as well, to make sure everybody else can see them as well.
- Colby Ungerank (DEQ): I'm sending you an address in the chat: [comment@adeq.state.ar.us](mailto:comment@adeq.state.ar.us). They [comments] will need to go there so they can be properly captured. That [email address] is for [comments on] Rule 2.

**42. [Question] Teresa Turk (Buffalo River Watershed Alliance): Since Mary is on board, I also just want to clarify when comments will be posted; if they'll be held to the very end or if they will be posted as they come in as quickly as possible.**

- Mary Barnett (DEQ): We're still going to verify when these comments will be posted. Looking back at the previous triennial review, the public comments were posted so we can work to seeing exactly how that process is going to work.
- Teresa Turk (BRWA): Right, they were posted but many times they were posted at the very end in a group. So I would appreciate hearing back exactly what your process is going to be, if you're going to hold them or if you're going to post them as they come in and make them available for others to see.

- Mary Barnett (DEQ): I will get in contact with the person who manages that comment email. Colby, I'm not sure how we do that, if I respond back to one of you all and you all have an email list of all of this group or what that process is.
- Colby Ungerank (DEQ): We do have an email list that we could send it out to.
- Teresa Turk (BRWA): I would ask that if you decide to not post them as they come in, could you provide a rationale for that? Because that's definitely been a change in policy that I've seen in the last year. Before they were always posted when they came in and then all of a sudden they were held. So it would just be nice to hear the justification if that ends up being what you all do.