

**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**

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- 1. What is the short title of this rule?  
Regulation No. 5, Liquid Animal Waste Management Systems
- 2. What is the subject of the proposed rule?  
This proposed rule will:
  - 1) Provide for an exemption for those liquid animal waste management systems that are permitted under a National Pollutant Discharge Elimination System (“NPDES”) and the federal regulations governing concentrated animal feeding operations (“CAFOs”); and
  - 2) Eliminate the continuing education requirements in the regulation and provide that removal of those requirements from a facility’s waste management plan will qualify as a minor permit modification.
- 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 \_\_\_\_\_

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 rule and the purpose for the changes.

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?

The primary change presented in this proposed rulemaking is the addition of an exemption from the requirements of the regulation for facilities that have chosen to receive coverage under a National Pollutant Discharge Elimination System (“NPDES”) permit for a CAFO. This exemption will eliminate double permitting for liquid animal waste management systems.

ADEQ also proposes to remove the continuing education requirements from the regulation. This change is necessary to match the requirements for liquid animal waste management systems under Regulation No. 5 with the requirements for CAFOs permitted under the NPDES program. Neither the federal regulations governing CAFOs nor the general permit issued by ADEQ require continuing education for operators. Thus, ADEQ believes that it is no longer necessary to keep the continuing education requirements in Regulation No. 5.

Likewise, many waste management plans written pursuant to Regulation No. 5 include the continuing education requirement in the text of the plan and the plan would need to be changed to remove this requirement. In most instances, a change to a waste management plan requires a major permit modification, which includes public notice and comment. Regulation No. 5 specifically lists permit modifications that are minor and do not require full public participation. ADEQ proposes adding removal of education requirements from waste management plans to this list, as the agency has requested the requirement be removed from the regulation.

**EXHIBIT B**

8. Will a public hearing be held on this proposed rule? Yes  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  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