

**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, ADEQ Deputy Director  
**CONTACT PERSON** Ryan Benefield, ADEQ Deputy Director  
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**PHONE NO.** (501) 682-0960 **FAX NO.** (501) 682-0891 **E-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, 5<sup>th</sup> Floor  
 Little Rock, AR 72201**

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1. What is the short title of this rule? Regulation No. 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas

2. What is the subject of the proposed rule? Triennial review and revision of the State's water quality standards, as required by the federal Water Pollution Control Act ("Clean Water Act")

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No   
 The regulation must comply with the federal Clean Water Act, 33 U.S.C. § 1251 et seq. and regulations promulgated thereunder.  
 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? \_\_\_\_\_

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   
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(b)(3).

7. What is the purpose of this proposed rule? Why is it necessary?  
Pursuant to the Federal Water Pollution Control Act ("Clean Water Act"), 33 U.S.C. § 1251 et seq., Arkansas has been delegated the authority to establish and administer water quality standard. The water quality standards are administered through the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 et seq. The Clean Water Act requires states to review their water quality standards on a triennial basis and to amend those standards as necessary. This proposed rule is the result of that process. The proposed changes are necessary to ensure that waters of the State are maintained and protected, in accordance with the Clean Water Act and the Arkansas Water and Air Pollution Control Act.

Please see Attachment 1 to this form. Many of the changes proposed in this rulemaking are intended to clarify the regulation through formatting changes or grammatical revisions. Also, several revisions are proposed to comply with the Arkansas Pollution Control and Ecology Commission's Regulation Drafting Guidelines.

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](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: (multiple dates - see below) \_\_\_\_\_

Time: \_\_\_\_\_

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Jonesboro - Allen Park Community Center; April 15, 2013; 6:00 p.m.;  
Fayetteville - Fayetteville City Administration Building, Room 219; April 18; 6:00 p.m.;  
El Dorado - South Arkansas Community College, East Campus, Workforce Development Building; April 22; 6:00 p.m.;  
North Little Rock - ADEQ Headquarters, Commission Room;  
Place: April 24; 2:00 p.m.

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10. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
May 8, 2013 (or ten days after last public hearing)

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11. What is the proposed effective date of this proposed rule? (Must provide a date.)  
February 2014

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12. Do you expect this rule to be controversial?    Yes     No   
Changes to the water quality standards have often been controversial. Even though ADEQ engaged in an extensive stakeholder process, not every participant may agree with the outcome. The list of interested parties provided in response to question 13 below includes the list of parties invited to participate in the stakeholder process.  
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.  
Arkansas Environmental Federation (support in part and oppose in part)  
Environmental organizations, such as the Arkansas Canoe Club, Ozark Society, The Nature Conservancy, etc. (support majority of changes, possibly oppose in part)  
Arkansas Department of Health  
Arkansas Farm Bureau  
Arkansas Municipal League  
University of Arkansas Extension Service  
Arkansas Natural Resources Commission  
Arkansas Natural Heritage Commission  
Arkansas Game and Fish Commission  
United States Fish and Wildlife Service  
United States Environmental Protection Agency  
United States Forest Service  
Beaver Water District  
United States Army Corps of Engineers

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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. 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas

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;  
\_\_\_\_\_
- (b) The reason for adoption of the more costly rule;  
\_\_\_\_\_
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;  
\_\_\_\_\_
- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.  
\_\_\_\_\_

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 \$212,058.97 - based on federal grant application to implement this portion of the Clean Water Act

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \$212,058.97 - estimated to be the same as previous year, as the number does not

\_\_\_\_\_  
program during FY13

\_\_\_\_\_  
vary much from year  
to year, but ADEQ has  
not submitted grant  
application for FY14

Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$212,058.97

Total \$212,058.97

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

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \_\_\_\_\_

General Revenue \_\_\_\_\_

Federal Funds \_\_\_\_\_

Federal Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_

Special Revenue \_\_\_\_\_

Special Revenue \_\_\_\_\_

Other (Identify) \_\_\_\_\_

Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

Total \_\_\_\_\_

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**

**Next Fiscal Year**

\$ \_\_\_\_\_

\$ \_\_\_\_\_

See pages 14-23 of Attachment 2 to this form. This document is the Economic Impact/Environmental Benefit Analysis prepared in accordance with Arkansas Pollution Control and Ecology Commission Reg.8.812.

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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**

**Next Fiscal Year**

\$ \_\_\_\_\_

\$ \_\_\_\_\_

See Question 4 above and Attachment 2. The cost will covered by federal grant monies for state implementation of the federal Clean Water Act.

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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.