



**DIVISION OF
ENVIRONMENTAL QUALITY**

Sarah Huckabee Sanders
GOVERNOR

Shane E. Khoury
SECRETARY

Notice of Proposed Rule Changes, Public Hearing, and Comment Period

The Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) has proposed amendments to Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 2, "Rule Establishing Water Quality Standards for Surface Waters of the State of Arkansas" pursuant to Arkansas Code Annotated §§ 8-1-203 and 8-4-202. Oral and written comments by stakeholders and the public will be received and made a part of the record during the public comment period.

Pursuant to Ark. Code Ann. § 8-4-202 and APC&EC Rule 8, DEQ by this notice solicits comments of any interested party. Interested parties may submit comments to the proposed rule amendments by submitting comments in writing on or before the end of the public comment period, which is January 21, 2025. All comments should be sent to Melissa Gober at the address below.

Full and complete copies of the proposed changes to Rule 2 are available for inspection and review after making an appointment during regular business hours at the Department of Energy and Environment headquarters building, 5301 Northshore Drive, North Little Rock, AR 72118. The proposed rule changes are also available at DEQ information depositories located in public libraries at Arkadelphia, Batesville, Blytheville, Camden, Clinton, Crossett, El Dorado, Fayetteville, Forrest City, Fort Smith, Harrison, Helena, Hope, Hot Springs, Jonesboro, Little Rock, Magnolia, Mena, Monticello, Mountain Home, Pocahontas, Russellville, Searcy, Stuttgart, Texarkana, and West Memphis; and in campus libraries at the University of Arkansas at Pine Bluff and the University of Central Arkansas at Conway.

A public hearing will be held on January 6, 2025, beginning at 2:00 p.m., Central Time, to accept comments on the proposed amendments to Rule 2, "Rule Establishing Water Quality Standards for Surface Waters of the State of Arkansas." The hearing will be held in the Commission Room at the Department of Energy and Environment headquarters building at 5301 Northshore Drive, North Little Rock, AR 72118. The public hearing may be viewed via live broadcast on the E&E YouTube channel at <https://www.youtube.com/@arkansasdepartmentofenergy6731>. If the hearing is postponed and rescheduled, a new legal notice will be published to announce the details of the new hearing date.

Oral and written comments regarding the rule amendments will be accepted at the hearing,

but written comments are preferred in the interest of accuracy. In addition, written comments will be considered if received no later than 4:30 p.m., Central Time, January 21, 2025. Written comments may be submitted by regular mail, commercial delivery company, or by email. Comments submitted by regular mail or commercial delivery company should be delivered or mailed to: Melissa Gober, Department of Energy and Environment, 5301 Northshore Drive, North Little Rock, AR 72118. Submit email comments on the proposed rule amendments to: EE.comment@arkansas.gov.

Proposed revisions to Rule 2 are necessary to revise criteria to reflect the latest science to ensure protection of human and aquatic life, incorporate new toxics criteria protective of human health, and remove certain outdated unnecessary criteria. Revised criteria include: primary contact recreation season dates, *E. coli* geometric mean criteria for “All Other Waters,” cadmium and ammonia criteria, site specific pH criteria for five waterbodies, site-specific dissolved oxygen criteria for three waterbodies, ecoregion boundary updates, and addition of threatened and endangered species names to existing Ecologically Sensitive Waterbodies. New human health criteria include: benzene, toluene, ethylbenzene, xylene, and phenol. Removed criteria include: fecal coliform criteria; trout water use on Bull Shoals, Greers Ferry, and Ouachita where trout are no longer stocked; site-specific temperature criteria from one waterbody where the Entergy plant no longer operates; and exception of “no fishable/swimmable uses” from three waterbodies where seasonal aquatic life use is appropriate. Additional non-substantive revisions are proposed throughout Rule 2 for consistency and clarity and to be consistent with the Code of Arkansas Rules (CAR), which changes Rule 2 to 8 CAR Part 21.

A complete listing of the proposed changes to Rule 2 can be found on the Draft Regulations page of the DEQ’s website: https://www.adeg.state.ar.us/regs/draft_regs.aspx under APC&EC Docket No. 24-005-R.

The deadline for submitting written comments on the proposed rule revisions is 4:30 p.m., Central Time, January 21, 2025.

Published: December 7th and 8th, 2024

Bailey Taylor
Chief Administrator of Environment and DEQ Director
Department of Energy and Environment

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
RULE 2, RULE ESTABLISHING)
WATER QUALITY STANDARDS FOR SURFACE) DOCKET NO. 24-005-R
WATERS OF THE STATE OF ARKANSAS)

PETITION TO INITIATE RULEMAKING TO AMEND RULE 2

Comes now, the Department of Energy and Environment, Division of Environmental Quality (DEQ or "Division"), by and through its attorney, Basil V. Hicks III, and for its Petition to Initiate Rulemaking to Amend Rule 2, Rule Establishing Water Quality Standards for Surface Waters of the State of Arkansas, states:

1. DEQ proposes the amendments listed below for portions of Rule 2, 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 standards. The Clean Water Act requires states to review their water quality standards on a triennial basis and to amend those standards as necessary.

2. Joe Martin and Basil V. Hicks III from DEQ will be available to answer questions concerning this proposed rulemaking. The proposed regulatory amendments are as follows:

- a. Amendments to provide clarification to sections of the rule that were otherwise unclear and minor corrections to make the rule more illustrative of the regulatory intent.
- b. Amendments to update the Rule to be consistent with the Code of Arkansas Rules (CAR) which changes Rule 2 to 8 CAR Part 21.
- c. Amendments to incorporate revised criteria:

- i. Bacteria – expand primary contact season from May 1 – September 30 to April 1 – October 31 and revise E. coli geometric mean criteria for “All Other Waters.”
 - ii. Revise current Rule 2 cadmium criteria (1998) to EPA updated 2016 criteria.
 - iii. Revise current Rule 2 ammonia criteria (1999) to EPA updated 2013 criteria.
 - iv. Ecoregion plates – update current 1980s level 3 ecoregion boundary depictions based on revised 2004 Omernik et.al. ecoregion boundary depictions and update ecoregion names.
 - v. Add threatened and endangered species to current ESW designated streams.
- d. Amendments to incorporate new criteria:
 - i. Add benzene, toluene, ethylbenzene, xylene, and phenol criteria.
 - ii. Add site specific pH criteria to five waterbodies.
 - iii. Add site specific dissolved oxygen (DO) criteria to three waterbodies.
- e. Amendments to remove certain criteria:
 - i. Bacteria – remove fecal coliform criteria.
 - ii. Remove trout water from Bull Shoals Reservoir – Lower Portion, Greers Ferry Reservoir, and Lake Ouachita.
 - iii. Remove “Unnamed tributary of Lake June below Entergy Couch Plant to confluence with Lake June – maximum water temperature 95 degrees F (limitation of 5 degrees above natural temperature does not apply) (GC-1, #30).”
 - iv. Remove “Unnamed tributary to Smackover Creek – no fishable/swimmable uses (GC-2, #2).” Add seasonal aquatic life and secondary contact recreation. Remove site specific criteria “Year-round DO 2 mg/L.”
 - v. Remove “Unnamed tributary to Flat Creek – no fishable/swimmable uses (GC-2, #4).” Add seasonal aquatic life and secondary contact recreation. Remove site specific criteria “Year-round DO 2 mg/L.”
 - vi. Remove exceptions “no fishable/swimmable or domestic water supply uses” and “exempt from Rule 2.406 and Chapter 5” from Coffee Creek.

3. The following exhibits to this petition are hereby incorporated by reference:

- a. Exhibit A Mark-up version of the rule showing the proposed changes
- b. Exhibit B: Governor Approval
- c. Exhibit C: Legislative Questionnaire
- d. Exhibit D: Financial Impact Statement

- e. Exhibit E: Economic Impact/Environmental Benefit Analysis
- f. Exhibit F: Copy of Act or Regulation, if Rule is pursuant to State or Federal mandate
- g. Exhibit G: Proposed Minute Order

WHEREFORE, DEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and adopt the proposed amendments to Rule 2.

Respectfully Submitted,

By: 

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