

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

HOUSE BILL 1067

5 By: Representatives Collins, Davis  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAWS PERTAINING TO THE  
9 PROMULGATION OF WATER QUALITY REGULATIONS AND THE  
10 ISSUANCE OF WASTEWATER DISCHARGE PERMITS; TO  
11 AUTHORIZE THE IMPLEMENTATION OF NUTRIENT WATER  
12 QUALITY TRADING, CREDITS, OFFSETS, AND COMPLIANCE  
13 ASSOCIATIONS; AND FOR OTHER PURPOSES.  
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## Subtitle

16 TO AMEND THE LAWS REGARDING WATER QUALITY  
17 REGULATIONS AND WASTEWATER DISCHARGE  
18 PERMITS; AND TO AUTHORIZE NUTRIENT WATER  
19 QUALITY TRADING, CREDITS, OFFSETS, AND  
20 COMPLIANCE ASSOCIATIONS.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

27 The General Assembly finds that:

28 (1) Water quality trading is a market-based approach to  
29 achieving water quality goals that can provide greater efficiency and cost  
30 savings by allowing one (1) source to meet its regulatory obligations by  
31 using pollutant reductions created by another source that has lower pollution  
32 control costs;

33 (2) Experience in other states has demonstrated that nutrient  
34 water quality trading programs, including the use of credits, offsets, and  
35 compliance associations, can result in quicker and more efficient achievement  
36 of water quality protection goals; and



1           (3) Nutrient water quality trading should be encouraged wherever  
 2 appropriate and facilitated by the development of applicable regulations and  
 3 permit terms.

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 5           SECTION 2. Arkansas Code Title 8, Chapter 4, Subchapter 2, is  
 6 amended to add an additional sections to read as follows:

7           8-4-232. Nutrient water quality trading programs.

8           (a) As used in this section, "nutrient" means a substance assimilated  
 9 by an organism that promotes growth and replacement of cellular constituents.

10           (b)(1) The Arkansas Pollution Control and Ecology Commission may adopt  
 11 regulations that specify requirements, standards, and procedures governing  
 12 the establishment and implementation of nutrient water quality trading  
 13 programs, including without limitation program scope, eligibility, and  
 14 threshold treatment requirements.

15           (2) The nutrient water quality trading programs may include  
 16 without limitation the following:

17                   (A) The establishment and regulation of nutrient water  
 18 quality trading exchanges;

19                   (B) The establishment and regulation of nutrient water  
 20 quality compliance associations;

21                   (C) The authorization and regulation of nutrient water  
 22 quality trading credits;

23                   (D) The authorization and regulation of nutrient water  
 24 quality offsets; and

25                   (E)(i) The establishment of a schedule of user fees to be  
 26 collected by the Arkansas Department of Environmental Quality from persons or  
 27 entities utilizing nutrient water quality trades or offsets to comply with  
 28 permit limits.

29                           (ii) The user fees shall be based on a record  
 30 calculating the reasonable costs to the department of implementing and  
 31 enforcing each nutrient water quality trading, credit, or offset program.

32           (c) Under regulations adopted by the commission under subsection (b)  
 33 of this section, the department shall:

34                   (1) Include terms and conditions in any appropriate permit that  
 35 allow the eligible permit holder to use water quality trading arrangements  
 36 such as water quality trading credits and water quality offsets as a means

1 for complying with appropriate nutrient effluent limitations or conditions  
2 contained in the permit; and

3 (2) Issue permits to eligible compliance associations as a means  
4 for multiple eligible permit holders to collectively satisfy their aggregate  
5 permit limits for one (1) or more appropriate nutrient water quality  
6 parameters.

7 (d) A nutrient water quality trading program or arrangement  
8 established under this section shall provide that a decision to participate  
9 in the nutrient water quality trading program or arrangement shall be a  
10 matter of voluntary choice on the part of each participant in the nutrient  
11 water quality trading program or arrangement.

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13 8-4-233. Nutrient Water Quality Trading Advisory Panel – Created  
14 – Members – Duties.

15 (a) The Nutrient Water Quality Trading Advisory Panel is created,  
16 consisting of seven (7) members as follows:

17 (1) One (1) member appointed by the President Pro Tempore of the  
18 Senate;

19 (2) One (1) member appointed by the Speaker of the House of  
20 Representatives;

21 (3) Five (5) members appointed by the Governor as follows:

22 (A) One (1) member to represent agricultural interests;

23 (B) One (1) member to represent municipal wastewater  
24 treatment facility interests;

25 (C) One (1) member to represent public drinking water  
26 supply interests;

27 (D) One (1) member to represent the interests of  
28 industries that hold point source wastewater discharge permits; and

29 (E) Two (2) members to represent the interests of  
30 environmental organizations regarding water quality.

31 (b)(1) A member shall serve a term of two (2) years or until a  
32 successor is appointed.

33 (2) A member may serve successive terms without limitation.

34 (3) If a vacancy occurs, the officer who made the original  
35 appointment for that position shall appoint a person who represents the same  
36 constituency as the member being replaced.

1           (c)(1) A majority of the members shall constitute a quorum for the  
2 transaction of business.

3           (2) Meetings may be conducted with members participating via  
4 telephonic or other electronic conferencing methods.

5           (d)(1) The advisory panel shall elect a chair and vice chair.

6           (2) The advisory panel may adopt rules relating to the conduct  
7 of its meetings.

8           (e) Members shall serve without compensation but may be reimbursed for  
9 expenses in accordance with § 25-16-902, if funds are available.

10          (f) The Arkansas Department of Environmental Quality shall provide  
11 meeting space and administrative services for the advisory panel.

12          (g) The advisory panel shall:

13           (1) Advise the department and the Arkansas Natural Resources  
14 Commission regarding the desirability, design, and operation of nutrient  
15 water quality trading programs; and

16           (2) Advise the Arkansas Pollution Control and Ecology Commission  
17 and the Arkansas Natural Resources Commission regarding the promulgation of  
18 regulations involving nutrient water quality trading programs.

19          (h) The Arkansas Pollution Control and Ecology Commission shall not  
20 adopt a regulation to authorize or govern nutrient water quality trading  
21 unless the regulation has been either:

22           (1) Recommended by the advisory panel; or

23           (2) Submitted to the advisory panel for a period of not less  
24 than sixty (60) calendar days to allow the advisory panel an opportunity to  
25 review and comment on the regulation.

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