

EXHIBIT E

Second Amended Petition
ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT ANALYSIS

Answer to best of the proponent's ability, as required by APC&EC Regulation 8.812

STEP 1: DETERMINATION OF ANALYSIS REQUIREMENT (to be included in petition to initiate rulemaking)
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The Arkansas Pollution Control and Ecology Commission's (Commission) Regulation No. 8 requires the Commission to duly consider the economic impact and the environmental benefit of any rule or regulation prior to promulgation. By Act 143 of 2007, the Governor has directed that impacts to small businesses be analyzed prior to adoption of regulations. Furthermore, the Arkansas Legislative Council requires the submission of a Financial Impact Statement and Questionnaire for Filing Proposed Rules and Regulations with the Arkansas Legislative Council and Joint Interim Committee with proposed regulation changes. The following procedures are outlined to provide clarity in the requirements of these various impact statements.

1. Prepare and submit the Financial Impact Statement and Questionnaire for Filing Proposed Rules and Regulations with the Arkansas Legislative Council and Joint Interim Committee required by the Arkansas Legislative Council for all proposed rulemakings.

2. The following analysis is necessary for the Commission to consider the economic impact and environmental benefit of any proposed rule or regulation. This Economic Impact/ Environmental Benefit Analysis ("Analysis") must be prepared by the proponent of the rulemaking initiated before the Commission based upon information reasonably available. If a rulemaking proposes to alter or amend an existing Commission rule, the Analysis shall be restricted to the economic impact and environmental benefits of the proposed changes. This Analysis must be included in the Petition to Initiate Rulemaking before the Commission for all regulatory changes, unless the proposed rule is exempt for one or more of the following reasons:
 - The proposed rule incorporates or adopts the language of a federal statute or regulation without substantive change;*
 - The proposed rule incorporates or adopts the language of an Arkansas state statute or regulation without substantive change;
 - The proposed rule is limited to matters arising under Regulation No. 8 regarding the rules of practice or procedure before the Commission;
 - The proposed rule makes only *de minimis* changes to existing rules or regulations, such as the correction of typographical errors or the renumbering of paragraphs or sections;
or
 - The proposed rule is an emergency rule that is temporary in duration.

If the proposed rulemaking does not require the following Analysis due to one or more of the exemptions listed above, state in the Petition to Initiate Rulemaking which exemptions apply and explain specifically why each is applicable.

EXHIBIT E

Second Amended Petition

**If a proposed rule incorporates or adopts the language of a state or federal statute or regulation but does include one or more substantive change, then the Analysis shall address only the substantive changes.*

STEP 2: THE ANALYSIS

(to be included in petition to initiate rulemaking, if required)

Directions for Analysis Completion:

- 1.** Answer all questions, unless an exemption applies, using information reasonably available.
- 2.** List source(s) for any data used in an answer. If a response cannot be provided to any question because information is not reasonably available, describe the sources consulted or steps taken in an effort to obtain the information in question.
- 3.** Describe any assumptions used.
- 4.** Complete the Economic Impact Statement, if applicable, as required by Act 143 of 2007.
- 5.** Highlight on the attached map the boundary of the geographical area impacted by the proposed rule, unless the proposed rule applies to the entire state.

This Analysis shall be available for public review along with the proposed rule in the public comment period. The Commission shall compile a response to comments demonstrating a reasoned evaluation of the relative economic impact and environmental benefits.

EXHIBIT E
Second Amended Petition

**ARKANSAS POLLUTION CONTROL & ECOLOGY
COMMISSION
ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT
ANALYSIS**

Rule Number & Title: Regulation No. 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas

Petitioner: Arkansas Department of Environmental Quality

Contact/Phone/Electronic mail: Ryan Benefield, Deputy Director
(501) 682-0959
benefield@adeq.state.ar.us

Analysis Prepared by: Jamie Ewing, Attorney Specialist

Date Analysis Prepared: March 5, 2010

2A. ECONOMIC IMPACT

1. Who will be affected economically by this proposed rule?

State: a) the specific public and/or private entities affected by this rulemaking, indicating for each category if it is a positive or negative economic effect; and b) provide the estimated number of entities affected by this proposed rule.

Positive – continued protection for waters of the State of Arkansas, therefore benefiting tourism and recreational usage

Negative – approximately 57 point source dischargers may have revised permit requirements in the form of reporting or permit limits for parameters being revised under Reg 2.508 and Reg 2.511.

Sources and Assumptions:

Part II, Chapter III of the 2008 Integrated Water Quality Monitoring and Assessment Report (305(b))

Integrated Compliance Information System - NPDES

2. What are the economic effects of the proposed rule? State: 1) the estimated increased or decreased cost for an average facility to implement the proposed rule; and 2) the estimated total cost to implement the rule.

1) At this time it is not possible to estimate the costs associated with parameters being revised under Reg 2.508 and Reg 2.511. Cost estimates would have to be developed for each individual point source discharger. This effort would be unduly cumbersome due to the numerous factors differentiating each discharger. These factors include, but are not limited to: type of discharge;

EXHIBIT E

Second Amended Petition

chemicals, processes, and mechanics used during production; characteristics of receiving waterbody; age and size of facility; economic viability of surrounding region. Additionally, EPA does not consider cost for aquatic life criteria during development or when applying to an NPDES permit.

2) *There is no cost to implement this proposed rule.*

Sources and Assumptions:

3. List any fee changes imposed by this proposal and justification for each.

There are no fee changes associated with this proposed rule.

4. What is the probable cost to ADEQ in manpower and associated resources to implement and enforce this proposed change, and what is the source of revenue supporting this proposed rule? *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 Clean Water Act ("CWA") requires states to review their water quality standards on a triennial basis and to amend those standards as necessary. The manpower and associated resources required to implement this proposed rule is funded through the Environmental Protection Agency through the delegated CWA program.*

Sources and Assumptions:

Ark. Code Ann. §8-4-206 and 8-4-207 (authority and responsibilities as state water pollution control agency).

5. Is there a known beneficial or adverse impact to any other relevant state agency to implement or enforce this proposed rule? Is there any other relevant state agency's rule that could adequately address this issue, or is this proposed rulemaking in conflict with or have any nexus to any other relevant state agency's rule? Identify state agency and/or rule.

There are no known adverse impacts to any other relevant state agency. Other state agencies that are charged with protecting the state's natural resources or water quality, such as Arkansas Game and Fish Commission and the Arkansas Department of Health, will benefit from the proposed rule, as it will support their mission. This proposed rule cannot be adequately addressed by another state agency's rule, as the authority to adopt water quality standards was vested in the Arkansas Pollution Control and Ecology Commission. This proposed rulemaking is not in conflict with nor has any nexus to another state agency's rule.

Sources and Assumptions:

Ark. Code Ann. §8-4-202(b) (authority of Commission to adopt water quality standards).

6. Are there any less costly, non-regulatory, or less intrusive methods that would achieve the same purpose of this proposed rule?

There are no less costly, non-regulatory, or less intrusive methods that would achieve the same purpose of the proposed rule. As stated above, the Clean Water Act requires the State to review and update water quality standards every three years. The related federal regulations outline a specific procedure for this process. Alternative methods are not available to comply with the

EXHIBIT E

Second Amended Petition

federal requirements.

Sources and Assumptions:
40 C.F.R. 131.1 et seq.

2B. ENVIRONMENTAL BENEFIT

1. What issues affecting the environment are addressed by this proposal?

This proposed rule addresses water quality for all waters of the State.

2. How does this proposed rule protect, enhance, or restore the natural environment for the well being of all Arkansans?

This proposed rule will protect, enhance, or restore the natural environment for the well being of all Arkansans by maintaining and protecting the water quality of all waters of the State. For example, standards for certain toxic substances are proposed to be amended to comply with revised national criteria.

Sources and Assumptions:
Water Quality Criteria Documents for the Protection of Aquatic Life in Ambient Water: 1995 Updates – EPA Number 820B96001 (September, 1996) and supplemental updates as outlined in the following EPA webpage <http://www.epa.gov/waterscience/criteria/wqctable/#D>

Revisions to the Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health (2000)- [Federal Register: November 3, 2000 (Volume 65, Number 214)]

3. What detrimental effect will there be to the environment or to the public health and safety if this proposed rule is not implemented?

The proposed changes are necessary to ensure that existing uses and designated uses for waters of the State, and the water quality necessary to protect those uses, are protected and maintained.

Sources and Assumptions:
See sources for question #2.

4. What risks are addressed by the proposal and to what extent are the risks anticipated to be reduced?

Specifically, the updated toxic standards will protect aquatic life, human health, and the environment from the detrimental effects of toxic exposure.

Sources and assumptions:
See sources for question #2.