

## MEMORANDUM

To: Arkansas Pollution Control and Ecology Commission

From: Jamie Ewing, Attorney, Arkansas Department of Environmental Quality

Date: October 12, 2007

**RE: Compliance with Act 143 of 2007**

Please see the attached Economic Impact Statement and email from myself to Ms. Pat Brown of the Arkansas Economic Development Commission. On October 11, 2007, I properly submitted the proposed rule changes to AEDC for review pursuant to Act 143 of 2007. At such time as AEDC provides documentation of its review of the rule, ADEQ will supplement this memorandum by filing the response from AEDC with the Commission's Administrative Hearing Officer and placing the a scanned copy of the response on the Commission's website.

**Ewing, Jamie**

**From:** Ewing, Jamie  
**Sent:** Thursday, October 11, 2007 3:38 PM  
**To:** 'pbrown@1800arkansas.com'  
**Subject:** ADEQ - Regulation No. 5, Liquid Animal Waste Management Systems

Dear Ms. Brown,

Please find attached the marked-up copy of Regulation No. 5 and the Economic Impact Statement required by Act 143 of 2007. ADEQ requests your review the proposed amendments to this regulation. Please let me know if you have trouble opening the attachments or have any questions regarding the proposed rule.

Thank you,  
Jamie Ewing

Jamie L. Ewing, J.D., LL.M.  
Staff Attorney  
Arkansas Department of Environmental Quality

\*\*\*PLEASE NOTE OUR NEW ADDRESS\*\*\*  
5301 Northshore Drive  
North Little Rock, AR 72118

Direct Line: (501) 682-0918  
Fax: (501) 682-0891  
email: [ewing@adeq.state.ar.us](mailto:ewing@adeq.state.ar.us)  
Web: [www.adeq.state.ar.us](http://www.adeq.state.ar.us)

**ECONOMIC IMPACT STATEMENT  
OF PROPOSED RULES OR REGULATIONS  
EO 05-04 and Act 143 of 2007: Regulatory Flexibility**

Department Arkansas Department of Environmental Quality

Divisions Water Divisions

Contact Person Steve Drown

Date October 11, 2007

Contact Phone 501.682.0655

Contact Email drown@adeq.state.ar.us

Title or Subject: Arkansas Pollution Control and Ecology Commission Regulation No. 5, Liquid Animal Waste Management Systems

**Benefits of the Proposed Rule or Regulation**

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, Please explain the nature of such complaints.

It has been many years since the last revision of this regulation. There have been many changes in federal regulations regarding animal waste management, as well as technical changes in the on-farm management of waste. The Arkansas Department of Environmental Quality ("ADEQ" or "Department") met with a diverse group of stakeholders to review Regulation No. 5 and determine appropriate revisions based on the state of the industry.
2. What are the top three benefits of the proposed rule or regulation?
  - a. Significant revisions are proposed for the portions of the regulation that concern the permit application and modification process. The Department proposes to revise the permit application process to correspond with the process found in Arkansas Pollution Control and Ecology Commission Regulation No. 8, Administrative Procedures, which governs other permits issued by the Department. The proposed amendments will also clarify which permit modifications will be deemed minor modifications and will not require a public notice and comment period.
  - b. The proposed amendments will provide for appropriate updates to the waste management plan for the permitted facilities.
  - c. The proposed revisions will clarify certain record-keeping requirements that will allow more flexibility to the permit holder, while still providing data to the Department to ensure the waste management plan is protective of the environment.
3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

The proposed amendments are crucial updates that reflect the changed nature of liquid animal waste management since the last revision of this regulation. The proposed amendments will improve operations for both the Department and permit holders.
4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives.

None, these revisions are part of an established permitting program. The Department involved a diverse group of stakeholders, including permit holders, in the development of the proposed amendments.

## Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of *collecting information, completing paperwork, filing recordkeeping, auditing and inspecting* associated with this new rule or regulation.  
There will be no addition costs to state government than is already allocated to the permitting program.
6. What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected.  
Small farms that operate liquid animal waste management systems will be required to comply with the proposed rule. Other small business may operate sites for the sole purpose of land applications of wastes (own no animals); these businesses are also governed by this regulation. The number of facilities currently permitted under this regulation is 353.
7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.  
No.
8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.  
No additional requirements for small business owners.
9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.  
The proposed regulation does not contain different requirements for different sized entities. As each facility is required to develop a site-specific waste management plan and the waste management plan becomes an enforceable part of the permit issued under this regulation, the regulation does not generalize requirements based on the size of the entity.
10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.  
Small business owners may experience initial difficulty implementing the changes required by the proposed regulation; however, the Department proposes a policy for compliance that encourages compliance at the earliest practicable time, but allows for a five-year implementation period.
11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?  
This rule is very comparable to rules and regulations in surrounding states.
12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.  
The Department convened a diverse group of stakeholders to review this regulation and proposed appropriate revisions. The stakeholders included permit holders and industry representatives, as well as state and federal government employees that provided technical assistance to permit holders in developing site-specific waste management plans. The stakeholder group provided input regarding the need for an administrative process to make minor modifications, the need to have the permitting process align with that found in Regulation No. 8 and the amount of time that permit holders would realistically need to comply with these changes.