

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT **Arkansas Department of Environmental Quality**  
DIVISION Water Division  
PERSON COMPLETING THIS STATEMENT Mary Leath, Chief Deputy Director  
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To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** Regulation 2 of the Arkansas Pollution Control and Ecology Commission APC&EC Regulation 2

- Does this proposed, amended, or repealed rule or regulation have a financial impact?  
Yes  X  No \_\_\_\_\_
- If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain. Please see the attached narrative for a detailed discussion of the financial implications of this proposal.
- If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program. N/A

**The proposed changes are not related to a federal rule or regulation.**

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
Total \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
Total \_\_\_\_\_

- What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation? Identify the party subject to the proposed regulation, and explain how they are affected.

**Current Fiscal Year**

**Next Fiscal Year**

\$ unknown

\$ unknown

- What is the total estimated cost by fiscal year to the agency to implement this regulation?

**Current Fiscal Year**

**Next Fiscal Year**

\$ unknown

\$ unknown

Detailed Comments by ADEQ for Financial Impact Statement for Proposed  
Change to Regulation 2 of the Arkansas Pollution Control and Ecology Commission

Arkansas Pollution Control and Ecology Commission No. 2, Section 2.304 currently prohibits significant physical alterations of extraordinary resource waters, natural and scenic waterways and ecologically sensitive waterbodies in the State of Arkansas. The Department recognizes the need to maintain these waters in their current conditions while allowing for the use of drinking water. This rulemaking is being proposed to balance these interests and will provide complete procedures for: a) Using extraordinary resource waters, natural and scenic waterways and ecologically sensitive waterbodies without impairing the water quality, natural flow regime or habitat of fish, shellfish or other forms of aquatic life; b) Removing the designated use of extraordinary resource waters, natural and scenic waterways and ecologically sensitive waterbodies for the purpose of creating a reservoir to provide a drinking water supply; and c) Adding extraordinary resource waters, natural and scenic waterways and ecologically sensitive waterbody designations to a waterbody or segment of a waterbody.

A potential effect of the proposed change to Regulation 2 would be to create a mechanism which could be used to physically alter bodies of water in Arkansas currently designated as Extraordinary Resource Waters (ERW). If the proposed alteration of the waterbody is not significant i.e., there is no impairment of water quality, natural flow regime or habitat of fish, shellfish or other forms of aquatic life, there may be little or no financial impact resulting from the change. However, if the change is significant, for example, a reservoir is created, the reservoir would be quite valuable and would no doubt generate a potentially perpetual source of significant revenue for the entity which controls the drinking water the reservoir would produce. Conversely, if an ERW is turned into a drinking water reservoir, there would be a loss of tourism, fishing, hunting, swimming and boating uses that would result in the enormous loss of revenue.

It is very difficult, if not impossible, to determine accurate estimates for the positive and negative financial impacts which would result from damming an ERW stream to create a public drinking water supply reservoir. However, the ADEQ does not believe it is correct to convey the impression that there would be no financial impact resulting from the adoption of this proposed regulation change. Certainly, as long as no ERW streams were dammed there would be no impact. This proposed change allows for a supply reservoir under very limited circumstances which includes finding that no alternative water supply is available to meet the domestic water needs of the citizens of the State of Arkansas.