

**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 Division

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Title or Subject: Arkansas Pollution Control and Ecology Commission Regulation Number 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas

Benefits of the Proposed Rule or Regulation

ADEQ believes that, in addition to that specific answers that follow, the AEDC would be assisted in analyzing this rule with a copy of the Economic Impact/Environmental Benefit Analysis completed by ADEQ for the Arkansas Pollution Control and Ecology Commission pursuant to APC&EC Reg. 8.812. A copy of the "EI/EB Analysis" form in its entirety is attached to this questionnaire as Attachment 1.

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.

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 water quality standards are administered through the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 et seq. The Clean Water Act requires states to review their water quality standards on a triennial basis and to amend those standards as necessary. This proposed rule is the result of that process. The proposed changes are necessary to ensure that waters of the State are maintained and protected, in accordance with the Clean Water Act and the Arkansas Water and Air Pollution Control Act. See Section 2A of Attachment 1 for specific data regarding the benefit of protecting water quality in Arkansas (pages 4-6).

Many of the changes proposed in this rulemaking are intended to clarify the regulation through formatting changes or grammatical revisions. Also, several revisions are proposed to comply with the Arkansas Pollution Control and Ecology Commission's Regulation Drafting Guidelines.

2. What are the top three benefits of the proposed rule or regulation?

The responses to questions 1 and 2, Section 2B of Attachment 1 (pages 22-27) provide information regarding the specific benefits of each proposed change. In general, the primary benefits of this proposed rule is to remain in compliance with federal law regarding the promulgation of water quality standards and providing protection to the surface waters that support industry and recreation in the State of Arkansas.

3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

Some of the proposed changes, such as the addition of numeric nutrient criteria for Beaver Lake are necessary protect water quality of a significant surface water of the State of Arkansas. Other changes are necessary to prevent confusion to the public or regulated entities that rely on the regulation. See the responses to question 3, Section 2B of Attachment 1 (pages 30-33).

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.

In order to comply with federal law, there are no market-based alternatives or voluntary standards that could be considered in place of the proposed regulation.

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.

See responses to questions 2, 4 and 5 of Section 2A of Exhibit 1 (pages 14-25). For each proposed change, the Department has estimated costs of implementation.

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.

Any small business that might conduct an activity that would impact a water of the State would be required to comply with the proposed rule, not just those that receive permits from ADEQ. It is nearly impossible to estimate a number of small businesses affected as ADEQ does not have data regarding the number of employees from each affected entity.

7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.

The proposed regulation may create barriers to entry that are necessary to protect water quality. For some waters, the costs of treatment to protect extraordinary water quality will prevent the entry of a facility in that area. This is necessary to comply with the federal Clean Water Act, which prohibits the degradation of existing water quality.

8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.

There are no additional requirements on small business owners; all sized businesses must comply with the same water quality standards. See Attachment 1 for cost estimates.

9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.

All sized entities must comply with the same rules.

10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.

ADEQ believes the small business owners can implement the changes required by the regulation. Additionally, ADEQ proposes changes to APC&EC Reg.2.104 to allow for more flexibility regarding ongoing compliance with the regulation.

11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?

The general standards within the regulation are very similar to rules from other states or recommended by the federal government. Specific standards may be based on site-specific or ecoregion-based data but are generally similar to standards adopted in other 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.

ADEQ held a series of stakeholder workgroup meetings to discuss the overall structure of the Triennial Review and specific changes to the regulation. Representatives from groups such as the Arkansas Environmental Federation (industry advocates), Arkansas Farm Bureau, and Arkansas Municipal League participated in the workgroups. The workgroup process lasted for several months and included a total of six (6) meetings, with three (3) subgroup meetings regarding specific standards, such as for minerals.