

**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 6,
Regulations for Administration of the National Pollutant Discharge Elimination System
(NPDES)

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.

The proposed amendment to Regulation No. 6 will create a permit-by-rule to grant construction for individual treatment facilities generating less than 1000 gallons per day of domestic waste. The operation of these individual treatment facilities is currently permitted under a NPDES general permit, ARG550000. A general permit streamlines the application process for the facility owner, which with this type of facility is often an individual homeowner. In addition, the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-201 et seq., requires a permit for the construction of the system. ADEQ received many complaints that the requirement to go through the formal permitting process for an individual construction permit negated the efficiency of the general permit. Therefore, ADEQ proposes to create a permit-by-rule that would allow construction, if the facility meets certain conditions.

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

- a. *The proposed amendment will allow construction of individual treatment facilities generating less than 1000 gallons per day of domestic waste, if certain conditions are met;*
- b. *The permit-by-rule supports the efficiency of the general permit process that governs the operation of these facilities; and*
- c. *The requirements of the permit-by-rule continue to grant ADEQ and the Department the authority to approve certain types of systems that are deemed protective of water quality.*

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

Taking no action will cause unnecessary delay for individual homeowners seeking to install and operate an individual domestic waste treatment facility that generates less than 1000 gallons per day. The process for getting a permit to operate the system has been streamlined by the general permit. This permit-by-rule will complement the

EXHIBIT D

administrative efficiency provided by the general permit to the construction of the system.

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. The Arkansas Water and Air Pollution Control Act requires a permit for construction of a facility that proposes to discharge to waters of the State. In this case, individual homeowners will most likely chose a system that has already been approved by ADEQ and the Department of Health as protective of water quality. With such limited variation in the actions likely taken by individuals, a permit-by-rule is the best option to meet the statutory requirement. Likewise, a permit-by-rule is specifically authorized by Ark. Code Ann. §8-4-203(k).

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.

This permit-by-rule will be the most administratively efficient process for authorizing the construction of these systems. ADEQ will keep a list of evaluated and approved treatment systems. ADEQ will receive notice from the individual homeowner that they have met the requirements of the rule and intend to commence construction under the regulation.

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.

These individual treatment facilities are most often constructed and operated by individual homeowners; however, small businesses, such as daycares and restaurants may choose to install an individual treatment facility and take advantage of this construction permit-by-rule. At this time, only a small number (less than 20) of small businesses operate the individual treatment facilities.

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.

EXHIBIT D

This proposed regulation does not contain different requirements for different sized entities.

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

To the extent that small business owners may chose to construct a system under this proposed rule, they will most likely welcome the streamlined process.

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

The specific requirements of this proposed rule may be unique, in that it is based on Arkansas state law, not federal law. However, the Arkansas Pollution Control and Ecology Commission has approved permits-by-rule in other regulations and permits-by-rule have been adopted by many other states and the federal government.

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 proposed rule was developed from input of persons seeking to construct and operate the individual treatment facilities.