

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

**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.

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

Rule Number & Title: Regulation No. 6, Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES)

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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.

- a) *This rulemaking will affect those entities seeking to construct an individual treatment facility that will generate less than 1000 gallons of domestic waste per day. This proposed rule will result in a positive economic effect for those entities, as a permit application fee will no longer be required to obtain a construction permit for those activities.*
- b) *It is difficult to estimate the number of entities that will be affected by this rule, as this requirement is based on the choice of the entity to construct this type of facility. However, it is estimated that each year approximately 150 facilities apply for permit coverage under NPDES General Permit No. ARG550000 for operation of these individual treatment facilities.*

Sources and Assumptions:

The estimated number of affected entities was based on the number of currently permitted facilities. The actual number of affected entities will depend on the number of entities seeking to construct this type of individual treatment facility.

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.

EXHIBIT E

1) There will be a decreased cost for the average facility. Facilities authorized to construct under this permit-by-rule will not be required to pay a permit application fee or annual permit fees under this rule.

2) There will be no extra cost to implement this rule. ADEQ may see a cost savings because staff resources can be redirected from reviewing individual permit applications.

Sources and Assumptions:

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

No fees will be imposed 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?

As stated above, no additional costs to the agency will be required to implement this rule.

Sources and Assumptions:

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.

This proposed rule works in conjunction with NPDES General Permit ARG550000, which is issued by ADEQ, and the Arkansas Department of Health's Rules and Regulations Pertaining to Onsite Wastewater Systems. The Department of Health must approve the wastewater system, while ADEQ has been granted the sole authority to issue permits for any potential discharge to waters of the state.

Sources and Assumptions:

Arkansas Department of Health, Rules and Regulations Pertaining to Onsite Wastewater Systems, Section 10.5.7 ;Ark. Code Ann §§ 8-1-202(b)(2)(A); 8-1-203(b)(4); 8-4-105(b); 8-4-201(a)(4) and (b)(1)(D)(4); 8-4-203; 8-4-205; 8-4-207(1) – (4); 8-4-208(a); 8-4-217(a)(3) and (b).

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

This proposed rule represents the less intrusive method to achieve compliance with permitting requirements under the Arkansas Water and Air Pollution Control Act. Currently, entities seeking to construct an individual domestic waste treatment system must apply for an individual construction permit. This proposed rule provides the authority to construct the system, if certain conditions are met. It is important to note, however, that this rulemaking does not alter the requirement to obtain coverage under a general permit (or obtain an individual permit, if deemed necessary) from ADEQ for the operation of the system.

Sources and Assumptions:

2B. ENVIRONMENTAL BENEFIT

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

This proposed rule addresses water quality.

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

This proposed rule offers a streamlined process for entities to obtain permit coverage to install treatment facilities that have been approved by ADEQ as protective of water quality. The efficiency of this process will encourage entities to choose those treatment facilities that have been reviewed and approved by ADEQ.

Sources and Assumptions:

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

There will likely be no detrimental effect to the environment or to the public health and safety if the proposed rule is not implemented. However, if the proposed rule is not implemented, the permitting process for construction and installation of systems approved by ADEQ will continue to be burdensome for these types of systems. This may induce some entities to bypass the necessary permitting requirements and result in greater enforcement costs for ADEQ.

Sources and Assumptions:

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

See the answer to #3.

Sources and assumptions: