

**ECONOMIC IMPACT STATEMENT  
OF PROPOSED RULES OR REGULATIONS  
EO 05-04: Regulatory Flexibility**

Department Arkansas Department of Environmental Quality

Divisions Air, Water, Solid Waste, and Environmental Preservation and Technical Services Divisions

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Title or Subject: Arkansas Pollution Control and Ecology Commission Regulation Number 9, Fee Regulation

**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.

Regulation Number 9 covers permit fees issued by the Air, Water, and Solid Waste programs and incorporates the provisions of the laboratory certification fee program which was previously contained in Regulation Number 13. ADEQ engaged in a complete review of the fees, the language and the proposed changes to Regulation Number 9 which include the following:

- a. Changing the Regulation title to Fee Regulation;
- b. Chapter One: Adding a paragraph to Reg.9.102 to include the purpose for the State Environmental Laboratory Certification Program and adding a paragraph to Reg.9.103 to include the applicability of the laboratory certification provisions;
- c. Chapter Two: Adding definitions to clarify provisions of the Laboratory Certification Fee Program;
- d. Chapter Four: Making minor formatting changes and changing the references to "sand and gravel" to "aggregate facilities";
- e. Chapter Five: Adding a Regulatory section entitled Permit Fees for Certain Small Businesses Subject to Part 70 Permitting Requirements;
- f. Chapter Six: Deleting the requirement for pre-application fees for Transfer Stations, Composting, and Materials Recovery Facilities; increasing the Application fee for Transfer Stations, Composting, and Materials Recovery Facilities; Adding a General Permit Application Fee; Adding a General Permit Annual Fee; and Adding a General Permit Transfer Fee;
- g. Chapter Eight: Amending the chapter title to become the Laboratory Certification Fee Program and adding the provisions of Regulation No. 13 into new Regulatory sections entitled Laboratory Certification Fees, Laboratory Certification Travel Fees, and Failure to Pay Laboratory Certification Fees;
- h. Chapter Nine: Adding a new Chapter containing the Administrative Procedures including the Regulatory Provisions entitled Department Review of Fees, Appeals, and Effective Date.

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

- a. Adding a Regulatory section entitled "Permit Fees for Certain Small Businesses Subject to Part 70 Permitting Requirements" which allows ADEQ the flexibility to consider the ability to pay of a small business which has met other qualifications;
- b. Incorporating the provisions of the Laboratory Certification Fee Program into Regulation Number 9;
- c. Streamlining selected Solid Waste permit fees.

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

ADEQ constantly looks to improve processes and these proposed changes reflect that approach to governance.

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.

## 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.  
Minimal costs: staff time spent either reviewing small business requests for Air Fee waiver or reviewing documentation changes for laboratory certification fees, estimated costs of less than \$5,000 annually.
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.
  - a. Solid Waste Permit Fee changes will have no effect on small businesses;
  - b. Air Permit changes may minimize the cost of complying with Air Regulations for small businesses who qualify;
  - c. Laboratory Certification Fee Program changes will equalize the fee structure for in-state and out-of-state laboratories.
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 contains a provision entitled "Permit Fees for Certain Small Businesses Subject to Part 70 Permitting Requirements" which allows ADEQ the flexibility to consider the ability to pay of a small business which has met other qualifications. For example, certain small businesses, permitted as a major Title V source due to federal requirements, may have few available financial resources and limited production and emissions of less than 1 ton per year . Currently they would be subject to a permit fee of \$2,096. These changes would allow the owner to submit a written application to ADEQ for an annual permit fee reduction. If the owner satisfactorily demonstrates that they do not have the financial resources to pay the fee as calculated, the Director shall calculate the fee as if the source is a non-Part 70 source.
10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.  
Small businesses will embrace the flexibility found in the new provision contained in the Air Permit Fee Chapter of the proposed regulation.
11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?  
The new provision contained in the Air Permit Fee Chapter complies with the federal small business act.

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Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.

ADEQ's Small Business Assistance Program employees suggested the necessity of giving the Department flexibility in meeting the needs of the qualified small business through a reduction in fees when specific criteria are met.