

**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 No. 34, State Water Permit 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.
 This is a new regulation intended to cover water permits for wastes that are not discharged into waters of the State but are disposed in a manner that, if unregulated, are likely to cause pollution to waters of the State. At the present time, the regulation will contain provisions relating to the construction, operation and closure of pits associated with the drilling of oil and gas wells. The Arkansas Department of Environmental Quality (“ADEQ”) initially promulgated these provisions in a general permit under its statutory permitting authority found in the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 *et seq.* This general permit was appealed to the Union County Circuit Court. As a result of that appeal, ADEQ was approached by the Arkansas Oil and Gas Commission (“AOGC”) about promulgating joint rules that would encompass the provisions of the general permit and provide consistency in the regulatory efforts of both agencies. As a result, AOGC promulgated Rule B-17. APC&EC Regulation No. 34, State Water Permit Regulation, will incorporate the provisions of Rule B-17 by reference.
2. What are the top three benefits of the proposed rule or regulation?
 - a. This regulation is intended to prevent pollution of the waters of the State from pollution associated with the regulated activity, protecting a valuable resource for the citizens of Arkansas.
 - b. This regulation will provide consistency in regulations between ADEQ and AOGC.
 - c. This regulation will create one permitting program authorizing an activity over which both agencies have jurisdiction, as Reg. 34 provides that facilities will be deemed to have a permit by rule if they comply with the requirements of AOGC Rule B-17.
3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?
 If no action is taken, two separate state agencies may have different requirements for the same activities. This regulation, in conjunction with AOGC Rule B-17, will provide one regulatory program common to both ADEQ and AOGC that will protect water quality and offer clarity to the regulated community for an activity regulated by both agencies.
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, these revisions are part of an agreement between AOGC and ADEQ to provide a common regulatory program for these types of pits associated with the drilling of oil and gas wells.

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.
There will be no additional costs to state government. However, there will be a reduction in permit fees collected by ADEQ, while ADEQ will continue to inspect these facilities and take enforcement actions as necessary.
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 constructs, operates or closes a pit that is associated with the drilling of oil and gas wells will be required to comply with this regulation. Through Regulation No. 34, the small business is required to comply with AOGC Rule B-17. As stated above, those provisions are nearly identical to the current general permit issued by ADEQ. To date, ADEQ has issued coverage under the general permit to 79 companies for 1883 pits.
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. The requirements of this regulation are already required in other permitting programs with ADEQ and AOGC.
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 does not contain different requirements for different sized entities. The size of the entity does affect the activity regulated by this regulation. All pits associated with the drilling of oil and gas wells must be constructed, operated and closed according to the same requirements.
10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.
ADEQ believes that small business will be not have any difficulty in implementing the changes required by this regulation, as the requirements are already found in the general permit issued by ADEQ.
11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?
The activities covered by this rule are not governed by federal law. Each state may promulgate its own rules to protect water quality. This regulation will provide a common regulatory program between ADEQ and AOGC that will provide consistency for the regulated community.
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 worked in cooperation AOGC in developing Rule B-17 prior to adoption by that agency. AOGC met with small businesses within the oil and gas industry prior proposing the regulatory plan to ADEQ and throughout the process of promulgation Rule B-17.