

**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. 5, Liquid Animal Waste Management Systems

**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 primary change presented in this proposed rulemaking is the addition of an exemption from the requirements of the regulation for facilities that have chosen to receive coverage under a National Pollutant Discharge Elimination System (“NPDES”) permit for a Concentrated Animal Feeding Operation (“CAFO”). This exemption will eliminate double permitting for liquid animal waste management systems.

ADEQ also proposes to remove the continuing education requirements from the regulation. This change is necessary to match the requirements for liquid animal waste management systems under Regulation No. 5 with the requirements for CAFOs permitted under the NPDES program. Neither the federal regulations governing CAFOs nor the general permit issued by ADEQ require continuing education for operators. Thus, ADEQ believes that it is no longer necessary to keep the continuing education requirements in Regulation No. 5.

Likewise, many waste management plans written pursuant to Regulation No. 5 include the continuing education requirement in the text of the plan and the plan would need to be changed to remove this requirement. In most instances, a change to a waste management plan requires a major permit modification, which includes public notice and comment. Regulation No. 5 specifically list permit modifications that are minor and do not require full public participation. ADEQ proposes adding removal of education requirements from waste management plans to this list, as the agency has requested the requirement be removed from the regulation.

2. What are the top three benefits of the proposed rule or regulation?
- a. Addition of the exemption from regulation for those facilities already permitted under the NPDES program will prevent double permitting for some operations and save time and money for the facilities.
  - b. Removal of the continuing education requirements from this regulation will make the permitting requirements for different types of animal waste systems consistent. The operators will be able to save the cost and time necessary to complete classes.
  - c. Removal of the education requirements from the waste management plan to the list of minor permit modification. This change will lessen the time necessary to complete the modification.

3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?  
As stated above, no action would allow redundant or unnecessary requirements to remain in place at a cost of time and money for operators of liquid animal waste management systems.
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.  
The proposed changes will result in less regulation for covered entities; therefore, market-based or voluntary alternatives were not considered.

### **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 proposed rule change will essentially be revenue-neutral for the agency. A few operators may choose to get the NPDES permit for their liquid animal waste management system and ADEQ would not collect the permit fee for the Regulation No. 5 permit. However, the agency would collect a permit fee for the NPDES permit. Likewise, the requirements for the NPDES CAFO permit and the Regulation No. 5 permits are very similar, so the resources expended by ADEQ in processing those permits are essentially the same.  
  
Also, by allowing changes to the waste management plan for removal of education requirements to be a minor modification, the agency will spend less time processing the permit modification and free up resources for other protection efforts.
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 facility with a liquid animal waste management system is subject to the requirements of Regulation No. 5. These facilities may be small businesses. Currently, ADEQ permits approximately 300 facilities under this regulation. All of those facilities would benefit from the change in the education requirements. Those facilities that are permitted under the NPDES CAFO permitting program would benefit from the exemption from regulation under Regulation No. 5. ADEQ estimates that ten (10) or fewer facilities may qualify for this exemption.
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 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.

This proposed regulation does not impose any new requirements for small businesses. ADEQ believes that the proposed changes will benefit small businesses by reducing certain permitting requirements.

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

Regulation No. 5 is very similar to new federal regulations for the permitting of CAFO. That similarity supports the exemption for facilities that choose to get a CAFO permit. A few other states, such as North Carolina, also have regulations that govern animal waste management systems that may not be permitted under the federal CAFO program.

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

When ADEQ began the process of implementing the new federal regulations on CAFOs, we held several stakeholder meetings to discuss how Regulation No. 5 fit into the new permitting requirements under federal law. The regulated entities indicated to ADEQ that they wanted Regulation No. 5 to remain in effect for those facilities that were not required to apply for a federal CAFO permit. They also wanted the exemption for those liquid waste systems that chose to receive a federal permit. This is the approach that ADEQ is implementing with this proposed rulemaking. The stakeholder group included the Farm Bureau, industry representatives, and representatives from other governmental agencies that assist facilities with compliance.