



Arkansas Water Primer Series: Arkansas Water Pollution Control Laws

Introduction

Dirty water compromises the chemical and biological integrity of Arkansas' waterbodies and poses a risk to public health. The Arkansas General Assembly has enacted several laws that address the problem of water pollution.

The Arkansas Water and Air Pollution Control Act

The Arkansas Water and Air Pollution Control Act of 1949 makes it unlawful to "cause pollution . . . of any of the waters of this state," or to "place or cause to be placed any sewage, industrial waste or other wastes in a location where it is likely to cause pollution of any waters of this state."

The Arkansas Pollution and Ecology Commission is the environmental policy-making agency for the state. With guidance from the Governor, the General Assembly, the U.S. Environmental Protection Agency and other stakeholders, the Commission establishes environmental policies for the state, which the Arkansas Department of Environmental Quality (ADEQ) implements. The Commission is composed of seven members of the public who are appointed by the Governor and six representatives from the following agencies:

- Department of Health
- Forestry Commission
- Geology Commission
- Oil and Gas Commission
- Game and Fish Commission
- Natural Resources Commission

Citizens who suspect a water pollution law has been broken may file a complaint with ADEQ. The agency's Water Division - Inspection Branch, which has 13 District Field Inspectors and two Inspector Supervisors, investigates citizens' allegations against municipalities, industries, other citizens or agricultural facilities. In 2007, ADEQ's staff responded to 933 water-related complaints and took 87 formal enforcement actions.

Violation of the Pollution Control Act

The Commission may conduct administrative proceedings and institute civil enforcement actions in the proper court. The Commission may not, except in emergencies, assess a penalty without the opportunity for a hearing. Prior to a hearing, the agency must provide public notification and an opportunity for comments.

Administrative penalties may be no greater than \$10,000 per day of violation. Civil actions, as determined by the court, may result in:

- An order to abstain or desist and/or compel compliance
- An order for remedial measures and/or
- Recovery of all costs, expenses and damages.

Any violation of the Act is also a criminal misdemeanor, punishable by imprisonment for not more than one year, a fine of not more than \$25,000, or both.

A purposeful, knowing or reckless violation that "creates a substantial likelihood of adversely

affecting” human health or the environment is a felony, punishable by imprisonment for not more than five years, a fine of not more than \$50,000, or both. A purposeful, knowing or reckless violation that “places another person in imminent danger of death or serious bodily injury” is punishable by imprisonment of not more than 20 years, a fine of not more than \$250,000, or both. In addition, if the court finds that the violator made money from the offense, the state may seek an additional fine of double the amount of the gain.

Additional Water Pollution Laws

Arkansas’ Solid Waste Management Act makes it unlawful to “sort, collect, transport, process or dispose of solid waste . . . in such a manner or place as to cause or be likely to cause water pollution within the meaning of the Arkansas Water and Air Pollution Control Act.” The penalties are the same as for violations of the Water and Air Pollution Control Act.

The Litter Control Act makes it unlawful to “drop [or] discard . . . litter . . . into any river, lake, pond or other stream or body of water within this state.” There is no violation of the Act if the:

- Property is designated as a permitted disposal site
- Litter is deposited in such a manner as to prevent it from being carried away or the person is the owner or tenant in lawful possession of the property and
- Litter does not create a public nuisance, health or fire hazard.

A violation of the Act is a misdemeanor. First-time offenses are subject to a \$100 fine or 100 hours of community service.

Additional Resources

The Arkansas Department of Environmental Quality is located at 5301 Northshore Drive in North Little Rock, Arkansas. To contact ADEQ’s Water Division, call 501-682-0655 or go to <http://www.adeq.state.ar.us/water/default.htm>.

Fact Sheet 109 (FSPPC109) – *Glossary of Water-Related Terms* – contains a comprehensive list of terms used in the Arkansas Water Primer Fact Sheet Series.

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