

**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 Air Division

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Title or Subject: Arkansas Pollution Control and Ecology Commission Regulation Number 21

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 proposed changes to Regulation Number 21, Arkansas Abatement Regulation, will require air monitoring for asbestos fibers to be conducted before and during and after a renovation or demolition project, whereas the current regulation only requires air monitoring to be performed after the project is completed. The proposed changes also require that air monitoring be conducted by an independent third party who is not an agent of the firm doing the renovation. Through additional air monitoring the proposed amendments will help ensure the reduction of asbestos fibers entering the environment.

By requiring photos of individuals seeking asbestos training certification and by requiring increased reporting from training providers, the Department can better ensure that individuals receiving certification are the individuals who were trained.

The proposed changes to Regulation Number 21 are the result of stakeholder participation and contributions, and therefore the changes can be considered complaints of the original regulation. Making the proposed change will improve the overall effectiveness and enforceability of asbestos abatement regulation, and help ensure the proper training and efficient certification of asbestos workers in the state. Please see the attached Exhibit F, Arkansas Pollution Control and Ecology Commission Economic Impact/Environmental Benefit Analysis, for a detailed review of the costs and benefits of the proposed amendments.

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

The top three benefits of the proposed regulation amendments to Regulation Number 21 are as follows:

1) A reduction of asbestos fibers entering the atmosphere, resulting in a decrease in morbidity and premature death.

2) By requiring photos of individuals seeking certification the Department can better ensure that individuals receiving certification are the individuals who were trained.

3) Advanced notification of training classes and submittal of specific information within 10 days of class completion will help ensure the proper and efficient certification of individuals by the Department.

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

If the proposed revisions are not implemented, more asbestos fibers will be released into the atmosphere, resulting in increased morbidity and premature death. If just one premature death is prevented each nine years the proposed changes will have a positive economic benefit.

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.

There are no known market-based alternatives or voluntary standards that would achieve the same purpose of the proposed amendments for Regulation Number 21.

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.

The proposed amendments to Regulations Number 21 will not create any new costs to the state government.

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.

The proposed amendments will create new compliance requirements for licensed asbestos abatement firms. There are currently 105 licensed asbestos contractors and/or consultants, some of which are small businesses.

The proposed rule will require individuals seeking certification in asbestos disciplines to submit a photograph (print or digital image) of themselves or come to the Department's offices during normal business hours and have one taken free of charge. There are currently 733 individuals with certifications.

The proposed regulation will mandate training providers comply with certain reporting requirements. Specifically it will require they notify the Department in advance of all classes and submit information to the Department within 10 days of class completion. These changes will impact all licensed training providers. There are currently eleven licensed training providers in Arkansas.

7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.

The proposed amendments will not create any barriers to entry.

8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.

The proposed amendments require additional air monitoring that is estimated to have an average mid-point annual economic impact of \$873,000 per year. This cost per renovation will vary with the length of job. The estimated cost of the individual photograph submittal requirement is \$2.60 per year. This cost, combined with a reduction of \$8.60 per year of worker certification fees, results in a net annual benefit to workers of \$6.60 per year. The proposed amendments require additional reporting requirements for training providers. These changes are estimated to have an annual cost of \$133.46 for each training provider. Fees for training providers are being reduced by \$125 per year, resulting in a net increase of \$8.46 per year per training provider.

9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.

The proposed amendments apply to asbestos regulation practices and will 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.

The proposed additional air monitoring requirements will directly (negatively) affect licensed asbestos abatement firms and will indirectly affect their clients. The proposed changes will result in nominal increased cost of time, effort and resources for training providers. The proposed changes will decrease most fees by 25%.

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

The proposed changes to Regulation Number 21 are based on the regulation of asbestos abatement found in 40 C.F.R. Part 61, Subpart M.

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 held the first stakeholder meeting on September 13, 2007 to receive suggestions on regulatory changes. Additional meetings were held on September 24, 2008, and December 21, 2009. Many of the proposed changes, including the additional monitoring and photo submission are the result of input received from the stakeholders.