

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY  
COMMISSION

IN THE MATTER OF AMENDMENTS TO )  
REGULATION NO. 21, ARKANSAS ) DOCKET NO. 10-\_\_\_\_-R  
AESBESTOS ABATEMENT REGULATION)

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION  
NUMBER 21, ARKANSAS AESBESTOS ABATEMENT REGULATION

The Arkansas Department of Environmental Quality (hereinafter “ADEQ” or “the Department”), for its Petition to Initiate Rulemaking to Amend Regulation Number 21, Arkansas Asbestos Abatement Regulation, states:

1. The Department requests that the Commission Initiate Rulemaking to amend Regulation Number 21, Arkansas Asbestos Abatement Regulation. Regulation Number 21 is applicable to all owners and operators conducting a demolition or renovation activity; persons conducting inspections, air monitoring, developing management plans, and designing and/or conducting asbestos response actions; and training providers. The Department proposes this rulemaking to require air monitoring for asbestos fibers to be conducted before, during, and after a 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. The proposed changes also require photos of individuals seeking asbestos training certification and increases reporting requirements from training providers. The proposed changes will reduce asbestos fibers entering the atmosphere, resulting in a decrease in morbidity and premature death. 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.

2. The proposed regulatory amendments precipitated by the above-referenced need involve the following:

- (a) Changes made to Reg. 21.611 of Regulation Number 21. The proposed regulatory amendment seeks to require training providers to notify the Department in advance of the course attendees' name, address, telephone number, fax number (if applicable), and e-mail address (if applicable), as well as specific course information, including title of the course, date and address where the course will be conducted, and the name of the instructor conducting the course. The proposed regulatory amendment also seeks to require training providers to submit to the Department within ten (10) days of class completion the course name and type, dates the course was conducted, a roster of attendees, including for each attendee: name and address, course completion certificate number, a class photo with a caption identifying each person (or individual photos of each student), and the instructor's name.
- (b) Changes made to Reg. 21.901(G) of Regulation Number 21. The proposed regulatory amendment seeks to require that air monitoring be conducted before and during a project (in addition to after the project as currently required).
- (c) Changes made to Reg. 21.901(G)(1) of Regulation Number 21. The proposed regulatory amendment seeks to require that air monitoring be conducted by an independent party who is not an employee of the firm doing the renovation or demolition.

(d) Changes made to Reg. 21.1501(D) of Regulation Number 21. The proposed regulatory amendment seeks to require individuals being certified to submit a photo of themselves.

3. In addition to the substantive changes above, the Department seeks to further modify the regulation in order to implement these changes. The following changes will improve the effectiveness and enforceability of the asbestos abatement regulation amendments described above.

(a) The proposed regulation will reduce most fees by 25%.

(b) The regulation was reformatted to meet the Commission's current regulation formation guidelines. Minor nonsubstantive wording changes were made to allow the reformatting to proceed.

(c) Chapter 26 was deleted since it contained transition language which no longer applies.

(d) Numerous terms were defined in Chapter 4 even though those terms were not used elsewhere in the regulation. These definitions have been deleted.

(e) The following definition were added: "Air Monitor," "Commercial Asbestos," "EPA," "Individual," "Person or Persons," and "Thorough Inspection."

(f) The applicability section was amended to clarify that the regulation covers disposal of asbestos containing waste.

4. The proposed changes to Regulation Number 21 have been reviewed by the Arkansas Economic Development Commission (AEDC) as required Under Act 143 of 2007.

5. Mike Bates or other Air Division staff from ADEQ will be available to answer

questions concerning this proposed rulemaking. A red-lined version of the regulation showing the proposed changes is attached as Exhibit “A” and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as Exhibit “B”, and a copy of a Financial Impact Statement for the proposed revision is attached as Exhibit “C”, both of which are incorporated by reference. A memo regarding compliance with Act 143 of 2007 is attached as Exhibit “D” and hereby incorporated by reference. An analysis of the impact to small business required pursuant to Act 143 of 2007 (formerly Executive Order 05-04), is attached as Exhibit “E” and hereby incorporated by reference. A copy of the Economic Impact/Environmental Benefit Analysis is attached hereto as Exhibit “F” and is hereby incorporated by reference. A proposed minute order is attached as Exhibit “G” and is hereby incorporated by reference.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and adopt the proposed amendments to Regulation Number 21.

Respectfully Submitted,  
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By: Mike Bates  
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