

**BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY
COMMISSION**

**IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 32, ENVIRONMENTAL)
PROFESSIONAL CERTIFICATION)**

DOCKET NO. 07-008-R

**PETITION TO INITIATE RULEMAKING TO AMEND REGULATION NO. 32,
ENVIRONMENTAL PROFESSIONAL CERTIFICATION**

The Arkansas Department of Environmental Quality (hereinafter “ADEQ” or the “Department”), for its Petition to Initiate Rulemaking to Amend Regulation No. 32, Environmental Professional Certification, states:

1. Act 1018 of 2007 (HB 2761) repealed most of the provisions of Act 2141 of 2005 with respect to the environmental professional certification program set forth at Arkansas Code of 1987, Annotated (Ark. Code, Ann.) Section 8-7-1301 et seq., which are codified in the Commission’s Regulation No. 32. The Department is proposing amendments to Regulation No. 32 in order to make the regulation conform to the statutory language affected by Act 1018.
2. The proposed regulatory amendments precipitated by the implementation of Act 1018 include:
 - (a) Amending § 32.101 to reflect the revised purpose of the Act and Regulation;
 - (b) Amending § 32.101 to reflect the revised authority for the Regulation;

- (c) Amending the list of definitions at § 32.103 in accordance with those used in Act 1018 of 2007;
- (d) Amending § 32.201 to reflect the revised qualifications for an “environmental professional” pursuant to the requirements of Act 1018 of 2007 and referenced federal regulations at 40 CFR 312.10;
- (e) Repealing and removing Sections 32.203, 32.204, 32.205, and 32.206;
- (f) Revising § 32.301 to reflect the revised qualification and application process for Phase I Consultants pursuant to the provisions of Act 1018 of 2007;
- (g) Repealing and removing Section 32.302;
- (h) Repealing and reserving Chapters 4 and 5;
- (i) Amending § 32.601 to reflect review and renewal of a Phase I consultant’s certification and listing under the provisions of Regulation No. 32 at least once every two years;
- (j) Repealing and reserving Sections 32.602, 32.603, and 32.604;
- (k) Amending § 32.605 to remove references to continuing education training for response actor and other contractors;
- (l) Amending § 32.606 to lower the certification and listing fee for Phase I Consultants from \$200 initially and \$200 biennially thereafter to \$25 for both initial certification/listing and renewal; and removing the provisions for examination fees;

(m) Amending § 32.607 to remove references to Response Action Contractors;

(n) Amending § 32.608 to delete record keeping and review requirements for provisions repealed by Act 1018 of 2007;

(o) Repealing and reserving Chapter 7; and

(p) Amending § 32.901 to remove references to regulatory language stricken by the preceding amendments.

3. Line-by-line details of the proposed revisions are listed at Exhibit “A.” A detailed discussion of each revision is provided in the Statement of Basis and Purpose at Exhibit “F.”
4. *Compliance with Act 143 of 2007 (formerly Executive Order 05-04):* Act 143 of 2007 is not applicable to rules that are federally mandated, or that substantially codify existing state or federal laws. ADEQ determines that Act 143 of 2007 is not applicable to this proposed rule because the amendments to Regulation No. 32 exclusively codifies existing state law pursuant to Act 1018 of 2007. (Ark. Code of 1987, Ann., § 25-15-302(a)(1)(C)). An overview of the projected impact of each specific provision proposed for adoption in this regulation is included in the Economic Impact/Environmental Benefit Analysis at Exhibit “D,” and in the Statement of Basis and Purpose at Exhibit “F.”
5. Ryan Benefield, Chief, Hazardous Waste Division, will be available to answer questions concerning this proposed rulemaking. A version of the regulation showing the proposed changes is attached as Exhibit “A” and is

hereby incorporated by reference. The questionnaire for filing proposed rules and regulations with the Arkansas Legislative Council and Joint Interim Committee is attached at Exhibit “B.” The legislative Financial Impact Statement is attached at Exhibit “C.” A statement concerning compliance with the provisions of Act 143 of 2007 is attached at Exhibit “D.” A copy of the completed economic impact/environmental benefit analysis pursuant to Regulation No. 8.3.5.2 is attached at Exhibit “E.” A copy of the initial Statement and Basis of Purpose is attached at Exhibit “F”. A proposed Minute Order which initiates this request is attached at Exhibit “G.”

WHEREFORE, the ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and promulgate the proposed amendments to Regulation No. 32 for public notice and comment.

Respectfully submitted,

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