

EXHIBIT G:

ECONOMIC IMPACT STATEMENT: REGULATORY FLEXIBILITY

ECONOMIC IMPACT STATEMENT OF PROPOSED RULES OR REGULATIONS

EO 05-04: Regulatory Flexibility

Department: Dept. of Environmental Quality

Division: Hazardous Waste

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Title or Subject: APC&EC Regulation No. 32 (Environmental Professional Certification)

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.

As originally adopted, Regulation No. 32 implements a certification program under the authority of Act 2141 of 2005 (Arkansas Code, Ann. §§ 8-7-1301 *et seq.*) for consultants who perform environmental site assessments, site investigations and risk assessment in preparation of site cleanup plans, and contractors who actually carry out site cleanups. Act 1018 of 2007 repealed the provisions of Act 2141 and set a new, less stringent requirement where the Department will simply compile and maintain a public listing of consultants who meet the requirements to perform Phase I environmental site assessments.

This proposal seeks to revise the regulation to conform with the new authorizing legislation as amended by Act 1018 of 2007. Complaints played no role in the development of these draft revisions.

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

- Maintains the regulation in conformance with authorizing legislation.
- Provides a ready reference for the general public for consultants who have been screened and verified as meeting federal qualifications to perform Phase I environmental site assessments.

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

Regulation No. 32 would no longer comply or be in conformance with its authorizing statutes; the un-revised regulations would have no basis in state law.

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 these alternatives.

As this proposal seeks to incorporate specific state statutory revisions into the regulation, market-based or other 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.

Staff time and effort to implement the requirements of Act 1018 of 2007 as codified in this proposed revision would require approximately $\frac{1}{4}$ of a full-time equivalent (FTE) for an Administrative Assistant I (Class code R009, Grade 15, annual salary (FY 08) \$21,875) to receive, review, and process applications and update a web-based listing of certified environmental professionals. With multipliers (1.8114) to account for fringe benefits and shared resources used by this position in the Department's currently authorized staffing level, costs are estimated at approximately \$9,900 for FY 08 and \$10,100 for FY 09.

6. What types of small businesses will be required to comply with the new rule or regulation? Please estimate the number of small businesses affected.

Small businesses which perform Phase I environmental site assessments in order to assist clients or their employers in complying with the federal Small Business Liability Relief and Brownfields Revitalization Act of 2002 are currently required to comply with specific qualification criteria for "environmental professionals" as set forth in 40 CFR 312.10. Act 1018 requires the ADEQ to maintain a publicly-available list of environmental professionals who have demonstrated that they meet the federal qualification standards.

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

Regulation No. 32 does not create any barrier to entry for small businesses, and the proposed revisions will not affect this. While Act 1018 requires the Department to maintain a list of qualified environmental professionals, it does not require that a specific consultant be included on that list in order to perform site assessments in Arkansas.

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

Small business owners who request to be included in the list of Phase I consultants maintained by ADEQ would pay a fee of \$25 once every two years to cover the expense of screening their qualifications and maintenance of the list. Inclusion on the Department list is voluntary, as Act 1018 of 2007 does not restrict the practice of Phase I site assessments to those included on this list. The current regulatory provisions, repealed by Act 1018, required that only certified consultants would be able to perform these assessments. Implementation of the currently proposed changes to Regulation No. 32 will result in much less stringent requirements for these small businesses, and savings of more than \$175 per registration from the current certification process.

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

The proposed revisions to Regulation No. 32 rely upon the previously published federal standards for qualification as an environmental professional. These qualifications apply to individual consultants of professionals, and so do not distinguish or provide different levels of regulation based on the size of the regulated party.

10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.

ADEQ does not anticipate any difficulty for small businesses implementing these revised rules. The requirements set forth in Act 1018 of 2007 are significantly less stringent and burdensome than the previous certification requirements under Act 2141 of 2005, and affected businesses should see a significantly reduced financial and administrative burden under the proposed revisions to Regulation No. 32.

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

Regulation No. 32 is relatively unique to Arkansas, e.g. the surrounding states do not provide for similar environmental professional certification at the state level. With respect to the qualifications for environmental professionals under Regulation No. 32, these mirror the federal standards set forth in 40 CFR 312.

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 has not received input, comments, or solicitation concerning these revised regulations at this time. Historically, this input, if any, is received after the draft regulation has been published for public notice and participation during the formal rulemaking process.