

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

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

DOCKET NO. 08-001-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 864 of 2007 (SB 829) established a professional certification program for contractors and consultants who undertake investigation and cleanup of properties contaminated through the illicit manufacture of controlled substances. These statutes were codified at Arkansas Code of 1987, Annotated (Ark. Code, Ann.) Section 8-7-1401 et seq. The Department is proposing amendments to Regulation No. 32 in order to implement the professional certification requirements established by Act 864.
2. The proposed regulatory amendments precipitated by the implementation of Act 864 include:
 - (a) Amending § 32.101 to reflect the revised purpose of the Act and Regulation;
 - (b) Amending § 32.102 to reflect the revised authority for the Regulation;

- (c) Amending the list of definitions at § 32.103 in accordance with those used in Act 864 of 2007;
- (d) Adds a new Chapter 4, establishing certification criteria for Clandestine Laboratory Remediation Contractors;
- (e) Amends § 32.601 to provide for biennial certification renewal for certified Clandestine Laboratory Remediation Contractors;
- (f) Amends § 32.605 to provide for continuing education requirements for certified Clandestine Laboratory Remediation Contractors;
- (g) Amends § 32.606 to establish application and renewal fees for certified Clandestine Laboratory Remediation Contractors (\$200) and to establish a technical review fee for property cleanup plans and related documents;
- (h) Amends § 32.607 to provide a certification statement for certified Clandestine Laboratory Remediation Contractors; and
- (i) Adds a new Chapter 7 to establish disciplinary actions and an appeals procedure for certified Clandestine Laboratory Remediation Contractors

3. Line-by-line details of the proposed revisions are listed at Exhibit “A.”

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 codify existing state law

pursuant to Act 864 of 2007. (Ark. Code of 1987, Ann., § 25-15-302(a)(1)(C)).

5. In November and December of 2007 ADEQ initiated a series of meetings with stakeholders to evaluate the impact of adopting the regulatory changes included in this proposal. These stakeholders included the Arkansas Department of Health, the Arkansas State Crime Laboratory, the Arkansas Manufactured Housing Association, the Arkansas Realtors Association, the Arkansas Municipal League, and two consultant firms which currently provide these types of services in Arkansas (Safety & Environmental Associates, Inc. of Little Rock and Meth Lab Cleanup, LLC, of Idaho). The revisions brought forward in this proposal represent the consensus of that stakeholder group.

6. 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 Economic Impact Statement and Regulatory Flexibility Analysis

required by the Arkansas Department of Economic Development pursuant to Act 143 of 2007 is included 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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