

An Example of the Importance of Regulatory Flexibility for Small Business

Arizona Department of Environment Quality Proposed Fee Increase

Arizona's regulatory flexibility process began in earnest in 1987. Since that time, policy makers have continued to build upon Arizona's administrative procedure laws by passing additional legislation to improve the regulatory climate for small business. Arizona's process has matured to the point where agencies consult with the Arizona Governor's Regulatory Review Council (GRRC) and small business stakeholders before proposing burdensome regulations.

In 2004, the Arizona Department of Environmental Quality (ADEQ) found that the state administered Air Permits Administration Fund (APAF) was operating at a substantial shortfall of approximately \$1.7 million per year. According to state enabling legislation, this fund must cover its costs by imposing direct fees on the regulated parties through annual permit fees, emission based fees and cost recovery from ADEQ survey fees. ADEQ and stakeholders feared that if the fund failed, the federal government alternative would lead to a more burdensome system. A majority of the 725 permitted businesses in this program were small businesses and included cement plants, mines, paper mills, gasoline service stations, crematories, mobile home manufacturers and others.

In years past, without Arizona's regulatory flexibility provisions, ADEQ would have simply proposed a rule to increase the various fees by \$1.7 million per year without considering the impact of the rule on the 725 regulated parties or less burdensome alternatives to accomplish the agency objective. However, under the current requirements of the Arizona Administrative Procedure Act (APA), a rule with new fees must be approved by a two-thirds majority affirmative vote by the seven member GRRC board.

As a result, ADEQ contacted GRRC and held three meetings with stakeholders to discuss the issue. Through the dialogue in these meetings the agency determined that the fee increase would create a significant economic impact on the affected businesses and that there were alternatives to solve the fund shortfall without over burdening small businesses.

ADEQ and the small business stakeholders were able to forge a plan which substantially reduced the administrative costs of this important program while improving compliance and mitigating the original fee increase proposal. By working with the affected businesses early in the rule process it created a win/win solution for both ADEQ and the affected businesses.