

EXHIBIT A:

PROPOSED RULE CHANGES

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION



REGULATION No. 30

ARKANSAS REMEDIAL ACTION TRUST FUND HAZARDOUS SUBSTANCES SITE PRIORITY LIST

INITIAL DRAFT

**Presented to
the Pollution Control and Ecology Commission on
July 25, 2008**

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1.

2. CHAPTER 1: GENERAL PROVISIONS

Reg.30.101 Authority

This regulation is promulgated pursuant to provisions of the Remedial Action Trust Fund Act of 1985 (Act 479 of 1985, as amended, A.C.A. § 8-7-509(f)(1).

Reg.30.102 Purpose

The Arkansas Remedial Action Trust Fund Hazardous Substances Site Priority List identifies those hazardous substance sites for which expenditures are authorized from the Hazardous Substances Remedial Action Trust Fund pursuant to the provisions of the Arkansas Code Annotated § 8-7-509(d)(2) and (d)(3). It is not a site inventory or historical list. Sites are listed alphabetically ~~numbered sequentially as they are added to the list~~, and a particular site's position on the list is not relative to its hazard ranking or degree of risk or potential risk.

Reg.30.103 Definitions

When used in connection with this regulation, terms shall have the meaning defined at Arkansas Code Annotated § 8-7-503, or as defined at APC&EC Regulation No. 23 § 260.10.

Reg.30.104 Criteria for Listing Hazardous Substance Sites

(a) Monies deposited into the Hazardous Substance Remedial Action Trust Fund shall be segregated into two portions.

(1) Eighty percent (80%) of the annual receipts shall be designated for expenditures related to National Priority List (NPL) sites as listed in Chapter 2 of this regulation.

(2) Twenty percent (20%) of the annual receipts shall be designated for expenditures related to State Priority List (SPL) sites as listed in Chapter 3 of this regulation.

(3) In the event monies from either NPL or SPL sites are not expended in any given year, the remaining monies shall be carried over to the next year and shall remain as originally apportioned, unaffected by apportionment of additional funds in subsequent years unless otherwise authorized by law.

(b) Monies from the Hazardous Substance Remedial Action Trust Fund may not be expended by the Director at any hazardous substance site until such hazardous substance site is listed in the applicable chapter of this regulation.

(c) A hazardous substance site may be listed in Chapter 2 of this regulation (National Priority List (NPL) site) provided that:

(1) The hazardous substance site has been investigated and ranked by use of the revised Hazard Ranking System (rHRS), and

(2) The hazardous substance site scored a minimum of 28.50 based on the rHRS, or has been designated as the State's priority site in accordance with 40 CFR 300.425(c)(2) and placed on the federal National Priorities List as published in the Federal Register, and

(3) A final Remedial Investigation/Feasibility Study (and Health Risk Assessment, where applicable) has been conducted, and

(4) The Department has concurred with the remedy selection, and

(5) A Record of Decision (ROD) regarding the remedial action has been issued, and

(6) Federal monies for the remedial action at the hazardous substance site have been committed, and

(7) The Remedial Design has progressed to the 90% complete stage, and

(8) The Department has provided a 30 day public comment period and opportunity for hearing on the addition of the site to this list.

(d) Should the Commission disapprove the inclusion of a hazardous substance site in Chapter 2 of this regulation, the Chairperson of the Commission shall cause the record to reflect the specific rationale for this disapproval.

(e) Priority for funding in any given fiscal year for National Priority List sites identified in § 30.202 under the above criteria shall be as follows:

(1) Those sites at which remedial actions (including operations and maintenance) have been initiated previously.

(2) Additional hazardous substance sites based on the order of greatest impact to public health and/or the environment, as determined by the Director after reviewing available information developed in accordance with CERCLA as amended, and any other information considered applicable and scientifically reliable.

(f) Hazardous substance sites which pose a potential substantial endangerment to human health and/or the environment but do not meet the criteria listed at paragraphs (C) or (D) of this section may be listed at § 30.302 (State Priority List (SPL) sites) of this regulation. Hazardous substance sites listed at § 30.302 will be eligible for investigation and necessary remedial action on a case-by-case basis as determined by the Director.

(g) Eligible expenditures at hazardous substance sites listed at § 30.302 of this regulation are those:

(1) Where investigatory activities are required to determine the extent and degree (if any) of the release or threat of release of a hazardous substance at the site and any scientific or engineering studies deemed necessary by the Director to determine available and necessary alternatives for remediation;

(2) Where remediation activities are required to adequately secure, contain, abate, treat, dispose, or control hazardous substances to the extent financially and technically feasible, as determined by the Director. Remediation activities shall include but are not limited to any engineering design work necessary to adequately plan, design, and implement remedial measures.

(3) Where long term stewardship (i.e., operations and maintenance activities, to include five-year reviews) is required to ensure the long term effectiveness of the remedy implemented at the hazardous substance site.

(h) Hazardous substance sites may be listed at § 30.302 of this regulation based on:

- (1) Proximity to population centers;
- (2) Potential impacts to surface waters;
- (3) Potential impact to groundwater;
- (4) Hydrologic and geologic characteristics,
- (5) The toxicity and characterization of hazardous substances present;
- (6) The mobility of the hazardous substances present;
- (7) The attenuation of the hazardous substances present; and
- (8) Releases or threat of releases of the hazardous substances.

(i) Priority for available funding for hazardous substance sites listed at § 30.302 of this Regulation shall be as follows:

- (1) Those sites at which remedial actions (including operations and maintenance) have been initiated previously.
- (2) Additional hazardous substance sites based on the order of greatest impact to public health and/or the environment, as determined by the Director after reviewing available information developed or discovered in the investigatory process.

(j) The above shall not be construed to preclude or limit the authority of the Director in:

- (1) Mandating actions, pursuant to Ark. Code, Ann. §§ 8-7-501 *et seq.* (the Hazardous Substance Remedial Action Trust Fund Act), deemed necessary to abate an imminent and substantial endangerment to the public health, safety, and welfare, or to the environment, or
- (2) Ordering responsible parties to address and abate any release of a hazardous substance, pursuant to Ark. Code, Ann. §§ 8-7-501 *et seq.*

Reg. ~~30.104~~ 30.105 Severability

If any provision of this Regulation or the application thereof is held invalid, such invalidity shall not effect other provisions of this Regulation which can be given effect without the invalid provision or application and to this end the provisions of this Regulation are declared to be severable.

3.

4. CHAPTER 2: NATIONAL PRIORITY LIST SITES

Reg.30.201 Description

Hazardous substance sites listed in this Chapter are those which pose a potential substantial endangerment to human health and/or the environment, and for which State funds have been approved to match or supplement Federal funding for remedial actions pursuant to CERCLA. Criteria for listing a particular site is governed by ~~APC&EC Regulation No. 23, §§ 26(c), 26(d), 26(e), and 26(i)~~ § 30.104(c) of this regulation.

Reg.30.202 National Priority List Sites

Site

- (A) ~~Cecil Lindsey Landfill, Newport~~
- (B) ~~Old Midland Products, Ola~~
- (C) ~~Rogers Road Landfill, Jacksonville~~
- (D) ~~Jacksonville/Graham Road Landfill, Jacksonville~~
- (E) ~~Gurley Oil Pits, Edmonson~~
- (F) ~~Popile, El Dorado~~
- (G) ~~Mountain Pine Pressure Treating, Plainview~~
- (H) ~~Ouachita Nevada Wood Treater, Reader~~

<u>EPA ID No.</u>	<u>AFIN</u>	<u>Site Name</u>	<u>Address/Location</u>	<u>City</u>	<u>County</u>
ARD084930148	05-00003	ARKWOOD, INC.	HWY 65 1M S	OMAHA	BOONE
ARD980496186	34-00077	CECIL LINDSEY LANDFILL	35.637562 N; -91.230540 E	NEWPORT	JACKSON
ARD035662469	18-00131	GURLEY OIL PIT	35.119873 N; -90.312101 E	EDMONDSON	CRITTENDEN
ARD980496368	66-00268	INDUSTRIAL WASTE CONTROL	35.239293 N; -94.354493 E	JENNY LIND	SEBASTIAN
ARD980809941	43-00084	JACKSONVILLE (GRAHAM ROAD) MUNICIPAL LANDFILL	34.866382 N; -92.072375 E	JACKSONVILLE	PULASKI
ARD092916188	57-00060	MID-SOUTH WOOD PRODUCTS	HWY 71S 3 BLOCKS S-S REINE ST	MENA	POLK
ARD980745665	75-00049	OLD MIDLAND PRODUCTS	HWY 10 1/2 MIL E OF OLA	OLA	YELL
ARD980864110	28-00066	MONROE AUTO EQUIPMENT CO.	5 MI SW OF PARAGOULD	PARAGOULD	GREENE
ARD049658628	75-00008	MOUNTAIN PINE PRESSURE TREATING	HWY 28 E	PLAINVIEW	YELL
ARD042755231	52-00001	OUACHITA NEVADA WOOD TREATER	.25 MI N PF HWY 368 & MAIN	READER	OUACHITA
ARD008052508	70-00049	POPILE, INC.	SOUTHFIELD RD	EL DORADO	UNION
ARD981055809	60-00759	ROGERS ROAD MUNICIPAL LANDFILL	34.862234 N; -92.079085 E	JACKSONVILLE	PULASKI
ARD980496723	18-00130	SOUTH 8TH STREET LANDFILL	35.125641 N; -90.171356 E	WEST MEMPHIS	CRITTENDEN

ARD000023440	60-00028	VERTAC, INC.	1600 MARSHALL ST	JACKSONVILLE	PULASKI
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5.

6. CHAPTER 3: STATE PRIORITY LIST SITES

Reg.30.301 Description

Hazardous substance sites listed in this Chapter are those which pose a potential substantial endangerment to human health and/or the environment, but which do not meet the criteria for listing on the National Priority List. These sites have been designated as eligible for State-funded investigation and necessary remedial actions on a case-by-case basis as determined by the Director. Criteria for listing a particular site is governed by ~~APC&EC Regulation No. 23, §§ 26 (g), 26(h), and 26(i)~~ §§ 30.104(f) and (h) of this regulation.

Reg.30.302 State Priority List Sites

~~(A) Investigation category~~

- | | <u>Site</u> |
|------|--|
| (1) | Benton Salvage, Benton |
| (2) | Utility Services, Inc., Pine Bluff |
| (3) | Jimeleo, Little Rock |
| (4) | Rixey Iron & Metals Company, North Little Rock |
| (5) | Griffing Railway Repair, El Dorado |
| (6) | Leachville Metal Plating, Leachville |
| (7) | Mountain Pine Pressure Treating, Plainview |
| (8) | Plainview Lumber Company, Plainview |
| (9) | R&P Electroplating, Fayetteville |
| (10) | Baird Manufacturing, Inc., Clarendon |
| (11) | Amity Lacquer Paint and Chemical Manufacturing Company, Amity |
| (12) | Red River Aluminum, Stamps |
| (13) | Cedar Chemical Corporation, West Helena |
| (14) | Swift Chemical Company Farm Property, Rogers |
| (15) | Swift Chemical Company Arkansas Street Site, Rogers |
| (16) | Arkansas Waste to Energy Incinerator Site, Osceola |
| (17) | Arkansas Waste to Energy Warehouse Site, Osceola |
| (18) | Arkansas Waste to Energy/E.R. Moore Site, Osceola |
| (19) | United States Forgecraft, Fort Smith |
| (20) | Fashion Park Cleaners, Little Rock |
| (21) | I. Easter Property, Pine Bluff |

- (22) Tankersley/White Dairy, Fort Smith
- (23) Hadeo, Gillham
- (24) Huntco/JMS, Hickman
- (25) I-Can, Inc., Lonoke
- (26) Butler Elementary School, Madison
- (27) General Dynamics Corporation, East Camden

(B) Remediation Category

Site

- (1) Vertac Chemical Corporation, Jacksonville
- (2) Benton Salvage, Benton
- (3) Garland County Industrial Landfill, Hot Springs
- (4) Utility Services, Inc., Pine Bluff
- (5) Jimeleo, Little Rock
- (6) Rixey Iron & Metals Company, North Little Rock
- (7) Griffing Railway Repair, El Dorado
- (8) Leachville Metal Plating, Leachville
- (9) Mountain Pine Pressure Treating, Plainview
- (10) Plainview Lumber Company, Plainview
- (11) R&P Electroplating, Fayetteville
- (12) Baird Manufacturing, Inc., Clarendon
- (13) Amity Lacquer Paint and Chemical Manufacturing Company, Amity
- (14) Red River Aluminum, Stamps
- (15) Mid-South Reclamation Industries, Smackover
- (16) Cedar Chemical Corporation, West Helena
- (17) Baldwin Organ and Piano Company, Fayetteville
- (18) Swift Chemical Company Farm Property, Rogers
- (19) Swift Chemical Company Arkansas Street Site, Rogers
- (20) Arkansas Waste-to-Energy Incinerator Site, Osceola
- (21) Arkansas Waste-to-Energy Warehouse Site, Osceola
- (22) Arkansas Waste-to-Energy/E.R. Moore Site, Osceola
- (23) United States Forgecraft, Fort Smith
- (24) General Dynamics Corporation, East Camden

(Note: sites in bold text are new additions to the State Priority List)

<u>EPA ID No.</u>	<u>AFIN</u>	<u>Site Name</u>	<u>Address</u>	<u>City</u>	<u>ZIP</u>	<u>County</u>
<u>ARD983286337</u>	<u>10-00016</u>	<u>AMITY LACQUER PAINT & CHEMICAL MFG CO</u>	<u>HWY 8 4M N ON COUNTY RD 53</u>	<u>AMITY</u>	<u>71921</u>	<u>CLARK</u>
<u>ARD035434596</u>	<u>73-00022</u>	<u>ARKANSAS GENERAL INDUSTRIES</u>	<u>102 MILLER STREET</u>	<u>BALD KNOB</u>	<u>72010</u>	<u>WHITE</u>
<u>ARD982286957</u>	<u>47-00003</u>	<u>ARKANSAS WASTE-TO-ENERGY WAREHOUSE SITE</u>	<u>420 W PARSONS DRIVE</u>	<u>OSCEOLA</u>	<u>72370</u>	<u>MISSISSIPPI</u>
<u>ARD055684633</u>	<u>48-00033</u>	<u>BAIRD MANUFACTURING</u>	<u>HWY 79B & ANN ALDEN</u>	<u>CLARENDON</u>	<u>72029</u>	<u>MONROE</u>
<u>ARD006337620</u>	<u>72-00676</u>	<u>BALDWIN PIANO & ORGAN CO.</u>	<u>1101 S BEECHWOOD AVE</u>	<u>FAYETTEVILLE</u>	<u>72701</u>	<u>WASHINGTON</u>
<u>ARD980583470</u>	<u>52-00163</u>	<u>BEI DEFENSE SYSTEMS</u>	<u>HIGHWAY 274 12 MIE</u>	<u>EAST CAMDEN</u>	<u>71701</u>	<u>CALHOUN</u>
<u>ARD980812846</u>	<u>60-00642</u>	<u>BENTON SALVAGE</u>	<u>108 WILLOW ST</u>	<u>BENTON</u>	<u>72015</u>	<u>SALINE</u>
<u>ARD990660649</u>	<u>54-00068</u>	<u>CEDAR CHEMICAL CO</u>	<u>49 PHILLIPS RD 311</u>	<u>HELENA</u>	<u>72342</u>	<u>PHILLIPS</u>
<u>ARR000011106</u>	<u>63-00462</u>	<u>DANA MINTON PROPERTY</u>	<u>7125 ANDERSON ROAD</u>	<u>ALEXANDER</u>	<u>72002</u>	<u>SALINE</u>
<u>ARD035560507</u>	<u>60-01942</u>	<u>FASHION PARK CLEANERS</u>	<u>1101 CUMBERLAND ST</u>	<u>LITTLE ROCK</u>	<u>72202</u>	<u>PULASKI</u>
<u>ARD990661050</u>	<u>52-00355</u>	<u>GENERAL DYNAMICS CORP</u>	<u>204 OUACHITA 212, AIRPORT IND PARK</u>	<u>EAST CAMDEN</u>	<u>71701</u>	<u>OUACHITA</u>
<u>ARD981055494</u>	<u>70-00283</u>	<u>GRIFFING RAILWAY REPAIR</u>	<u>SCHOOL ST BOX 1735</u>	<u>EL DORADO</u>	<u>71730</u>	<u>UNION</u>
<u>ARD021354493</u>	<u>67-00078</u>	<u>HADCO OF ARKANSAS ONC</u>	<u>TOWER RD 2M S</u>	<u>GILLHAM</u>	<u>71841</u>	<u>SEVIER</u>
<u>ARR000004937</u>	<u>47-00264</u>	<u>HUNTCO/JMS</u>	<u>5027 N COUNTY RD 1015</u>	<u>BLYTHEVILLE</u>	<u>72315</u>	<u>MISSISSIPPI</u>
<u>None</u>	<u>43-00298</u>	<u>I CAN, INC</u>	<u>420 W ACADEMY ST</u>	<u>LONOKE</u>	<u>72086</u>	<u>LONOKE</u>
<u>None</u>	<u>35-00460</u>	<u>I. EASTER PROPERTY (OLD AP&L PLANT)</u>	<u>1400 W 4TH ST</u>	<u>PINE BLUFF</u>	<u>71601</u>	<u>JEFFERSON</u>

ARD062144308	60-00642	JIMELCO	3400 S MAPLE STREET	LITTLE ROCK	72204	PULASKI
ARD051961829	72-00174	R&P ELECTROPLATING	2000 PUMP STATION RD	FAYETTEVILLE	72701	WASHINGTON
AR0000605322	37-00028	RED RIVER ALUMINUM	HWY 82 WEST	STAMPS	71860	LAFAYETTE
ARD071255202	60-00778	RIXEY IRON & METALS CO	8033 OLD JACKSONVILLE HWY	NORTH LITTLE ROCK	72117	PULASKI
ARR000011122	04-00342	SWIFT CHEMICAL CO FARM PROPERTY	2001 S 1ST ST	ROGERS	72756	BENTON
None	66-00163	TANKERSLEY/WHITE DAIRY	1009 GRAND AVE	FORT SMITH	72902	SEBASTIAN
ARD006341747	66-00145	UNITED STATES FORGECRAFT	95 S 3RD ST	FORT SMITH	72902	SEBASTIAN
AR0000100859	35-00419	UTILITY SERVICES, INC	10184 HWY 79S	PINE BLUFF	71603	JEFFERSON
ARD059634659	60-00650	VALSPAR	1900 E 145TH ST	LITTLE ROCK	72206	PULASKI
AR0000000331	10-00234	VALUE-LINE	701 S 3RD STREET	ARKADELPHIA	71923	CLARK
AR0000000307	10-00118	VALUE-LINE	1205 N 10th STREET	ARKADELPHIA	71923	CLARK

7. CHAPTER 4: EFFECTIVE DATE

Reg.30.401 Effective Date

This regulation and any amendments or revision thereof are effective 10 days after filing the regulation or any amendment or revision thereof with the Secretary of State, the State Library, and the Bureau of Legislative Research following adoption by the Commission.