

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

**Submitted to
the Pollution Control and Ecology Commission
in January 2013**

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TABLE OF CONTENTS

| | |
|--|-----|
| CHAPTER 1: GENERAL PROVISIONS | 1-4 |
| Reg.30.101 Authority | 1-4 |
| Reg.30.102 Purpose | 1-4 |
| Reg.30.103 Definitions | 1-4 |
| Reg.30.104 Severability..... | 1-6 |
| CHAPTER 2: NATIONAL PRIORITY LIST SITES | 2-1 |
| Reg.30.201 Description | 2-1 |
| Reg.30.202 National Priority List Sites | 2-1 |
| CHAPTER 3: STATE PRIORITY LIST SITES | 3-1 |
| Reg.30.301 Description | 3-1 |
| Reg.30.302 State Priority List Sites..... | 3-1 |
| CHAPTER 4: EFFECTIVE DATE. | 4-1 |
| Reg.30.401 Effective Date..... | 4-1 |

DRAFT

CHAPTER 1:

GENERAL PROVISIONS

Reg.30.101 Authority

This regulation is promulgated pursuant to provisions of the Remedial Action Trust Fund Act of 1985, Ark. Code Ann. § 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 Ark. Code Ann. § 8-7-509(d)(2) and (d)(3). It is not a site inventory or historical list. Sites are listed alphabetically, 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 Ark. Code Ann. § 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. 30.105 Severability

If any provision of this Regulation or the application thereof is held invalid, such invalidity shall not affect 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.

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 § 30.104(c) of this regulation.

Reg.30.202 National Priority List Sites

| EPA ID No. | AFIN | Site Name | Address/Location | City | County |
|------------------------------|--------------------------|---|------------------------------------|------------------------|--------------------------|
| 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 |
| ARD990660649 | 54-00068 | CEDAR CHEMICAL CO. | 49 PHILLIPS RD 311 | HELENA | PHILLIPS |
| 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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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 §§ 30.104(f) and (h) of this regulation.

Reg.30.302 State Priority List Sites

| EPA ID No. | AFIN | Site Name | Address | City | ZIP | County |
|--------------|----------|---|------------------------------------|--------------|-------|-------------|
| ARD983286337 | 10-00016 | AMITY LACQUER PAINT & CHEMICAL MFG CO | HWY 8 4M N ON COUNTY RD 53 | AMITY | 71921 | CLARK |
| ARD035434596 | 73-00022 | ARKANSAS GENERAL INDUSTRIES | 102 MILLER STREET | BALD KNOB | 72010 | WHITE |
| ARD982286957 | 47-00003 | ARKANSAS WASTE-TO-ENERGY WAREHOUSE SITE | 420 W PARSONS DRIVE | OSCEOLA | 72370 | MISSISSIPPI |
| ARD006337620 | 72-00676 | BALDWIN PIANO & ORGAN CO. | 1101 S BEECHWOOD AVE | FAYETTEVILLE | 72701 | WASHINGTON |
| ARD980583470 | 52-00163 | BEI DEFENSE SYSTEMS | HIGHWAY 274 12 MI E | EAST CAMDEN | 71701 | CALHOUN |
| ARD990660649 | 54-00068 | CEDAR CHEMICAL CO | 49 PHILLIPS RD 344 | HELENA | 72342 | PHILLIPS |
| ARD035560507 | 60-01942 | FASHION PARK CLEANERS | 1101 CUMBERLAND ST | LITTLE ROCK | 72202 | PULASKI |
| ARD990661050 | 52-00355 | GENERAL DYNAMICS CORP | 204 OUACHITA 212, AIRPORT IND PARK | EAST CAMDEN | 71701 | OUACHITA |
| None | 04-00165 | FULTON CLASS 3C LANDFILL | END OF QUAIL ROAD | ROGERS | 72756 | BENTON |
| ARD981055494 | 70-00283 | GRIFFING RAILWAY REPAIR | SCHOOL ST BOX 1735 | EL DORADO | 71730 | UNION |
| ARD021354493 | 67-00078 | HADCO OF ARKANSAS OMC | TOWER RD 2M S | GILLHAM | 71841 | SEVIER |
| None | 43-00298 | I CAN, INC | 420 W ACADEMY ST | LONOKE | 72086 | LONOKE |
| ARD062144308 | 60-00642 | JIMELCO | 3400 S MAPLE STREET | LITTLE ROCK | 72204 | PULASKI |

| EPA ID No. | AFIN | Site Name | Address | City | ZIP | County |
|--------------|----------|---------------------------------|------------------------------|--------------|-------|------------|
| ARD008049297 | 70-00694 | NORPHLET CHEMICAL CO. | HWY 335 AND MACMILLAN ROAD | NORPHLET | 71759 | UNION |
| ARD051961829 | 72-00174 | R&P ELECTROPLATING | 2000 PUMP STATION RD | FAYETTEVILLE | 72704 | WASHINGTON |
| AR0000605322 | 37-00028 | RED RIVER ALUMINUM | HWY 82 WEST | STAMPS | 71860 | LAFAYETTE |
| ARD041054552 | 21-00080 | STAR STARRETT/ LEER MFG | HWY 65 S IM S 65/165 JCT | DUMAS | 71639 | DESHA |
| ARR000011122 | 04-00342 | SWIFT CHEMICAL CO FARM PROPERTY | 2001 S 1ST ST | ROGERS | 72756 | BENTON |
| None | 42-00117 | THOMPSON SCIENTIFIC INDUSTRIES | 1605 RIVER PORT RD | SCRANTON | 72863 | LOGAN |
| AR0000100859 | 35-00419 | UTILITY SERVICES, INC | 10184 HWY 79S | PINE BLUFF | 71603 | JEFFERSON |
| AR0000000331 | 10-00234 | VALUE-LINE | 701 S 3 RD STREET | ARKADELPHIA | 71923 | CLARK |

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.

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