

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

**IN THE MATTER OF REGULATION NO. 30,  
ARKANSAS HAZARDOUS SUBSTANCES )  
REMEDIAL ACTION TRUST FUND )  
PRIORITY LIST )**

**DOCKET NO. 03-002-R**

**PETITION TO INITIATE RULEMAKING TO PROMULGATE REGULATION NO. 30,  
ARKANSAS HAZARDOUS SUBSTANCES REMEDIAL ACTION TRUST FUND  
PRIORITY LIST**

The Arkansas Department of Environmental Quality (hereinafter “ADEQ” or the “Department”), for its Petition to Initiate Rulemaking to Promulgate Regulation No. 30, Arkansas Hazardous Substances Remedial Action Trust Fund Priority List, states:

1. Under the provisions of Arkansas Code, Annotated, § 8-7-509(e)(1), monies from the Arkansas Hazardous Substances Remedial Action Trust Fund may not be expended without the approval of the Arkansas Pollution Control and Ecology Commission of a prioritized list of sites at which these fund may be used. This prioritized list, the Hazardous Substances Remedial Action Trust Fund Priority List (“RATFA Priority List”) is currently contained in Regulation No. 23, Section 27.
2. Procedures and policies established for rulemaking by the Arkansas Pollution Control & Ecology Commission and the Secretary of State require a specific number of copies to be prepared for public notice and comment, and for filing of copies of the final regulations. For public notice, 50 copies of the proposed rule packet are required for Public Affairs, plus 30 copies for the Commission mail out and internal staff distribution (total: 80 copies). For approved final revisions, 30 printed copies of the entire revised regulation must be submitted. Additional

copies must be printed for the use of the Department staff as well as for distribution to the regulated industries and the general public.

3. Since June, 1994, Regulation No. 23 has incorporated the full text of applicable Federal regulations contained in 40 CFR Parts 260-268, 270, 273, and 279. In the current format, it currently comprises 753 pages of text and graphics. Consequently, printing 30 copies of the full regulation for filing with the Commission and other State offices following each amendment constitutes a major logistical task as well as considerable expense in copying fees. At 4 cents per page, the cost of simply filing the prescribed 30 copies with the Commission Office is \$905.
4. The Hazardous Waste Division's practice has been to update and amend Regulation No. 23 once per year in order to incorporate any Federal regulatory changes that have occurred during the previous year in order to maintain equivalency with and authorization for the Federal RCRA program. Necessary amendments to State provisions are made at the same time whenever possible.
5. At the time the RATFA Priority List was added to Regulation No. 23, the contents of the list rarely changed. However, an accelerated approach to addressing these sites under the Remedial Action Trust Fund Act in the past several years has resulted in sites being added or deleted from the list several times each year. Each amendment to the Priority List necessitates an amendment to Regulation No. 23. The need to frequently add or delete hazardous substance sites from the RATFA Priority List in order to alleviate the hazards they pose in a timely manner has

created a significant logistical problem in re-publishing Regulation No. 23 each time.

6. To manage the RATFA Priority List more efficiently and significantly reduce the associated costs, the Department proposes to remove the List from Regulation No. 23 and publish it as a separate regulation, Regulation No. 30 (Arkansas Hazardous Substance Remedial Action Trust Fund Priority List). Establishing the Priority List as a separate, single-issue regulation would achieve a significant cost savings (approximately \$2,500 per rulemaking, based on the costs to print copies for filing with State offices as well as a minimum number of copies for distribution to the public and Department staff) and would focus squarely on the issue at hand – the Department’s need to be able to update the list as needed while avoiding the need to reprint more than 750 pages at each revision.
7. The enclosed draft regulation incorporates the necessary information to establish the Hazardous Waste Remedial Action Trust Fund List as a separate document. A separate rulemaking has been proposed to make the necessary changes to Regulation No. 23.
8. In addition to promulgating the RATFA Priority List as a separate regulation, the Department proposes the following additions to the State Priority Listings:
  - (A) Add the Baldwin Organ and Piano Company Facility in Fayetteville, Washington County to the Remediation category of the State Priority list within the Remedial Action Trust Fund Priority List.
  - (B) Add the Swift Chemical Company Farm Property and Arkansas Street sites in Rogers, Benton County, to the Investigation and Remediation

categories of the State Priority List within the Remedial Action Trust Fund Priority List.

(C) Add three sites associated with Arkansas Municipal Waste-to-Energy, Inc., in Osceola (the incinerator plant at 100 Incinerator Road, the warehouse at 420 West Parsons Drive, and the E.R. Moore building at 1020 Ohlendorf Road), Mississippi County, to the Investigation and Remediation categories of the State Priority List within the Remedial Action Trust Fund Priority List.

9. Mike Bates, Chief of the Department's 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. A copy of the Legislative Questionnaire, attached as Exhibit "B" and a copy of the financial impact statement, attached as Exhibit "C" are hereby incorporated by reference. A proposed minute order is attached as Exhibit "D" and is hereby incorporated by reference.

WHEREFORE, the ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and take the necessary actions to adopt the proposed Regulation No. 30.

Respectfully submitted,

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