

EXHIBIT F:

**ECONOMIC IMPACT STATEMENT:
REGULATORY FLEXIBILITY**

ECONOMIC IMPACT STATEMENT OF PROPOSED RULES OR REGULATIONS

EO 05-04: Regulatory Flexibility

Department: Dept. of Environmental Quality

Division: Hazardous Waste

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Title or Subject: **APC&EC Regulation No. 30 (Arkansas Remedial Action Trust Fund Hazardous Substances Site Priority Lists)**

Benefits of the Proposed Rule or Regulation

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, please explain the nature of such complaints.

The Department and Commission are required under provisions of the Arkansas Remedial Action Trust Fund Act (A.C.A. § 8-7-509(f)(1)) to review and update the status of hazardous substance sites on the state priority list on an annual basis. Regulation 30 was last updated in April 2008.

2. What are the top three benefits of the proposed rule or regulation?

- Authorizes state funding for the long term stewardship and care of Superfund sites in the state where remedial action has been completed and long-term responsibilities for maintenance and upkeep of the remedies have reverted to the state and/or designated responsible parties.
- Authorizes payment of the 10% State match for the costs of federal remedial actions at Superfund sites.
- Authorizes state funding from the Remedial Action Trust Fund to investigate and clean up hazardous substance contamination from sites which did not score high enough to qualify for federal cleanups under the U.S. EPA's Superfund.

3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

Contamination at the listed sites would continue to pose an unacceptable risk to the health of Arkansas's citizens, and degrade the quality of the State's environment.

4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting these alternatives.

None considered. At most sites addressed under these lists, there are no viable remaining responsible or potentially responsible parties to address the contamination and health risks posed by these sites. At sites where viable responsible parties have been identified, ADEQ is working either cooperatively or under the conditions of an enforcement order with those parties to ensure that the sites are sufficiently characterized to identify the threats posed by contamination and/or perceived contamination, to design an appropriate remedy, and carry out the necessary remedial actions and long-term stewardship for the sites.

Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of collecting information, completing paperwork, filing, recordkeeping, auditing and inspecting associated with this new rule or regulation.

Costs of carrying out long term stewardship and maintenance activities at sites listed on the National Priority and State Priority lists are approximately \$1.5 million per calendar year. Staff oversight and support equates to approximately \$0.4 million per calendar year.

6. What types of small businesses will be required to comply with the new rule or regulation? Please estimate the number of small businesses affected.

Regulation No. 30 is a listing of hazardous substance sites where state funds are authorized for the investigation and cleanup of hazardous substance contamination in order to address a threat to the public health or the integrity of the environment. It does not pose any requirements for small businesses other than the encouragement of good environmental management and waste disposal practices to avoid placing themselves in a situation where they are subject to being placed on this list.

7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.

No.

8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.

None.

9. State whether the regulation contains different requirements for different-sized entities, and explain why this is, or is not, necessary.

Placement on either of the state priority lists contained in Regulation No. 30 is based upon the degree of threat that contamination or perceived contamination at a listed site poses to human health and the environment, and not the size of the business that caused or may be held liable for the costs of investigation and cleanup of such contamination.

10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.

No changes are proposed which affect small businesses.

11. How does this rule or regulation compare to similar rules or regulations in other states or the federal government?

Liability for hazardous substance contamination at sites in Arkansas is determined by the Arkansas Remedial Action Trust Fund Act (RATFA), the state's counterpart to the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, commonly known as the "Superfund" law. Like CERCLA, liability for contamination and cleanup under the RATFA is assigned to responsible parties, starting with the landowner, as well as any former owners, facility operators, or any other persons whose acts contributed or may have contributed to the contamination or environmental problems at the site. Unlike CERCLA, where such liability is joint and several, liability under RATFA is proportional, depending on the potentially responsible party's degree of culpability and contribution to the conditions at the hazardous substance site.

12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.

None.