

**EXHIBIT E:**

**ENVIRONMENTAL IMPACT/ECONOMIC  
BENEFIT ANALYSIS**

# ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION

## ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT ANALYSIS

**Rule Number & Title:** Regulation No. 30, Arkansas Remedial Action Trust Fund Hazardous Substances Site Priority List, 2012 Annual Update

**Petitioner:** ADEQ Hazardous Waste Division

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**Date Analysis Prepared:** September 20, 2012

<b>STEP 1: DETERMINATION OF ANALYSIS REQUIREMENT</b>
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Is the proposed rule exempt from economic impact/environment benefit analysis for one of the following reasons?	YES	NO
▶ The proposed rule incorporates the language of a federal statute or regulation without substantive change		<b>X</b>
▶ The proposed rule incorporates or adopts the language of an Arkansas state statute or regulation without substantive change		<b>X</b>
▶ The proposed rule is limited to matters arising under Regulation No. 8 regarding the rules of practice or procedure before the Commission		<b>X</b>
▶ The proposed rule makes only <i>de minimis</i> changes to existing rules or regulations, such as the correction of typographical errors, or the renumbering of paragraphs or sections; or		<b>X</b>
▶ The proposed rule is an emergency rule that is temporary in duration.		<b>X</b>

**If the proposed rulemaking does not require the following Analysis due to one or more of the exemptions listed above, state in the Petition to Initiate Rulemaking which exemptions apply, and explain specifically why each is applicable.**

### **RULE SUMMARY:**

Ark. Code Ann. § 8.7.509(f)(1) requires the Department to annually update the state priority list of hazardous substance sites eligible for investigation and remedial actions through use of moneys from the Remedial Action Trust Fund. ADEQ is explicitly required by this state statute to update Regulation No. 30 at least annually. This revision to Regulation No. 30 accomplishes the annual update to the priority lists for hazardous substance sites where the Pollution Control & Ecology Commission has authorized expenditures from the Remedial Action Trust Fund for investigation, cleanup, and long term maintenance in order to eliminate or mitigate unacceptable risks to human health or the environment from hazardous substance contamination at the listed sites. This revision does not have a corresponding federal rule or requirement.

The revisions proposed in this petition would add one (1) site to the National Priority List Section in order to authorize the expenditure of State matching funds in support of federal cleanup actions under the Superfund program (90/10 federal/state split for cleanup activities) and for long term stewardship of the site once the Superfund cleanup is completed (The State is responsible for 100% of post-cleanup care and oversight).

Six (6) sites are proposed for deletion from the State Priority List section: five sites where cleanups have been completed and unacceptable risks once posed by these sites have been brought under control, and one site which has been approved for addition to the federal National Priority List.

## STEP 2: THE ANALYSIS

### 2A. ECONOMIC IMPACT

#### 1. Who will be affected economically by this proposed rule?

*State: a) the specific public or private entities affected by this rulemaking, indicating for each category if it is a positive or negative economic effect; and b) provide the estimated number of entities affected by this proposed rule.*

Investigative and remedial action costs for abandoned hazardous substance sites listed in Regulation No. 30 are paid from the Arkansas Hazardous Substance Remedial Action Trust Fund, administered by the Arkansas Department of Environmental Quality, or when available, by the responsible parties for the site. At sites where the responsible parties did not participate in the cleanup efforts, upon completion of remedial actions, the Department has historically sought to recover any of its costs from the responsible parties, if these parties are still viable.

Public and private businesses, other than responsible or potentially responsible parties for abandoned hazardous substance sites listed in the Regulation, do not incur any economic costs from the implementation of this regulation.

Sources and Assumptions: N/A

#### 2. What are the economic effects of the proposed rule?

*State: 1) the estimated increased or decreased cost for an average facility to implement the proposed rule; and 2) the estimated total cost to implement the rule.*

This proposed revision adds one site to the National Priority List section of the regulation, which would authorize expenditures from the Arkansas Remedial Action Trust Fund in support of Federal investigative and remedial actions and long term stewardship of the Cedar Chemical site under federal CERCLA requirements. Under CERCLA procedures, site characterization, feasibility studies, and remedial design are 100% federal-funded, so no expenditures are anticipated during the biennium addressed in impact analysis pursuant to the legislative checklist. Over the term of the cleanup, the RATF would be responsible for paying 10% of the cost of any remedial actions (actual clean-up activities) and once clean-up is complete, the entire cost of long term care (operating and maintaining any remaining engineering and institutional controls and periodic inspections to ensure the remedy remains effective) would also be the State's responsibility, if no viable responsible parties remain. A precise cost of cleanup has not yet been determined, but will be included in the feasibility study which EPA completes for the site. Preliminary estimates range from \$33 to 37 million dollars for site cleanup and remediation, a

figure four times the current balance of the Arkansas Remedial Action Trust Fund, which must address needs at all the sites listed in Regulation 30 across the State. Cost of long term care for similar sites average \$50,000 per year, for an indefinite period, typically not less than 30 years. While the State will retain responsibilities for matching funds and long term care of the Cedar site, addressing cleanup costs at Cedar Chemical under the federal Superfund program will result in a reduction of the State's current cleanup obligations by approximately \$33 million.

In addition to moving the Cedar Chemical site from the State Priority list section to the National Priority List section, this proposal also deletes from the State Priority List five additional sites where remedial actions have been completed, and no additional State funding is necessary at these sites.

Sources and Assumptions: N/A

**3. List any fee changes imposed by this proposal, and the justification for each.**

None.

**4. What is the probable cost to ADEQ in manpower and associated resources to implement and enforce this proposed change, and what is the source of revenue supporting this proposed rule?**

ADEQ carries out investigative and remedial action work using current staff and site investigation contractors. Funding is derived from the Hazardous Substance Remedial Action Trust Fund. Matching funds for federal Superfund activities will also be paid from this fund.

Sources and Assumptions: N/A

**5. Is there a known beneficial or adverse impact to any other relevant state agency to implement or enforce this proposed rule? Is there any other relevant state agency's rule that could adequately address this issue, or is this proposed rulemaking in conflict with or have any nexus to any other relevant state agency's rule? Identify state agency and/or rule.**

No.

Sources and Assumptions: N/A

**6. Are there any less costly, non-regulatory, or less intrusive methods that would achieve the same purpose as this proposed rule?**

ADEQ previously entered into a Consent Administrative Order (LIS # 07-027) with the responsible parties for the Cedar Chemical site, conducted a thorough investigation, and issued a remedial action decision document (RADD) to the public and all affected parties. The responsible parties declined to carry out the actions set forth in the RADD to address the contamination at the site.

As the projected cleanup costs exceed the near-term capabilities of the state Remedial Action Trust Fund, the Governor requested that EPA place the Cedar Chemical site as the one allowed State-directed listing on the federal National Priorities List (NPL), for further investigation and remediation of the site under the Superfund program.

Sources and Assumptions: N/A

## 2B. ENVIRONMENTAL BENEFIT

### 1. What issues affecting the environment are addressed by this proposal?

Specific potential risks at each site are described in the attached site summary reports (Exhibit "G" of the rulemaking packet).

### 2. How does this rule protect, enhance, or restore the natural environment for the well being of all Arkansans?

By identifying and addressing hazardous substance contamination at each of the six sites proposed for deletion, necessary actions have been taken to remove or control human exposure to these hazards, to restore or mitigate degradation of the integrity of the environment at each site, and restore these properties to beneficial use. One additional site is proposed for listing in order to authorize the use of state matching funds in support of site investigation, remedial design, cleanup, and long term care under the federal Superfund program.

Sources and Assumptions: See site summary fact sheets at Attachment "G".

### 3. What detrimental effect will there be to the environment or to the public health and safety if this proposed rule is not implemented?

Potentially unacceptable risks to human health or the environment at the sites proposed for delisting have been removed through remedial actions (direct removal or engineering controls) or institutional controls. However, retention of these sites on the State Priority List for abandoned hazardous substance sites would serve as a disincentive for the redevelopment and beneficial use of these properties. In the case of the one site proposed for listing, the State is required to commit to providing specific matching funds in support of site investigation, remedial design, cleanup, and long term care under the federal Superfund program.

Sources and Assumptions: See site summary fact sheets at Attachment "G".

### 4. What risks are addressed by the proposal and to what extent are these risks anticipated to be reduced?

Anticipated risks and any necessary actions are described in the summary sheet prepared for each site addressed in this proposed rule. (See Exhibit "G" of the rulemaking packet).

Sources and Assumptions: See site summary fact sheets at Attachment "G".