

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

**IN THE MATTER OF AMENDMENTS TO)
REGULATION No. 30; ARKANSAS)
HAZARDOUS SUBSTANCES REMEDIAL)
ACTION TRUST FUND PRIORITY LIST)**

DOCKET NO. 13-002-R

**PETITION TO ADOPT CHANGES TO AMEND REGULATION NO. 30,
HAZARDOUS SUBSTANCE REMEDIAL ACTION TRUST FUND SITE PRIORITY
LIST**

The Arkansas Department of Environmental Quality (hereinafter “ADEQ” or the “Department”), for its Petition to Adopt Proposed Changes to Regulation No. 30, Remedial Action Trust Fund Hazardous Substance Site Priority List, submits the following:

1. Attached hereto as Exhibit “A” is ADEQ’s Statement of Basis and Purpose, which was filed on June 14, 2013 in accordance with the Commission’s Minute Order No. 13-05.
2. Attached hereto as Exhibit “B” is ADEQ’s Responsiveness Summary which was filed on June 14, 2012 in accordance with the Commission’s Minute Order No. 13-05.
3. Attached hereto as Exhibit “C” is a copy of the amended Regulation No. 30 as it will appear if the Commission grants this rulemaking request.
4. Attached hereto as Exhibit “D” is the Regulation Tracking Sheet.

5. Attached hereto as Exhibit "E" is a proposed Minute Order adopting the changes to Regulation No. 30 as proposed in this rulemaking docket, No. 13-002-R.

WHEREFORE, the Department respectfully requests the Commission to adopt by Minute Order the proposed changes to Regulation No. 30.

Respectfully submitted,



TAMMIE J. HYNUM
Chief, Hazardous Waste Division
Arkansas Department of Environmental Quality
(501) 682-0831

EXHIBIT A:
STATEMENT OF BASIS & PURPOSE

Statement of Basis and Purpose

The Arkansas Department of Environmental Quality maintains and administers a hazardous substance site cleanup program to implement the provisions of the Arkansas Remedial Action Trust Fund Act (RATFA), (Arkansas Code Annotated §§ 8-7-501 *et seq.*) The background, purpose, and specific need for each revision is discussed separately below.

1. National Priority List Sites

ADEQ proposed to add the **Cedar Chemical Company** site to the National Priority List section of Regulation No. 30. On January 4, 2012, the Governor of Arkansas requested that Cedar Chemical Corporation be placed on the National Priority List (NPL) using Arkansas's ability to designate one site to be placed on the federal NPL by request pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980. On March 15, 2012 EPA in turn published a Federal Register notice proposing the addition of Cedar Chemical Company to the NPL at 40 CFR 300. The NPL listing for Cedar Chemical was finalized on September 15, 2012, and was published in the *Federal Register* on September 18, 2012 (77 FR 57503). After the site's addition to the NPL, ADEQ will act as the supporting agency and will assist EPA in addressing contamination at the site.

2. State Priority List Sites

(a) Sites Proposed for Deletion from the State Priority List

ADEQ proposed to delete five (5) sites from those currently listed on the State Priority List. Site investigation and necessary remedial activities have been completed at these sites to a point where the site no longer poses an unacceptable risk to human health or the environment from hazardous substances defined under the Arkansas Remedial Action Trust Fund Act.

A sixth site, Cedar Chemical Company, is to be removed from the State Priority List and transferred to the National Priority List section of Regulation No. 30.

The sites proposed for delisting are:

- (1) **Amity Lacquer, Paint, & Chemical Manufacturing Co.**, Amity, Clark County
- (2) **Cedar Chemical Company**, Helena-West Helena, Phillips County (*transferred to the National Priority List*)
- (3) **Hadco of Arkansas ONC**, Gillham, Sevier County
- (4) **Jimelco**, Little Rock, Pulaski County
- (5) **R&P Electroplating**, Fayetteville, Washington County
- (6) **Swift Chemical Company Farm Property**, Rogers, Benton County

(b) Sites Proposed for Addition to the State Priority List

None.

EXHIBIT B:
RESPONSIVE SUMMARY

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

IN THE MATTER OF AMENDMENTS TO) DOCKET NO. 13-002-R
REGULATION No. 30, REMEDIAL ACTION)
TRUST FUND HAZARDOUS SUBSTANCES)
SITE PRIORITY LIST)

RESPONSIVE SUMMARY

March 30, 2013

The Arkansas Pollution Control and Ecology Commission initiated a proposal to revise APC&EC Regulation No. 30, Remedial Action Trust Fund Hazardous Substances Site Priority List, at its regular meeting on January 25, 2013, under docket number 13-002-R.

A public hearing was held at the Arkansas Department of Environmental Quality's (ADEQ) headquarters in North Little Rock on March 4, 2013 to receive comments on the proposed revisions. No comments, written or oral, were received during the public comment period.

A copy of the proposed rulemaking was provided to the Arkansas Department of Economic Development on October 11, 2012, for a review of its potential effects on small businesses. No comments were received from the ADED during this review, or during the comment period.

EXHIBIT C:

REVISED REGULATION FOR ADOPTION

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

REGULATION No. 30

**ARKANSAS
REMEDIAL ACTION TRUST FUND
HAZARDOUS SUBSTANCES SITE
PRIORITY LIST**



**Adopted by
the Pollution Control and Ecology Commission
June 28, 2013**

June 28, 2013

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

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

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
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
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
None	43-00298	I CAN, INC	420 W ACADEMY ST	LONOKE	72086	LONOKE
ARD008049297	70-00694	NORPHLET CHEMICAL CO.	HWY 335 AND MACMILLAN ROAD	NORPHLET	71759	UNION
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
None	42-00117	THOMPSON SCIENTIFIC	1605 RIVER PORT RD	SCRANTON	72863	LOGAN

EPA ID No.	AFIN	Site Name	Address	City	ZIP	County
		INDUSTRIES				
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.

EXHIBIT D:
REGULATIONS TRACKING SHEET

ADEQ REGULATIONS TRACKING SHEET

Regulation No. 30 Common Name: Arkansas Hazardous Substance Remedial Action Trust Fund Priority Lists

Docket # 13-002R

1. **Strawman review** of draft regulations by key groups.

	<u>Initiated</u>	<u>Completed</u>	<u>Incorporated</u>
U.S. EPA	10/10/2012	10/10/2012	N/A
ADEQ Legal/Admin Industrial/ Environmental Groups	9/20/2012	10/9/2012	10/9/2012
AR Economic Development Comm. Regulatory Flexibility	10/10/2012	10/10/2012	N/A
	10/11/2012	10/11/2012	N/A

Comments: Annual (2012) update of Regulation No. 30; deletes five (5) sites from State Priority List, and adds Cedar Chemical to the federal NPL listing

2. Proposed regulations presented to Commission’s **Regulations Committee** for approval to proceed to public comment period.

Date: 1/25/2013 By: Tammie Hynum
 Comments/Approval: *Approved for initiation*

3. **Legal Notice** of proposed regulations and public hearing:

<u>Publication:</u> <i>Arkansas Democrat-Gazette</i>	<u>Dates of publication</u> January 30-31, 2013
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4. Provide **Legislative Council** with three (3) copies of proposed regulations and the legislative questionnaire at least ten (10) days prior to the first public hearing.

5. Hold **public hearing(s)** on the proposed regulations.

<u>Location</u>	<u>Date</u>	<u>Hearing chairman</u>
Commission Room, ADEQ 5301 Northshore Drive North Little Rock, AR 72218	2:00 p.m., March 4, 2013	

6. Date of final day of public comment period: 4:30 p.m., March 18, 2013

7. **Final proposed regulations and response to comments** prepared by Department

Date initiated:	March 30, 2013	Date completed:	March 30, 2013
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8. Formal presentation to the **Public Health & Welfare Committee** of the Legislative Council.

Date: June 11, 2013 By: Tammie Hynum
 Comments/Approval: Approved

9. Formal presentation of proposed final regulation to the **Administrative Rules & Regulations Subcommittee** of the Legislative Council (All Regs).

Date: By: Ryan Benefield
 Comments/Approval: Reviewed

10. Formal presentation of proposed final regulation to the Commission's **Regulations Committee**.

Date: June 28, 2013

By: Ryan Benefield

Comments/Approval:

11. Provide Commission members with copy of proposed final regulation prior to Commission meeting.

Date delivered: June 14, 2013

12. Present proposed final regulation to the **Commission** for adoption.

Date: June 28, 2013

By: Ryan Benefield

Comments/Approval:

13. Send two copies of adopted regulation to **Secretary of State** (regulation becomes effective twenty (20) days after filing).

Date delivered:

14. Formally submit adopted regulation to **U.S. EPA**.

Date mailed:

**PREPARED BY:
ARKANSAS DEPARTMENT
OF ENVIRONMENTAL QUALITY**



By: _____

Tom Ezell
Programs Branch Manager
Hazardous Waste Division

EXHIBIT E:
MINUTE ORDER

ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION

LOCATION - SUBJECT

Regulation No. 30
Docket No. 13-002-R

MINUTE ORDER NO. 13 -

PAGE 1 OF 1

Pursuant to public notice and hearing and after consideration of all comments received, the Arkansas Pollution Control and Ecology Commission hereby adopts changes to Regulation No. 30 (Remedial Action Trust Fund Hazardous Substance Site Priority List) as detailed in the Final Rule submitted before the Commission.

PROMULGATED THIS 28th DAY OF JUNE, 2013, BY ORDER OF THE
ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

BY: _____
Stan Jorgensen, Chair

ATTEST:

Teresa Marks, Director

COMMISSIONERS:

_____	J. Bates	_____	D. Samples
_____	L. Bengal	_____	L. Sickel
_____	J. Chamberlain	_____	J. Simpson
_____	J. Fox	_____	W. Thompson
_____	L. Hitchcock	_____	B. White
_____	D. Hendrix	_____	R. Young

Stan Jorgensen, Chair

SUBMITTED BY: T. Hynum DATE PASSED: 1/25/2013