

Exhibit D:

Final Proposed Regulation

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

REGULATION NO. 30

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



**Approved by the Arkansas Pollution Control and Ecology
Commission on September 28, 2018**

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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 the 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 where 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 that 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; or

(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 where 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, its invalidity shall not affect other provisions of this regulation that 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 that 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
ARD008049207	70-00694	MACMILLAN RING FREE OIL	600 MACMILLAN ROAD	NORPHLET	UNION
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
ARD990660649	54-00068	CEDAR CHEMICAL CO.	49 PHILLIPS RD 311	HELENA	PHILLIPS
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 that pose a potential substantial endangerment to human health and/or the environment, but 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
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
ARR000021766	28-00471	49ERS RESOURCE RECOVERY and FORTY-NINER METALS MANAGEMENT, LLC	4722 U.S. HWY 49 NORTH	PARAGOULD	72450	GREENE
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
AR0000605322	37-00028	RED RIVER ALUMINUM	HWY 82 WEST	STAMPS	71860	LAFAYETTE
AR0000100859	35-00419	UTILITY SERVICES, INC	10184 HWY 79S	PINE BLUFF	71603	JEFFERSON

CHAPTER 4: BROWNFIELD ASSESSMENT FUNDING

Reg. 30.401 Brownfield Assessment Funding

(A) The Director of the Arkansas Department of Environmental Quality may use monies, subject to statutory limitations, the appropriation of funding, and the availability of funding, from the Hazardous Substance Remedial Action Trust Fund to fund site assessments at any one (1) or more of the following:

- (1) Abandoned industrial, commercial, and agricultural sites or residential properties as stated in Ark. Code Ann. § 8-7-1101 *et seq.* for written requests from quasi government agencies, county government, school districts, and planning and development districts if the persons do not hold title at the time of the written requests; or
- (2) Potentially contaminated sites where a letter of intent is signed and available federal funds exhausted.

(B) The provisions concerning site assessments under Ark. Code Ann. §§ 8-7-504(a) and (b), 8-7-505, 8-7-508, 8-7-509(e) and (f), and 8-7-516 shall not apply.

(C) Funding under this section is subject to statutory limitations and the appropriation and availability of monies.

CHAPTER 5: EFFECTIVE DATE

Reg. 30.501 Effective Date

This regulation and any amendments or revisions to this regulation are effective ten (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.