

ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION

RULE NO. 30

ARKANSAS REMEDIAL ACTION TRUST
FUND HAZARDOUS SUBSTANCES SITE
PRIORITY LIST



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

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CHAPTER 1: GENERAL PROVISIONS

Rule 30.101 Authority

This rule is promulgated pursuant to provisions of the Remedial Action Trust Fund Act of 1985, Ark. Code Ann. § 8-7-509(f)(1).

Rule 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.

Rule 30.103 Definitions

When used in connection with this rule, terms shall have the meaning defined at Ark. Code Ann. § 8-7-503, or as defined at APC&EC Rule No. 23 § 260.10.

Rule 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 rule.

(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 rule.

(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 rule.

(C) A hazardous substance site may be listed in Chapter 2 of this rule (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 Division 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 Division 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 rule, 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 rule. 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 rule 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 rule 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 rule 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.*

Rule 30.105 Severability

If any provision of this rule or the application thereof is held invalid, its invalidity shall not affect other provisions of this rule that can be given effect without the invalid provision or application and to this end the provisions of this rule are declared to be severable.

CHAPTER 2: NATIONAL PRIORITY LIST SITES

Rule 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 rule.

Rule 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

Rule 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 rule.

Rule 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

Rule 30.401 Brownfield Assessment Funding

(A) The Director of the Division 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

Rule 30.501 Effective Date

This rule and any amendments or revisions to this rule are effective ten (10) days after filing the rule 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.

RECEIVED

By Arkansas Secretary of State at 9:59 am, Dec 15, 2021

ARKANSAS REGISTER

Transmittal Sheet

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Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Pollution Control & Ecology Commission

Department Department of Energy and Environment

Contact Michael McAlister E-mail mcalister@adeq.state.ar.us Phone 501-682-0918

Statutory Authority for Promulgating Rules Act 704 of the 93rd General Assembly

Rule Title: Rule 30, "Arkansas Remedial Action Trust Fund Hazardous Substances Site Priority List"

Intended Effective Date

(Check One)

Date

☐ Emergency (ACA 25-15-204)

Legal Notice Published

☐ 10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment

☐ Other _____
(Must be more than 10 days after filing date.)

Reviewed by Legislative Council

Adopted by State Agency

12/03/2021

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Peter Alberg

Peter.Alberg@adeq.state.ar.us

12/15/2021

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Charles Moulton
Signature

501-682-7890

moulton@adeq.state.ar.us

Phone Number

E-mail Address

Administrative Law Judge

Title

12/13/2021
Date

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Agency Certification Form

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Classification Number:

Name of Agency:

Division/Department/Office:

Arkansas Pollution Control & Ecology Commiss Department of Energy and Environment

Contact Person:

Telephone:

Michael McAlister

501-682-0918

Statutory Authority for Promulgating Rules:

Act 704 of the 93rd General Assembly

Title of Rule:

See attached index of rules amended.

Rule Status	Date Adopted by Agency	Effective Date
Amended <input type="checkbox"/>	12/03/2021	<input type="radio"/> 10 Days After Filing
(Use drop down to select different status)	MM/DD/YYYY	<input type="radio"/> Other: _____ (if other, specify date)

☐

Rule above is proposed and will be replaced by final version

☐

Financial and/or Fiscal Impact Statement Attached

Certification of Authorized Officer

I hereby certify that the attached rules were adopted in compliance with Act 434 of 1967 as amended.

Signature:

Charles Montoya

Date:

12/14/2021

Title:

Administrative Law Judge

2021 DEC 20 AM 10: 27

ARKANSAS STATE LIBRARY

ARKANSAS POLLUTION CONTROL AND ECOLOGY

COMMISSION RULE AMENDMENTS INDEX

The following rules of the Arkansas Pollution Control and Ecology Commission have been amended following the expedited procedure of Act 704 of the 93rd General Assembly:

- a. Rule 1, "Prevention of Pollution by Oil Filed Waste";
- b. Rule 3, "Licensing of Wastewater Treatment Plant Operators";
- c. Rule 4, "Rule to Require a Disposal Permit for Real Estate Subdivisions in Proximity to Lakes and Streams";
- d. Rule 7, "Civil Penalties";
- e. Rule 9, "Fee Rule";
- f. Rule 11, "Rules for Solid Waste Disposal Fees; Landfill Post-Closure Trust Fund; Solid Waste Management and Recycling Fund Distribution; and Recycling Grant Programs";
- g. Rule 12, "Storage Tanks";
- h. Rule 15, "Arkansas Open-Cut Mining and Land Reclamation";
- i. Rule 17, "Arkansas Underground Injection Control Code";
- j. Rule 18, "Arkansas Air Pollution Control Code";
- k. Rule 20, "The Arkansas Surface Coal Mining and Reclamation Code";
- l. Rule 21, "Arkansas Asbestos Abatement Rule";
- m. Rule 22, "Solid Waste Management Rules";

- n. Rule 26, “Rules of the Arkansas Operating Air Permit Program”;
- o. Rule 28, “Rule of the State of Arkansas for County Recycling Programs”;
- p. Rule 29, “Arkansas Brownfield Redevelopment”;
- q. Rule 30, “Arkansas Remedial Action Trust Fund Hazardous Substances Site Priority List”;
- r. Rule 31, “Nonattainment New Source Review Requirements”;
- s. Rule 32, “Environmental Professional Certification”;
- t. Rule 33, “Motor Vehicle Racing Facility Rules”;
- u. Rule 34, “State Water Permit Rule”; and
- v. Rule 36, “Tire Accountability Program”.

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT: Approval
of Amendments to APC &
EC Rules**

Docket No. 21-003-MISC

MINUTE ORDER NO. 21- 18

Pursuant to Act 704 of the 93rd General Assembly, the Arkansas Pollution Control and Ecology Commission hereby grants and approves the Division of Environmental Quality's Motion to Approve Rule Amendments, and approves the amendments to rules which are specifically set forth and contained in the mark-up drafts of rules provided to the Commission with the above-referenced motion; that further, the Commission orders that the existing effective date of each rule shall remain the same and that no substantive changes to these rules are promulgated or intended by these amendments.

**THIS 3RD DAY OF DECEMBER, 2021, BY ORDER OF THE ARKANSAS
POLLUTION CONTROL AND ECOLOGY COMMISSION.**

COMMISSIONERS:

<u>SUA</u>	S. Ausbrooks
<u>AB</u>	L. Bengal
<u>CC</u>	C. Colclasure
<u>JSF</u>	J. Fox
<u>MNG</u>	M. Goggans
	R. McMullen

<u>D.A. by 11</u>	D. Melton
<u>RM</u>	R. Moss, Jr.
<u>RR</u>	R. Reynolds
<u>R</u>	R. Roper
<u>D</u>	D. Vandergriff
<u>WWW</u>	W. Ward

10.27.21 SUBMITTED BY: Michael McAlister DATE PASSED: 12/03/21
R. Roper, Chair