

EXHIBIT F

DEPARTMENT OF ENVIRONMENTAL QUALITY, HAZARDOUS WASTE DIVISION

SUBJECT: Regulation No. 30; 2009 Annual Update

DESCRIPTION: A.C.A. § 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 and Ecology Commission has authorized expenditures from the Remedial Action Trust Fund for investigation, cleanup, and/or long term maintenance 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. These amendments to Regulation No. 30 substantially codify existing state law.

PUBLIC COMMENT: A public hearing was held November 30, 2009. The public comment period expired December 14, 2009. No oral comments were submitted to ADEQ concerning the proposed revisions to the regulation. One (1) written comment was submitted by the Mitchell-Williams Law Firm on behalf of the Butler Family Limited Partnership ("BFLP"), as follows:

Comment: The BFLP opposed the addition of the Walgreens Store No. 03425 site to the State Priority List as proposed by this rulemaking. The Mitchell-Williams Law Firm proposed on behalf of the BFLP, the potentially responsible party for the Walgreen site, to engage an environmental consultant to perform limited testing of the groundwater monitoring wells at the site and conduct a vapor intrusion investigation and site risk assessment, intending to demonstrate that a vapor intrusion hazard does not occur at the site. The proposal contains an option for the BFLP to withdraw this offer should ADEQ disagree with the consultant's initial scope of work.

ADEQ Response: As detailed in the site summary included with the Department's Petition for Rulemaking, the Walgreens 03425 site was enrolled by the BFLP in ADEQ's Elective Site Clean-up Program in June 2007 to address problems found during an earlier environmental site assessment. Once a release of trichloroethylene (TCE) and perchloroethylene (PCE) at levels exceeding the Maximum Contamination Levels (MCLs) established by the U.S. EPA for ground water was confirmed, the BFLP withdrew from participation in the elective site cleanup agreement for the property. As the responsible agency for the investigation and remediation of hazardous substance releases in Arkansas, ADEQ is obliged to respond and investigate the nature and extent of such a release and the level of risk posed to human health and the integrity of the State's environment, and to require that actions be taken to remove or mitigate unacceptable risks. ADEQ finds that the proposal offered on behalf of the BFLP does not include sufficient commitment by the potentially responsible party to address the contamination and possible risks to be found at the property. Should the Department accept the proposal and disagree with BFLP's contractor's scope of work, the BFLP would retain an option to withdraw once again from an agreement to address the release of hazardous substances to groundwater at the site and its potential migration off-site

without re-initiating the rulemaking process to list the site for investigation and remediation under the RATFA, adding significant delay to the process.

**In subsequent discussions between ADEQ and BFLP's consultant, BFLP has withdrawn from the offer submitted in their letter of November 19, 2009, and has withdrawn their objection to the Walgreens site being added to the State Priority List.*

No change has been made to the proposed revisions based on this comment, and ADEQ has included the Walgreens Store 03425 site in its proposed additions to the State Priority List. ADEQ welcomes the cooperation and participation of the BFLP in further investigation of the nature and extent of the release at the site, and in the design and implementation of any remedial actions which may be required as a result of the site investigation.

The proposed effective date is March 2010.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: A detailed cost estimate for each of the four hazardous substance sites proposed for listing has not yet been prepared. This action provides authorization for the department to initiate the investigative process to determine the scope of contamination at each site and the potential remedial actions necessary to address and abate the risks posed at each site. Development of site-specific costs estimates is a task performed during a remediation feasibility study, performed following the delineation of the scope and extent of contamination at the site.

Responsible parties for contamination at previously listed sites and sites proposed for listing are liable for the costs of investigation and cleanup at their respective sites, and must reimburse the fund for any investigation and cleanup costs paid from the fund. Cost estimates for investigation and cleanup are not yet available for sites proposed for listing. Cleanup costs will be dependent on the result of the site investigations and the specific remedy selected based on the types and levels of contamination at these sites.

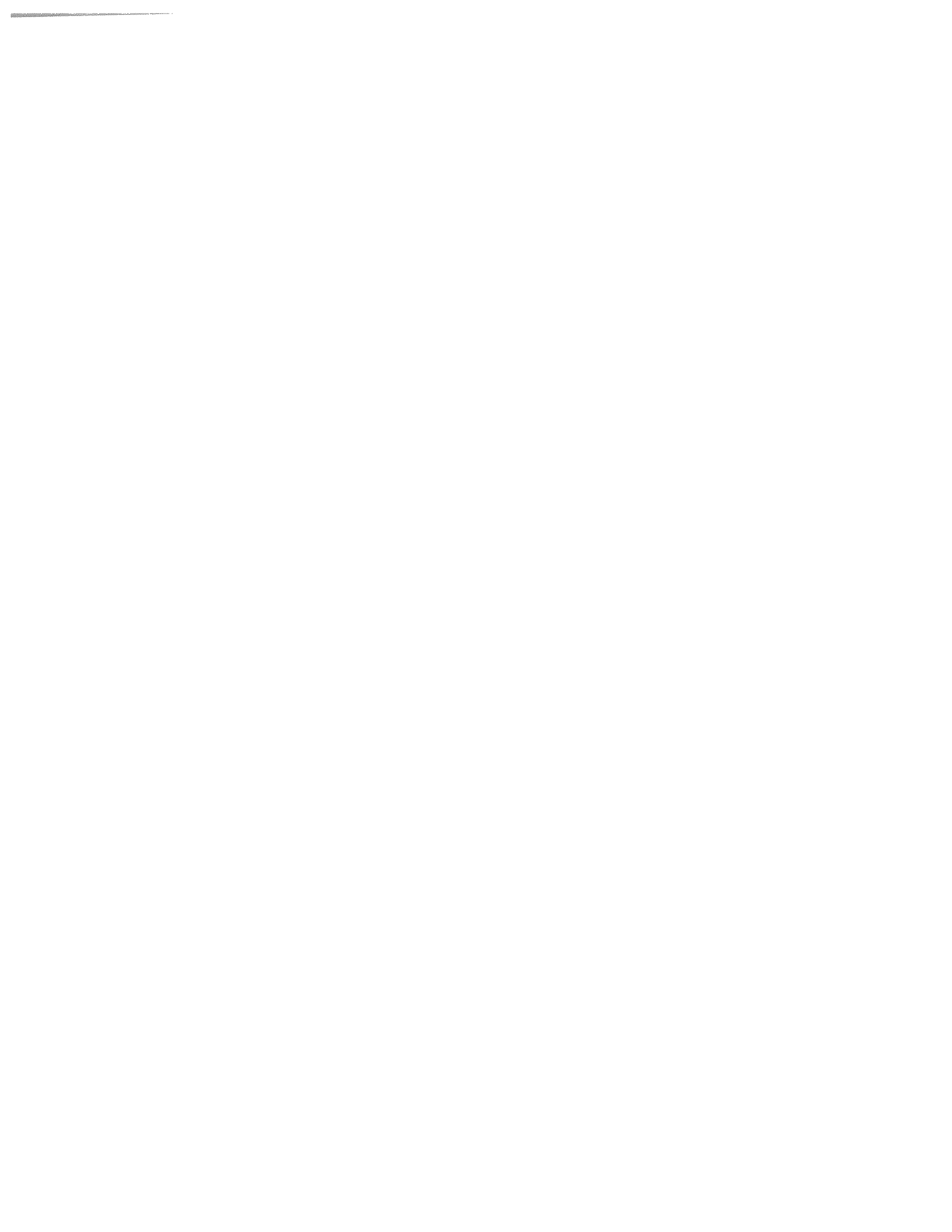
The total estimated cost to the agency to implement this rule is \$1.5 million in special revenue for the current fiscal year and \$1.5 million in special revenue for the next fiscal year. This estimate includes costs of annual operations and maintenance at completed sites, scheduled investigations and remedial actions to be paid from the Remedial Action Trust Fund. The estimate does not include investigation and cleanup costs funded by responsible parties, staffing costs, department shared resources, and related operational expenses to implement and oversee the statutory program requirements.

Economic Impact Statement

1. Explain the need for the proposed changes. Did any complaints motivate you to pursue regulatory action? If so, Please explain. The department and commission are required under the Arkansas Remedial Action Trust Fund Act to review and update the status of hazardous substance sites on the state priority list on an annual basis. Regulation No. 30 was last updated in April, 2008.



2. What are the top three benefits of the proposed rule?
 - 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 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 rule and state the reason for not selecting these alternatives. None were 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.
5. Estimate the cost to state government of collecting information, completing paperwork, filing, recordkeeping, auditing, and inspecting associated with this new rule? 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? Please estimate the number of small businesses affected. Regulation 30 is a listing of hazardous substance sites where state funds are authorized for investigation and cleanup of hazardous substance contamination 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? 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 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 Trust Fund Act (RATFA), the state's counterpart to the federal Comprehensive Environment 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.

LEGAL AUTHORIZATION: Ark. Code Ann. § 8-7-506 generally authorizes the Arkansas Pollution Control and Ecology Commission to "adopt regulations . . . necessary to implement or effectuate the purposes and intent" of the Remedial Action Trust Fund Act. Ark. Code Ann. § 8-7-509(f) requires that the State Priority list for "hazardous substance sites at which remedial actions are authorized . . . be revised annually by the department".

**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 on
December 5, 2008**

EFFECTIVE DATE: _____



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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 (Act 479 of 1985, as amended, A.C.A. § 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 Arkansas Code Annotated § 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 Arkansas Code Annotated § 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 effect 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
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

3.

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
ARD983286337	10-00016	AMITY LACQUER PAINT & CHEMICAL MFG CO	HWY 8 4M N ON COUNTY RD 53	AMITY	71921	CLARK
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
ARD055684633	48-00033	BAIRD MANUFACTURING	HWY 79B & ANN ALDEN	CLARENDON	72029	MONROE
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
ARD980812846	60-00642	BENTON SALVAGE	108 WILLOW ST	BENTON	72015	SALINE
ARD990660649	54-00068	CEDAR CHEMICAL CO	49 PHILLIPS RD 311	HELENA	72342	PHILLIPS
ARR000011106	63-00462	DANA MINTON PROPERTY	7125 ANDERSON ROAD	ALEXANDER	72002	SALINE
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
ARD981055494	70-00283	GRIFFING RAILWAY REPAIR	SCHOOL ST BOX 1735	EL DORADO	71730	UNION
ARD021354493	67-00078	HADCO OF ARKANSAS ONC	TOWER RD 2M S	GILLHAM	71841	SEVIER
ARR000004937	47-00264	HUNTCO/JMS	5027 N COUNTY RD 1015	BLYTHEVILLE	72315	MISSISSIPPI
None	43-00298	I CAN, INC	420 W ACADEMY ST	LONOKE	72086	LONOKE
None	35-00460	I. EASTER PROPERTY (OLD AP&L PLANT)	1400 W 4TH ST	PINE BLUFF	71601	JEFFERSON
ARD062144308	60-00642	JIMELCO	3400 S MAPLE STREET	LITTLE ROCK	72204	PULASKI
ARD051961829	72-00174	R&P ELECTROPLATING	2000 PUMP STATION RD	FAYETTEVILLE	72701	WASHINGTON
AR0000605322	37-00028	RED RIVER ALUMINUM	HWY 82 WEST	STAMPS	71860	LAFAYETTE
ARD071255202	60-00778	RIXEY IRON & METALS CO	8033 OLD JACKSONVILLE HWY	NORTH LITTLE ROCK	72117	PULASKI
ARR000011122	04-00342	SWIFT CHEMICAL CO FARM PROPERTY	2001 S 1ST ST	ROGERS	72756	BENTON
None	66-00163	TANKERSLEY/WHITE DAIRY	1009 GRAND AVE	FORT SMITH	72902	SEBASTIAN
ARD006341747	66-00145	UNITED STATES FORGECRAFT	95 S 3RD ST	FORT SMITH	72902	SEBASTIAN
AR0000100859	35-00419	UTILITY SERVICES, INC	10184 HWY 79S	PINE BLUFF	71603	JEFFERSON
ARD059634659	60-00650	VALSPAR	1900 E 145TH ST	LITTLE ROCK	72206	PULASKI
AR0000000331	10-00234	VALUE-LINE	701 S 3 RD STREET	ARKADELPHIA	71923	CLARK
AR0000000307	10-00118	VALUE-LINE	1205 N 10 th 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.