

EXHIBIT D

DEPARTMENT OF ENVIRONMENTAL QUALITY, HAZARDOUS WASTE DIVISION

SUBJECT: Regulation No. 29; Arkansas Brownfields Redevelopment

DESCRIPTION: This rulemaking creates consistency between the language of Regulation 29 and the statute. Regulation 29 encourages and facilitates the redevelopment of abandoned industrial, commercial, or agricultural sites, or abandoned residential property as a sound land use management policy to prevent the needless development of prime farmland, open spaces, and natural and recreation areas and to prevent urban sprawl.

Proposed changes to Regulation 29 include language changes to make the regulation consistent with the Arkansas Voluntary Clean-Up Act, Act 1042 of 1997, as amended, Ark. Code Ann. § 8-7-1101 et seq. Additional stylistic and formatting revisions are proposed to make the regulation consistent with the formatting guidelines of the commission.

PUBLIC COMMENT: A public hearing was held on September 30, 2014. The public comment period ended on October 14, 2014. The following comment was received from Mary Cameron, Bureau of Legislative Research:

Comment: In Section 29.401(a) which outlines to whom Regulation No. 29 applies, the connector “and” has been changed to “or”. However, in Ark. Code Ann. § 8-7-1104(a) from which the regulation was taken, the code uses “and”. Why was this change made in the Regulation when no change has been made in the law?

Response: The Department acknowledges this comment and agrees. The connector “and” in Reg. 29.401(A)(2) was incorrectly stricken and “or” was added. The “or” should have been placed at the end of Reg. 29.401(A)(3). A revised Mark-Up Draft of Regulation 29 will be provided.

The effective date of this rule is on or about December 20, 2014.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: Pursuant to Ark. Code Ann. § 8-7-1103, the Arkansas Department of Environmental Quality (ADEQ) has authority over the voluntary cleanup response of hazardous waste sites, including opportunities for technical assistance, public participation, procedures to ensure expeditious actions, and oversight and enforcement authority. Under Ark. Code Ann. § 8-1-203(b), the Arkansas Pollution Control and Ecology Commission is authorized to promulgate “rules and regulations implementing the substantive statutes charged to” ADEQ for administration. See also, Ark. Code Ann. § 8-7-201 et seq., and Ark. Code Ann. § 8-7-501 et seq.