

# EXHIBIT E

## DEPARTMENT OF ENVIRONMENTAL QUALITY, OFFICE OF LAND RESOURCES

### **SUBJECT: Regulation 30: Remedial Action Trust Fund Hazardous Substance Site Priority List**

**DESCRIPTION:** The Arkansas Department of Environmental Quality (ADEQ) proposes this rulemaking before the Arkansas Pollution Control and Ecology Commission (Commission) for amendments to Regulation No. 30 (Arkansas Remedial Action Trust Fund Hazardous Substances Site Priority List) to adopt changes to state law in Act 1073 of the 2017 Regular Session of the Arkansas General Assembly and update the State Priority List Sites.

The proposed amendments to the regulation include the following:

● **Sites Proposed for Deletion from the State Priority List:** In Chapter 3, two (2) sites are proposed to be deleted from those currently listed because site investigation and necessary remedial activities have been completed and the sites no longer pose a potential unacceptable risk to human health or the environment from hazardous substances defined under the Remedial Action Trust Fund Act. The sites proposed for delisting are:

- (1) Star Starett/Leer Mfg., Dumas, Desha County; and
- (2) Value Line, Arkadelphia, Clark County;

● **Brownfield Assessment Funding:** A new Chapter 4 was added to address Act 1073 and the use of assessment grants for potentially contaminated sites for the facilitation of economic development and environmental improvement. Act 1073 authorizes the use of up to ten percent (10%) of the moneys collected for the Hazardous Substance Remedial Action Trust Fund to be used for conducting site assessments of potentially contaminated sites under certain conditions; and

● **Minor revisions** to include correcting typographical, grammatical, formatting, and stylistic errors.

There are no sites proposed for addition to the State Priority List and no changes to the National Priority List Sites.

**PUBLIC COMMENT:** A public hearing was held on December 4, 2017. The public comment period expired on December 18, 2017. The Department received no comments.

The proposed effective date is May 1, 2018.

**FINANCIAL IMPACT:** There is no financial impact. There is a total program cost for implementing investigations, cleanup, and long-term care of sites listed in the regulation of \$2.25 million for this fiscal year and \$2.25 million for the next fiscal year.

# EXHIBIT F

**LEGAL AUTHORIZATION:** Pursuant to Arkansas Code Annotated § 8-7-506, the Arkansas Pollution Control and Ecology Commission shall adopt regulations under the Remedial Action Trust Fund Act, codified at Ark. Code Ann. §§ 8-7-501 through 8-7-525, necessary to implement or effectuate the purposes and intent of the Act. Included among the proposed rule changes are those made in light of **Act 1073 of 2017**, sponsored by Senator John Cooper, which amended the law concerning the use of assessment grants for potentially contaminated sites for the facilitation of economic development and environmental improvement, amended the Remedial Action Trust Fund Act, and amended the Hazardous Substance Remedial Action Trust Fund.

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL**

**DEPARTMENT/AGENCY** Arkansas Department of Environmental Quality (ADEQ) by and through the Arkansas Pollution Control and Ecology Commission (APC&EC)

**DIVISION** Office of Land Resources (OLR)

**DIVISION DIRECTOR** Kevin White, Associate Director

**CONTACT PERSON** Tammie Hynum, Senior Operations Manager

**ADDRESS** 5301 Northshore Drive, North Little Rock, Arkansas

**PHONE NO.** 501-682-0831 **FAX NO.** 501-682-0565 **EMAIL** Hynum@adeq.state.ar.us

**NAME OF PRESENTER AT COMMITTEE MEETING** Tammie Hynum

**PRESENTER EMAIL** Hynum@adeq.state.ar.us

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis**  
**Administrative Rules Review Section**  
**Arkansas Legislative Council**  
**Bureau of Legislative Research**  
**One Capitol Mall, 5<sup>th</sup> Floor**  
**Little Rock, AR 72201**

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1. What is the short title of this rule? Regulation No. 30: Remedial Action Trust Fund Hazardous Substance Site Priority List

2. What is the subject of the proposed rule? ADEQ proposes this rulemaking before the APC&EC to incorporate state law changes to update the Arkansas Remedial Action Trust Fund Hazardous Substances Priority List; amend; the Remedial Action trust Fund Act to allow the state to fund site assessments at abandoned industrial, commercial and agricultural sites or residential properties for written requests from quasi government agencies, county government, school districts, and planning and development districts; and allow ten percent (10%) of moneys collected for the Hazardous Substance Remedial Action Trust Fund to be used for conducting site assessments of potentially contaminated sites, not to exceed five hundred thousand dollars (\$500,000), including but without limitation to Act 1073 of 2017.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No

If yes, please provide the federal rule, regulation, and/or statute citation. Not applicable



9. Will a public hearing be held on this proposed rule? Yes  No

If yes, please complete the following:

Date: December 4, 2017  
Time: 10:00 a.m.  
Commission Room  
ADEQ Headquarters  
5301 Northshore Drive  
Place: North Little Rock, AR 72118

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
The public comment period expires on December 18, 2017. However, after the public comment period, the regulation must be reviewed by the Legislative Committees and the APC&EC must adopt the final regulation. The earliest estimated time for APC&EC adoption is April 2018, with the effective date being ten (10) days after the APC&EC files with the Secretary of State, approximately May 2018.

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11. What is the proposed effective date of this proposed rule? (Must provide a date.)

May 2018

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12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. The Arkansas Pollution Control and Ecology Commission (APC&EC) is exempt from the definition of "agency" under the Administrative Procedure Act. (See Ark. Code Ann. § 25-15-202(2)(C)). However, laws concerning the promulgation of regulations by the APC&EC do require public notice, and a copy is attached.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). The Arkansas Pollution Control and Ecology Commission (APC&EC) is exempt from the definition of "agency" under the Administrative Procedure Act. (See Ark. Code Ann. § 25-15-202(2)(C)). Filing with the Secretary of State does not occur until after legislative review and final adoption by the APC&EC.

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. None anticipated.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Environmental Quality (ADEQ) by and through the Arkansas Pollution Control and Ecology Commission (APC&EC)

**DIVISION** Office of Land Resources (OLR)

**PERSON COMPLETING THIS STATEMENT** Tammie Hynum, Senior Operations Manager

**TELEPHONE** (501) 682-0831 **FAX** (501)682-0565 **EMAIL:** Hynum@adeq.state.ar.us

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** APC&EC Regulation No. 30: Remedial Action Trust Fund Hazardous Substance Site Priority List

- 1. Does this proposed, amended, or repealed rule have a financial impact?      Yes       No
  
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?      Yes       No
  
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered?      Yes       No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;  
Not applicable
  
- (b) The reason for adoption of the more costly rule;  
Not applicable
  
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;  
Not applicable
  
- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.  
Not applicable

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue      \$ 0.00  
Federal Funds        \$ 0.00  
Cash Funds            \$ 0.00  
Special Revenue      \$ 0.00  
Other (Identify)      \$ 0.00

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Cash Funds            \$ 0.00  
Special Revenue      \$ 0.00  
Other (Identify)      \$ 0.00

Total \$0.00

Total \$0.00

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \$ 0.00  
Federal Funds \$ 0.00  
Cash Funds \$ 0.00  
Special Revenue \$ 0.00  
Other (Identify) \$ 0.00  
  
Total \$ 0.00

General Revenue \$ 0.00  
Federal Funds \$ 0.00  
Cash Funds \$ 0.00  
Special Revenue \$ 0.00  
Other (Identify) \$ 0.00  
  
Total \$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

**Next Fiscal Year**

\$ 0.00

\$ 0.00

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

**Next Fiscal Year**

2.25  
\$ Million

\$ 2.25 Million

Total program costs of implementing investigations, cleanup, and long-term care of sites listed in this regulation.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes  No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and



- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
  - (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
  - (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
  - (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
    - (a) the rule is achieving the statutory objectives;
    - (b) the benefits of the rule continue to justify its costs; and
    - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

**APC&EC REGULATION NO. 30:  
ARKANSAS REMEDIAL ACTION TRUST FUND  
HAZARDOUS SUBSTANCES SITE PRIORITY LIST**  
Proposed Amendments – Executive Summary  
October 13, 2017

The Arkansas Department of Environmental Quality (ADEQ) proposes this rulemaking before the Arkansas Pollution Control and Ecology Commission (Commission) for amendments to Regulation No. 30 (Arkansas Remedial Action Trust Fund Hazardous Substances Site Priority List) to adopt changes to state law in Act 1073 of the 2017 Regular Session of the Arkansas General Assembly and update the State Priority List Sites. The Commission's authority for amending Regulation 30 is found in the Remedial Action Trust Fund Act, Ark. Code Ann. § 8-7-501 *et seq.*

The proposed amendments to the regulation include the following:

- ***Sites Proposed for Deletion from the State Priority List:*** In Chapter 3, two (2) sites are proposed to be deleted from those currently listed because site investigation and necessary remedial activities have been completed and the sites no longer pose a potential unacceptable risk to human health or the environment from hazardous substances defined under the Remedial Action Trust Fund Act. The sites proposed for delisting are:
  - (1) Star Starett/Leer Mfg, Dumas, Desha County; and
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- ***Brownfield Assessment Funding:*** A new Chapter 4 was added to address Act 1073 and the use of assessment grants for potentially contaminated sites for the facilitation of economic development and environmental improvement. Act 1073 authorizes the use of up to ten percent (10%) of the moneys collected for the Hazardous Substance Remedial Action Trust Fund to be used for conducting site assessments of potentially contaminated sites under certain conditions; and
- ***Minor revisions*** to include correcting typographical, grammatical, formatting, and stylistic errors.

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