

EXHIBIT D

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Arkansas Department of Environmental Quality
DIVISION Hazardous Waste Division
DIVISION DIRECTOR Tammie Hynum
CONTACT PERSON Tamara Almand
ADDRESS 5301 Northshore Drive, North Little Rock, AR 72118
PHONE NO. 501-683-0069 FAX NO. 501-682-0565 E-MAIL almand@adeq.state.ar.us
NAME OF PRESENTER AT COMMITTEE MEETING J. Ryan Benefield, P.E.
PRESENTER E-MAIL benefield@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, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? APC&EC Regulation No. 29, Arkansas Brownfields Redevelopment

2. What is the subject of the proposed rule? Regulation 29 contains the regulations for redevelopment of abandoned sites that may be affected by hazardous waste so that they can be safely returned to useful properties.

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. N/A

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No
If yes, please provide a brief summary explaining the regulation. N/A

Does this repeal an existing rule? Yes No
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. § 8-7-201 et seq., Ark. Code Ann. § 8-7-501 et seq., and Ark. Code Ann. § 8-7-1101 et seq.

7. What is the purpose of this proposed rule? Why is it necessary? The proposed changes to the Regulation are necessary in order to conform with language in Ark. Code Ann. § 8-7-1101; to correct the reference of Brownfields to Brownfield; to correct a discrepancy affecting eligibility requirements; and make minor stylistic revisions.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). http://www.adeg.state.ar.us/regs/drafts/draft_regs.htm

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

If yes, please complete the following:

Date: September 30, 2014

Time: 2:00 PM

Place: Commission Room, ADEQ
Headquarters, 5301 Northshore Drive,
North Little Rock, AR 72118

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
Ten business days from the date of the public hearing, which will be on or about October 14, 2014.

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
On or about December 20, 2014.

12. Do you expect this rule to be controversial? Yes No
If yes, please explain. N/A

13. 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
DIVISION Hazardous Waste Division
PERSON COMPLETING THIS STATEMENT Tamara Almand
TELEPHONE NO. 501-683-0069 **FAX NO.** 501-682-0565 **EMAIL:** almand@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 29

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;
N/A
- (b) The reason for adoption of the more costly rule;
N/A
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
N/A
- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
N/A

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

General Revenue	<u>\$ 0.00</u>
Federal Funds	<u>\$ 0.00</u>
Cash Funds	<u>\$ 0.00</u>
Special Revenue	<u>\$ 0.00</u>
Other (Identify)	<u>\$ 0.00</u>

Next Fiscal Year

General Revenue	<u>\$ 0.00</u>
Federal Funds	<u>\$ 0.00</u>
Cash Funds	<u>\$ 0.00</u>
Special Revenue	<u>\$ 0.00</u>
Other (Identify)	<u>\$ 0.00</u>

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

N/A

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

\$ 0.00

\$ 0.00

N/A

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.



**ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION
ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT ANALYSIS**

Rule Number & Title: Regulation No. 29 – Arkansas Brownfields Redevelopment

Petitioner: Arkansas Department of Environmental Quality, Hazardous Waste Division

Contact/Phone/Electronic mail: Tammie J. Hynum, Chief
(501) 682-0831
hynum@adeq.state.ar.us

2A. ECONOMIC IMPACT

1. Who will be affected economically by this proposed rule? State: a) the specific public and/or private entities affected by this rulemaking, indicating for each category if it is a positive or negative economic effect; and b) provide the estimated number of entities affected by this proposed rule.

No public or private entities will be affected by this rulemaking.

Sources and Assumptions: N/A

2. What are the economic effects of the proposed rule? State: 1) the estimated increased or decreased cost for an average facility to implement the proposed rule; and 2) the estimated total cost to implement the rule.

There is no estimated increase or decrease in cost associated with this rule.

Sources and Assumptions: N/A

3. List any fee changes imposed by this proposal and justification for each. None

4. What is the probable cost to ADEQ in manpower and associated resources to implement and enforce this proposed change, and what is the source of revenue supporting this proposed rule?

None.

Sources and Assumptions: N/A

5. Is there a known beneficial or adverse impact to any other relevant state agency to implement or enforce this proposed rule? Is there any other relevant state agency's rule that could adequately address this issue, or is this proposed rulemaking in conflict with or have any nexus to any other relevant state agency's rule? Identify state agency and/or rule.

None.

Sources and Assumptions: N/A

6. Are there any less costly, non-regulatory, or less intrusive methods that would achieve the same purpose of this proposed rule?

No.

Sources and Assumptions: N/A

2B. ENVIRONMENTAL BENEFIT

1. What issues affecting the environment are addressed by this proposal?

None.

2. How does this proposed rule protect, enhance, or restore the natural environment for the well being of all Arkansans?

By changing the language of the Regulation to conform to the statute, eligibility determinations will become less stringent for participants wishing to take part in the Arkansas Brownfield Program.

Sources and Assumptions: N/A

3. What detrimental effect will there be to the environment or to the public health and safety if this proposed rule is not implemented?

None

Sources and Assumptions: N/A

4. What risks are addressed by the proposal and to what extent are the risks anticipated to be reduced?

None

Sources and assumptions: N/A

**ECONOMIC IMPACT STATEMENT
OF PROPOSED RULES OR REGULATIONS
EO 05-04 and Act 143 of 2007: Regulatory Flexibility**

Department: Arkansas Department of Environmental Quality

Divisions: Hazardous Waste Division

Contact Person: Tamara Almand

Date: August 5, 2014

Contact Phone: 501.683.0069

Contact Email: almand@adeq.state.ar.us

Title or Subject: Arkansas Pollution Control and Ecology Commission Regulation No. 29: Arkansas Brownfields Redevelopment.

Benefits of the Proposed Rule or Regulation

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, Please explain the nature of such complaints.
The proposed change is to make the language in Regulation No. 29, Arkansas Brownfield Redevelopment, consistent with language in the Arkansas Voluntary Clean-Up Act, Ark. Code Ann. § 8-7-1101 *et seq.* and make minor stylistic revisions. No complaints were involved.
2. What are the top three benefits of the proposed rule or regulation?
To maintain language consistency in the Regulation and the Statute; Participant eligibility requirements will be less stringent if language in the Regulation is consistent with language in the Statute; Stylistic revisions will cause the Regulation to conform with Arkansas Pollution Control & Ecology Commission Regulation Formatting and Drafting Guidelines.
3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo? Inconsistency between the language in the Regulation and the Statute would remain.
4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives. N/A

Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of *collecting information, completing paperwork, filing recordkeeping, auditing and inspecting* associated with this new rule or regulation.
No additional costs will occur to state government with this proposed regulation.
6. What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected. This change will not affect small businesses.
7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary. No.
8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance. No additional requirements on small business owners.
9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary. No different requirements for different sized entities.
10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation. Proposed changes do not add any additional requirements to small business owners.
11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government? N/A
12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation. N/A

APC&EC Regulation 29: Arkansas Brownfields Redevelopment

Proposed Amendments – Executive Summary

The Arkansas Department of Environmental Quality proposes this rulemaking before the Arkansas Pollution Control and Ecology Commission to create consistency between the language of Regulation 29 and the statute. The Commission's authority for amending Regulation 29 is found in Arkansas Code Annotated § 8-7-209(b)(1). 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.

The proposed changes include:

- Striking the “s” from the word Brownfields throughout the Regulation.
- Adding the word “or” to Chapter 4, Eligibility, Reg.29.401(A)(2).
- Removing “Section 2.1” from Chapter 5, Public Participation, Reg.29.502.
- Adding “Reg.” before each section number throughout the Regulation.
- Amending Chapter 8, Effective Date, Reg.29.801 to read, “This Regulation is effective ten (10) days after filing with the Secretary of State, the State Library, and the Bureau of Legislative Research.”
- Minor stylistic and formatting changes.

