



# ARKANSAS

## ENERGY & ENVIRONMENT

January 18, 2023

Derek Turner, General Manager  
El Dorado Chemical Company  
P.O. Box 231  
El Dorado, Arkansas 71731

Re: NPDES Permit Number AR0000752, AFIN 70-00040

Dear Mr. Turner:

EPA promulgated the Existing Facilities Rule pursuant to Clean Water Act § 316(b) on August 15, 2014. The rule became effective on October 14, 2014. This Existing Facilities Rule is found in Subpart J of 40 C.F.R. Part 125 (§§ 125.90 through 125.99). Subpart J establishes the 316(b) requirements that apply to CWIS at existing facilities for the purpose of minimizing adverse environmental impacts associated with the use of CWIS. The requirements are established and implemented in NPDES permits.

Subpart J is applicable to existing facilities that commenced construction on or before January 17, 2002. The following excerpt from 40 C.F.R. § 125.91 outlines an existing facility's applicability to the Subpart J requirements.

- (a) The owner or operator of an existing facility, as defined in 40 C.F.R. § 125.92(k), is subject to the requirements at §§ 125.94 through 125.99 if:
  - (1) The facility is a point source;
  - (2) The facility uses or proposes to use one or more CWIS with a cumulative design intake flow of greater than 2 million gallons per day (MGD) to withdraw water from waters of the United States; and
  - (3) Twenty-five percent (25%) or more of the water the facility withdraws on an actual intake flow basis is used exclusively for cooling purposes.
  
- (b) Use of a cooling water intake structure includes obtaining cooling water by any sort of contract or arrangement with one or more independent suppliers of cooling water if the independent supplier withdraws water from waters of the United States but is not itself a new or existing facility as defined in subparts I or J of this part, except as provided in paragraphs (c) and (d) of this section. An owner or operator of an existing facility may not circumvent these requirements by creating arrangements to receive cooling water from an entity that is not itself a facility subject to subparts I or J of this part.

- (c) Obtaining cooling water from a public water system, using reclaimed water from wastewater treatment facilities or desalination plants, or recycling treated process wastewater effluent as cooling water does not constitute use of a cooling water intake structure for purposes of this subpart.

This facility is a point source that obtains water through a purchase agreement with the Union County Water Conservation Board (UCWCB). The Union County Water Conservation Board (UCWCB) owns and operates a cooling water intake structure (CWIS) located on the bank of the Ouachita River at the US Hwy 167 bridge near Calion, Arkansas. The CWIS has a design intake flow of 86.4 MGD. The UCWCB supplies clarified water to several industrial users, including this facility. While UCWCB is a public water provider supplying clarified water to multiple industrial users, it does not produce or supply potable water to residential populations. Therefore, UCWCB meets the “Independent Supplier” definition in 40 C.F.R. § 125.92(p) shown below.

*40 C.F.R. § 125.92 (p): Independent supplier means an entity, other than the regulated facility, that owns and operates its own cooling water intake structure and directly withdraws water from waters of the United States. The supplier provides the cooling water to other facilities for their use but may itself also use a portion of the water. An entity that provides potable water to residential populations (e.g., public water system) is not a supplier for purposes of this subpart.*

Based on information supplied by the facility in an email dated November 15, 2022, your facility acquires approximately 1.8 billion gallons per year (4.93 MGD) of water from UCWCB, and approximately 2,700 gallons per minute (3.88 MGD) of this water (78%) is used for cooling purposes.

While this facility does not own and has no authority over UCWCB’s operation of the CWIS, this facility is subject to Subpart J for existing facilities based on the above regulatory definitions to the extent practicable. Subpart J requires one of seven options to be chosen for a CWIS that represent Best Technology Available (BTA) for impingement mortality (IM) and requires the permitting authority to determine BTA for entrainment (E) on a site-specific basis based on the information submitted in the permit application.

DEQ requests your submittal of the information required in 40 C.F.R. § 122.21(r)(2), (r)(3), (r)(4), (r)(5), (r)(6), (r)(7), and (r)(8) to supplement the NPDES renewal application that was previously submitted. DEQ requests this information to be submitted as soon as possible; however, we are continuing to process the renewal application and working to prepare a draft renewal permit.

Thank you for your cooperation in this matter. If there are any questions concerning this submittal, please contact me at [loretta.carstens@adeq.state.ar.us](mailto:loretta.carstens@adeq.state.ar.us) or at (501) 682-0612.

Sincerely,



Loretta Carstens, P.E., Engineer  
NPDES Permits, Office of Water Quality  
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cc: Amanda Gallagher, P.E. ([agallagher@gbmcassoc.com](mailto:agallagher@gbmcassoc.com))  
Shane Byrum, Engineer – NPDES Permits