

EXHIBIT B

Questionnaire for Filing Proposed Rules and Regulations

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

DEPARTMENT/AGENCY

DIVISION

DIVISION DIRECTOR

CONTACT PERSON

ADDRESS

PHONE NO.:

FAX NO.:

TO: Donna K. Davis
Subcommittee on Administrative Rules and Regulations
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

1. What is the short title of this rule?
Arkansas Pollution Control and Ecology Commission, Regulation No. 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas

2. What is the subject of the proposed rule?
Modification of the chloride, sulfate and total dissolved minerals (TDS) criteria of the Arkansas Water Quality Standards (WQS) and removal of the designated, but not existing, domestic water supply use for (a) an unnamed tributary to Flat Creek to the mouth of Salt Creek ("UTA"); (b) an unnamed tributary to Flat Creek from EDCC Outfall 001 discharge to the confluence with unnamed tributary of Flat Creek ("UTB"); (c) certain sections of Flat Creek; and (d) certain sections of Haynes Creek. (Union County)

3. Is this rule required to comply with federal statute or regulations?
Yes ___ No ___ X

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes ___ No ___ X

If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

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

Is this a new Rule? Yes _____ No X

If yes, please provide a brief summary explaining the regulation

Does this repeal an existing rule: Yes _____ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire.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.

5. Is this an amendment to an existing rule? Yes X No _____ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substance changes.

See Attachments A and B.

6. Cite the state law that grants the authority for this proposed rule. If codified, please give the Arkansas Code citation.

Act 472 of the Acts of Arkansas 1949, as amended. ARK. CODE ANN.. § 8-4-101, et seq.

7. What is the purpose of the rule? What is it necessary?

El Dorado Chemical Company (EDCC) operates a fertilizer and acid manufacturing, storage, and distribution facility on the north side of El Dorado, Union County, Arkansas. The facility discharges storm water and treated process wastewater through its Outfall 001 as authorized by the Arkansas Department of Environmental Quality (ADEQ) under National Pollution Discharge Elimination System (NPDES) Permit No. AR0000752.

The effluent from Outfall 001 discharges into unnamed wet weather tributaries. The discharge limits contained in the NPDES Permit are based on ecoregion numbers and the maintenance of a domestic water supply use. The domestic water supply uses for the affected watercourses are designated, but not attainable uses because the natural, ephemeral and low flow conditions prevent the attainment of the use. The aquatic life field studies conducted in April of 2005 and 2006 show that despite the fact that the watercourses are seasonal wet weather tributaries with small watersheds which limit the development of biotic communities, the designated aquatic life use and the biological integrity of the watercourses is being maintained downstream of the discharges. Further recent toxicity testing demonstrates that there is no toxicity resulting from the dissolved mineral concentrations to the affected watercourses.

EDCC requests the Arkansas Pollution Control and Ecology Control Commission to amend Regulation No. 2 to remove the domestic drinking water supply use designation from (a) an unnamed tributary to Flat Creek from confluence of UTB to the confluence with Flat Creek (UTA); (b) an unnamed tributary to Flat Creek from EDCC Outfall 001 discharge to the confluence with unnamed tributary of Flat Creek (UTB); (c) for Flat Creek from the mouth of the UTA tributary to the mouth of Haynes Creek; and (d) for Haynes Creek from the confluence of Flat and Salt Creeks downstream to confluence with Smackover Creek. EDCC is further asking APCEC to modify the dissolved minerals criteria as follows:

a. for the entire length of UTA:

*TDS from 123 mg/L to 315 mg/L
Sulfate from 31 mg/L to 80 mg/L
Chloride from 14 mg/L to 16 mg/L*

b. for the entire length of UTB:

*TDS from 123 mg/L to 475 mg/L
Sulfate from 31 mg/L to 125 mg/L
Chloride from 14 mg/L to 23 mg/L*

c. for Flat Creek from the mouth of the UTA tributary to the mouth of Haynes Creek:

*TDS from 123 mg/L to 560 mg/L
Sulfate from 31 mg/L to 67 mg/L
Chloride from 14 mg/L to 165 mg/L*

d. for Haynes Creek from the confluence of Flat and Salt Creeks downstream to confluence with Smackover Creek:

*TDS from 123 mg/L to 855 mg/L
Sulfate from 31 mg/L to 55 mg/L
Chloride from 14 mg/L to 360 mg/L*

These water quality standard modifications will not adversely affect the aquatic life communities and existing fisheries.

8. Will a public hearing be held on this proposed rule? Yes X No If yes, please complete the following:

Date: week of _____, 2006

Time: to be determined by ADEQ

Place: El Dorado, Arkansas at a location to be determined by ADEQ

9. When does the public comment period expire for permanent promulgation? (Must provide a date.)

The period for receiving all written comments by the public shall conclude ten (10) business days after the date of the public hearing pursuant to Arkansas Pollution Control and Ecology Commission Regulation No. 8, Part 3, Section 2.2.3, unless an extension of time is granted. Thus, the public comment period will expire during the week of _____, 2006.

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

The regulation becomes effective twenty days after filing of the final regulation as adopted by the Commission with the Secretary of State.

11. Do you expect the rule to be controversial? Yes _____ No X If yes, please explain.

12. Please give the names of persons, groups, or organizations that you expect to comment of these rules? Please provide the position (for or against) if known.

For or Neutral:

Arkansas Department of Environmental Quality

Arkansas Department of Health

Arkansas Natural Resources Conservation Commission

Region VI, US Environmental Protection Agency

Louisiana Department of Environmental Quality

Against:

unknown