

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

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ADDRESS

PHONE NO.:

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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?

Modifications to the:

(a) chloride, sulfate and total dissolved minerals (TDS) criteria of the WQS for (i) Loutre Creek from Hwy 15 South (upstream terminus) to its confluence of Bayou de Loutre (the "Loutre Creek Segment"); and (ii) in Bayou de Loutre from the mouth of Loutre Creek downstream to the discharge from the City of El Dorado south waste water treatment facility;

(b) sulfate and TDS in Bayou de Loutre from the City's discharge, then downstream to the mouth of Boggy Creek;

(c) sulfate in Bayou de Loutre from the mouth of Gum Creek down stream to the state line;

and, in addition, removal of the designated, but not existing, domestic water supply use for: (a) the Loutre Creek Segment; and (b) Bayou de Loutre from the mouth of Loutre Creek to the mouth of Gum Creek (the domestic water supply use for Bayou de Loutre downstream of the mouth of Gum Creek has been removed by previous rulemaking by ADEQ in 2004.)

3. Is this rule required to comply with federal statute or regulations?

Yes ☐ No ☒

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Does this repeal an existing rule: Yes_____ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire.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

Lion has operated an oil refinery, storage, and distribution center in El Dorado, Union County, Arkansas since 1922. Current refinery capacity is approximately 70,000 barrels/day (bpd).

Storm water runoff and treated process wastewater are discharged from various outfalls (001 thru 007) at the facility as authorized by the Arkansas Department of Environmental Quality (ADEQ) under Lion's National Pollutant Discharge Elimination System (NPDES) Permit No. AR0000647 (the "Permit.")

As a result of 2003 Consent Decree with ADEQ and EPA, recent process and air emission control equipment (scrubbers) have been added to the facility to control air emissions; and hydrotreaters have been installed for the facility to meet newer and more stringent environmental sulfur standards. The required equipment has been responsible for a recent increase in sulfates and TDS in the treated waste water discharged through Outfall 001. In addition, due to increasing need for domestic fuel supplies and limited refinery capacity, Lion anticipates increased production at the facility which will result in a proportional increase in TDS and sulfate. In order to account for the increases due

to installation of control equipment and future increased production, the in stream criteria are being proposed as the 95 percentile of historical data plus 20%.

The effluent from Outfalls 001 thru 007 discharges into unnamed wet weather tributaries. The discharge limits contained in the NPDES Permit are based on ecoregion and stream dissolved minerals criteria 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 October 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, historical toxicity testing demonstrates that there is no toxicity resulting from the dissolved mineral concentrations to the affected watercourses. In addition, after a substantive review of the potential affect of the rulemaking on Louisiana's water quality standards and consultation with the Louisiana Department of Environmental Quality (LDEQ), the LDEQ does not expect the proposed rulemaking to have a negative impact on Louisiana's continued compliance with the dissolved mineral standard.

Lion requests the Arkansas Pollution Control and Ecology Control Commission to amend Regulation No. 2 to remove the designated domestic drinking water supply use from the following locations:

- *Loutre Creek from Hwy 15 South (upstream terminus) to its confluence with Bayou de Loutre*
- *Bayou de Loutre from the mouth of Loutre Creek to the mouth of Gum Creek. (the domestic water supply use for Bayou de Loutre downstream of the mouth of Gum Creek has been removed by previous rulemaking (ADEQ 2004)).*

Lion is further asking APCEC to modify the dissolved minerals criteria as follows:

- a. *modify the dissolved minerals criteria for the Loutre Creek Segment as follows:*
 - *Chloride from 14 mg/L to 256 mg/L*
 - *Sulfate from 31 mg/L to 997 mg/L*
 - *TDS from 123 mg/L to 1756 mg/L*
- b. *modify the dissolved minerals criteria for Bayou de Loutre from Loutre Creek to the discharge from the City of El Dorado South Facility as follows:*
 - *Chloride from 250 mg/L to 264 mg/L*
 - *Sulfate from 90 mg/L to 635 mg/L*
 - *TDS from 500 mg/L to 1236 mg/L*
- c. *modify the dissolved minerals criteria for Bayou de Loutre from the discharge from the City of El Dorado South downstream to the mouth of Gum Creek as follows:*

- Chloride: NO CHANGE
 - Sulfate from 90 mg/L to 431 mg/L
 - TDS from 500 mg/L to 966 mg/L
- d. *modify the dissolved minerals criteria for Bayou de Loutre from the mouth of Gum Creek downstream to the mouth of Boggy Creek as follows:*
- Chloride: NO CHANGE
 - Sulfate from 90 mg/L to 345 mg/L
 - TDS from 750 mg/L to 780 mg/L
- e. *modify the dissolved minerals criteria for Bayou de Loutre from the mouth of Boggy Creek downstream to the mouth of Hibank Creek as follows:*
- Chloride: NO CHANGE
 - Sulfate from 90 mg/L to 296 mg/L
 - TDS: NO CHANGE
- f. *modify the dissolved minerals criteria for Bayou de Loutre from the mouth of Hibank Creek downstream to the mouth of Mill Creek as follows:*
- Chloride: NO CHANGE
 - Sulfate from 90 mg/L to 263 mg/L
 - TDS: NO CHANGE
- g. *modify the dissolved minerals criteria for Bayou de Loutre from the mouth of Mill Creek downstream to the mouth of Buckaloo Branch as follows:*
- Chloride: NO CHANGE
 - Sulfate from 90 mg/L to 237 mg/L
 - TDS: NO CHANGE
- h. *modify the dissolved minerals criteria for Bayou de Loutre from the mouth of Buckaloo Branch downstream to the mouth of Bear Creek as follows:*
- Chloride: NO CHANGE
 - Sulfate from 90 mg/L to 216 mg/L
 - TDS: NO CHANGE
- i. *modify the dissolved minerals criteria for Bayou de Loutre from the mouth of Bear Creek to the final segment of Bayou de Loutre as follows:*
- Chloride: NO CHANGE
 - Sulfate from 90 mg/L to 198 mg/L
 - TDS: NO CHANGE
- j. *modify the dissolved minerals criteria for Bayou de Loutre (Final Segment to the Arkansas/Louisiana State Line as follows:*
- Chloride: NO CHANGE
 - Sulfate from 90 mg/L to 171 mg/L
 - TDS: NO CHANGE

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