

# EXHIBIT B

## Questionnaire for Filing Proposed Rules and Regulations

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

<b>DEPARTMENT/AGENCY</b>	<u>Arkansas Department of Environmental Quality</u>	
<b>DIVISION</b>	<u>Water Division</u>	
<b>DIVISION DIRECTOR</b>	<u>Martin Maner, Chief, Water Division</u>	
<b>CONTACT PERSON</b>	<u>Mary Leath, Chief Deputy Director</u>	
<b>ADDRESS</b>	<u>8001 National Drive, P. O. Box 8913, Little Rock, AR 72219-8913</u>	
<b>PHONE NO.</b>	<u>501-682-0959</u>	<b>FAX NO.</b> <u>501-682-0798</u>
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**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:

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

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- 1. **What is the short title of this rule?** Regulation No. 2 of the Arkansas Pollution Control and Ecology Commission
- 2. **What is the subject of the proposed rule?** Arkansas Water Quality Standards
- 3. **Is this rule required to comply with federal statute or regulations?** Yes  
**If yes, please provide the federal regulation and/or statute citation.** 33 U.S.C. 1313
- 4. **Was this rule filed under the emergency provisions of the Administrative Procedure Act?** Yes  
**If yes, what is the effective date of the emergency rule?** April 27, 2007  
**When does the emergency rule expire?** October 9, 2007

**Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes**

5. **Is this a new rule? No**

If yes, please provide a brief summary explaining the regulation.

**Does this repeal an existing rule? 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**If yes, a copy of the repealed rule is to be included with your completed questionnaire.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**

**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 Arkansas Code citation.** Ark. Code Ann. § 8-4-201(b)(1) authorizes the Arkansas Pollution Control and Ecology Commission to adopt water quality standards for the State of Arkansas.

7. **What is the purpose of this proposed rule? Why is it necessary?**

Arkansas Pollution Control and Ecology Commission Regulation No. 2, Section 2.511 limits chloride and sulfate concentrations in streams and prohibits discharges that alter mineral quality.

The Bayou Meto Basin project will transfer water from the Arkansas River to Delta EcoRegion Streams for the purpose of delivering irrigation water to farms in Lonoke, Jefferson, Prairie and Arkansas Counties. Chloride and Sulfate levels in the Arkansas River exceed present limits on Delta-Ecoregion streams.

The proposed rule will modify mineral standards for chlorides and sulfates in specified Delta Ecoregion streams to allow the importation of Arkansas River Water.

8. **Will a public hearing be held on this proposed rule? Yes**

**If yes, please complete the following:**

Please see attached schedule of dates and locations.

9. **When does the public comment period expire for permanent promulgation?**

Not later than July 23, 2007.

10. **What is the proposed effective date of this proposed rule? October 26, 2007**

11. **Do you expect this rule to be controversial? No If yes, please explain.**

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## EXHIBIT B

12. **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.**

Arkansas Natural Resources Commission; Arkansas Parks, Recreation, and Travel Commission; Arkansas Game and Fish Commission; Arkansas Farm Bureau; U.S. Environmental Protection Agency; U.S. Fish and Wildlife Service

### Summary of Proposed Rule

Bayou Meto Water Management District (BMWMD) is requesting a modification of the Arkansas Water Quality Standards (WQS) set forth in Regulation No. 2 of the Arkansas Pollution Control and Ecology Commission (APCEC). BMWMD requests modification of the chloride and sulfate criteria for forty-four water bodies in the Delta Ecoregion. The specific amendments to Regulation No. 2 requested by BMWMD are set forth more fully below.

BMWMD will operate an irrigation project in the Bayou Meto Basin that will pump water from the Arkansas River into a series of streams, tributaries, ditches, and canals in the Delta Ecoregion before delivering the water to individual farms. The levels of chlorides and sulfates in the Arkansas River are higher than the criteria for Delta Ecoregion streams but lower than federal standards for drinking water. ADEQ has already stated that a change in mineral standards to allow this activity should not impair the “designated uses” of the Delta Ecoregion streams.

Pursuant to Section 2.306 of the APCEC Regulation No. 2, Section 3.4 of Regulation No. 8 and the Continuing Planning Process, BMWMD is requesting the following modifications to Regulation No. 2:

1. modify the dissolved mineral standards for Long Pond Slough as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
2. modify the dissolved mineral standards for Castor Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
3. modify the dissolved mineral standards for Cross Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
4. modify the dissolved mineral standards for Bayou Meto as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 64 mg/l to 95 mg/l;
5. modify the dissolved mineral standards for Bayou Two Prairie as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
6. modify the dissolved mineral standards for Little Bayou Meto as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
7. modify the dissolved mineral standards for Bakers Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
8. modify the dissolved mineral standards for Wabbaseka Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
9. modify the dissolved mineral standards for Indian Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
10. modify the dissolved mineral standards for Flat Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
11. modify the dissolved mineral standards for Shumaker Branch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
12. modify the dissolved mineral standards for Skinner Branch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;

## EXHIBIT B

13. modify the dissolved mineral standards for White Oak Branch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
14. modify the dissolved mineral standards for Caney Creek as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
15. modify the dissolved mineral standards for Salt Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
16. modify the dissolved mineral standards for Snow Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
17. modify the dissolved mineral standards for Fish Trap Slough as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
18. modify the dissolved mineral standards for Rickey Branch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
19. modify the dissolved mineral standards for Blue Point Ditch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
20. modify the dissolved mineral standards for Big Ditch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
21. modify the dissolved mineral standards for Main Ditch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
22. modify the dissolved mineral standards for Plum Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
23. modify the dissolved mineral standards for Crooked Creek Ditch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
24. modify the dissolved mineral standards for Indian Bayou Ditch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
25. modify the dissolved mineral standards for Caney Creek Ditch follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
26. modify the dissolved mineral standards for Salt Bayou Ditch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
27. modify the dissolved mineral standards for Bradley Slough as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
28. modify the dissolved mineral standards for Tupelo Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
29. modify the dissolved mineral standards for Dennis Slough as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
30. modify the dissolved mineral standards for Buffalo Slough as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
31. modify the dissolved mineral standards for Flynn Slough as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
32. modify the dissolved mineral standards for Boggy Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
33. modify the dissolved mineral standards for Bear Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
34. modify the dissolved mineral standards for Bubbling Slough as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
35. modify the dissolved mineral standards for Five Forks Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;

## EXHIBIT B

36. modify the dissolved mineral standards for Government Cypress Slough as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
37. modify the dissolved mineral standards for Brushy Slough as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
38. modify the dissolved mineral standards for Tipton Ditch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
39. modify the dissolved mineral standards for Hurricane Slough as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
40. modify the dissolved mineral standards for Newton Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
41. modify the dissolved mineral standards for West Bayou as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
42. modify the dissolved mineral standards for Brownsville Branch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l;
43. modify the dissolved mineral standards for Eagle Branch as follows: sulfates from 37 mg/l to 45 mg/l and chlorides from 48 mg/l to 95 mg/l.

This request is supported by the following:

- Modification of these standards will not impair any existing uses nor will it preclude the attainment of any designated uses.
- The levels of chlorides and sulfates in the Arkansas River would have no measurable affect on aquatic life in the impacted Delta Ecoregion streams. Chloride and sulfate concentrations in the Arkansas River are well below both chronic and acute levels for fish. Sediment biochemistry and aquatic invertebrates will not be adversely affected.
- The levels of chlorides and sulfates in the Arkansas River will not adversely effect bottomland hardwoods or other surrounding wetlands.
- Treatment is not required to meet existing or designated uses and would not add any significant environmental protection.
- Habitat models developed from field data predict substantial gains in fish habitat in the project area as a result of the proposed water diversion from the Arkansas River into Delta Ecoregion streams and tributaries.

**EXHIBIT B**