

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

DEPARTMENT/AGENCY: Arkansas Department of Environmental Quality
DIVISION: Water Division
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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?

A proposed change to Arkansas Pollution Control and Ecology Regulation No. 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas, to modify the minerals criteria and to remove the domestic drinking water supply use designation for Wilson Creek (Garland County) Arkansas.

2. What is the subject of the proposed rule?

Modification of the chloride, sulfate, total dissolved solids (TDS) criteria of the Arkansas Water Quality Standards (WQS) and removal of the designated, but not existing, domestic water supply use for Wilson Creek.

3. Is this rule required to comply with the 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Does this repeal on existing rule: Yes _____ No x If yes, a copy of the repealed rule is to be included with your completed questionnaire.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 markup 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? Why is it necessary?

This Petition is submitted pursuant to Section 2.306 of Arkansas Pollution Control and Ecology Commission (APCEC”) Regulation No. 2, Section 3.4 of APCEC Regulation No. 8 and the Continuing Planning Process. UMETCO Minerals Corporation (“UMETCO”) is requesting modifications to the chloride, sulfate, and total dissolved solids (“TDS”) criteria of the Arkansas Water Quality Standards and removal of the designated, but not existing, domestic water supply use for Wilson Creek.

UMETCO currently conducts a reclamation project of the UMETCO vanadium mine site in Garland County, Arkansas. The facility discharges treated flows of surface water drainage and storm water through Outfall 001 as authorized by the Arkansas Department Environmental Quality (“ADEQ”) and National Pollution Discharge Elimination System (“NPDES”) Permit No. AR 0048950. Wilson Creek is the receiving stream for Outfall 001 and flows southward to Lake Catherine.

The existing TDS, chloride and sulfate concentrations in Wilson Creek are not harmful to aquatic life and no downstream effects are apparent in Lake Catherine.

UMETCO requests the Arkansas Pollution Control and Ecology Control commission to amend Regulation No. 2, to remove the domestic drinking water supply use designation for Wilson Creek. UMETCO is further asking APCEC to modify the dissolved minerals criteria as follows:

Upstream Outfall 001 from a point on Wilson Creek approximately 0.85 mile upstream from Outfall 001 at the UMETCO property line down to Outfall 001:

*TDS from 142 mg/L to 543 mg/L
Sulfate from 20 mg/L to 260 mg/L
Chloride from 15 mg/L to 56 mg/L*

Downstream of Outfall 001 to Lake Catherine:

*TDS from 142 mg/L to 543 mg/L
Sulfate from 20 mg/L to 260 mg/L
Chloride from 15 mg/L to 56 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 No If yes, please complete the following:

Date: Week of August 16, 2010

Time: To be determined by ADEQ

Place: Hot Springs, 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 August 30, 2010.

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

The regulation becomes effective twenty (20) 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 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
Arkansas Environmental Federation
Region VI, US Environmental Protection Agency
Arkansas Game and Fish Commission*

Against:

Unknown

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**



REGULATION NO. 2

**REGULATION ESTABLISHING WATER
QUALITY STANDARDS FOR SURFACE
WATERS OF THE STATE OF ARKANSAS**

INITIAL DRAFT

Submitted to the Arkansas Pollution Control and Ecology Commission on June 25, 2010

ATTACHMENT "A"

Fisheries

Streams

Seasonal Ouachita Mountain Ecoregion fishery - all streams with watersheds of less than 10 mi² except as otherwise provided in Reg. 2.505
 Perennial Ouachita Mountain Ecoregion fishery - all streams with watershed of 10 mi² or larger and those waters where discharges equal or exceed 1 CFS

Use Variations Supported by UAA

Rolling Fork from unnamed tributary A at Grannis to DeQueen Reservoir - no domestic water supply use (OM-1, #2)

Unnamed tributaries A and A1 at Grannis - no domestic water supply use (OM-1, #3)

Wilson Creek from a point approximately 0.85 mile upstream of Outfall 001 to Outfall 001 - no domestic water supply use (OM-2, #1)

Wilson Creek downstream of Outfall 001 to its mouth - no domestic water supply use (OM-2, #2)

SPECIFIC STANDARDS: OUACHITA MOUNTAIN ECOREGION
 (Plates OM-1, OM-2)

	<u>Streams</u>		<u>Lakes and Reservoirs</u>
Temperature °C (°F)*	30 (86)		32 (89.6)
Trout waters	20 (68)		
Turbidity (NTU) (base/all)	10/18		25/45
Minerals	see Reg. 2.511		see Reg. 2.511
Dissolved Oxygen (mg/l) **	<u>Pri.</u>	<u>Crit</u>	see Reg. 2.505
<10 mi ² watershed	6	2	
10 mi ² and greater	6	6	
Trout waters	6	6	
All other standards	(same as statewide)		

Variations Supported by UAA

Prairie Creek: from headwaters to confluence with Briar Creek, critical season dissolved oxygen - 4 mg/l (OM-1, #1)

Rolling Fork from unnamed tributary A to DeQueen Reservoir - chlorides 130 mg/l; sulfates - 70 mg/l; TDS - 670 mg/l (OM-1, #2)

Unnamed tributaries A and A1 to Grannis - chlorides - 135 mg/l; sulfates - 70 mg/l; TDS - 700 mg/l (OM-1, #3)

South Fork Caddo River - sulfates 60 mg/l (OM-1, #4)

Back Valley Creek - sulfates 250 mg/l; total dissolved solids 500 mg/l (OM-1, #5)

Wilson Creek from a point approximately 0.85 mile upstream of Outfall 001 to Outfall 001 - chlorides 56 mg/L; sulfates 260 mg/L; TDS - 543 mg/L (OM-2, #1)

Wilson Creek downstream of Outfall 001 to its mouth - chloride 56 mg/L; sulfates 260 mg/L; TDS - 543 mg/L (OM-2, #2)

* Increase over natural temperatures may not be more than 2.8°C (5°F).

** At water temperatures ≤10°C or during March, April and May when stream flows are 15 CFS and greater, the primary season D.O. standard will be 6.5 mg/l. When water temperatures exceed 22°C, the critical season D.O. standard may be depressed by 1 mg/l for no more than 8 hours during a 24-hour period.

Index to Plates of the Ouachita Mountains

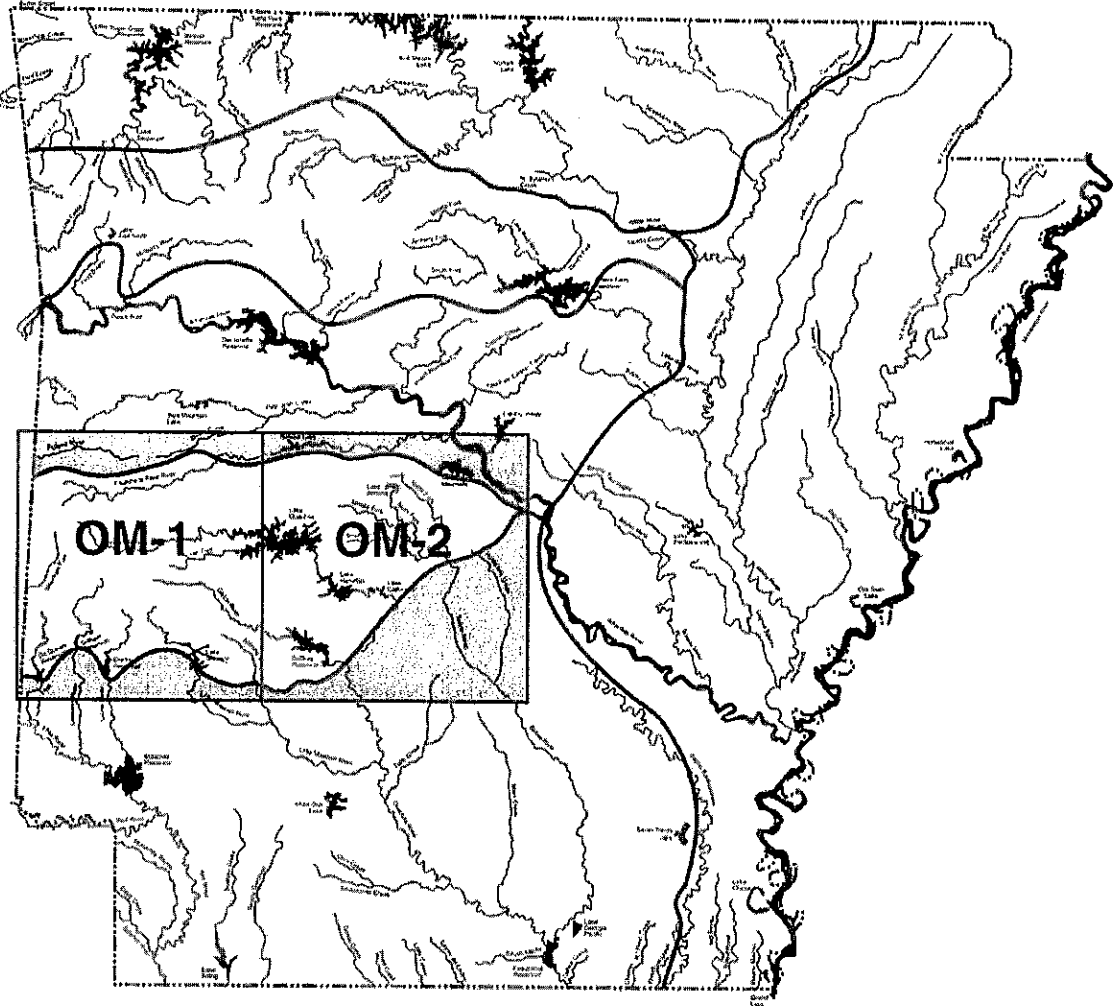
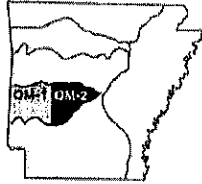





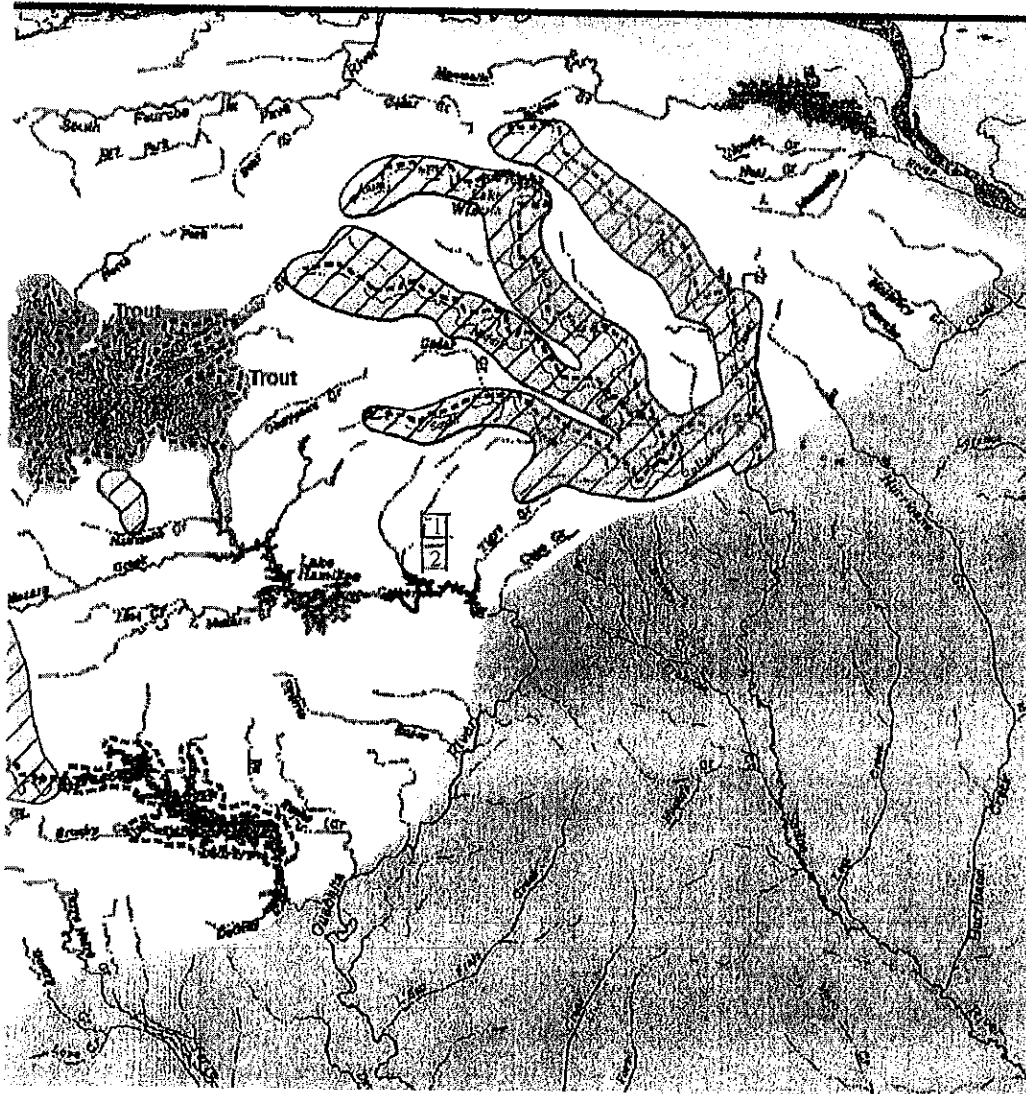


Plate OM-2 (Ouachita Mountains)



LEGEND

-  - Ecologically Sensitive Waterbodies
-  - Trout Waters
-  - Extraordinary Resource Waters
-  - Natural and Scenic Waterways
-  - Variation by UAA



SUMMARY OF THE PROPOSED RULE CHANGE

The UMETCO mine site is a former open-cut vanadium mine located north of Highway 270, five miles east of Hot Springs, Garland County, Arkansas and is currently in reclamation which includes a water treatment facility known as the East Wilson Pond. As part of the reclamation process all flow of Wilson Creek has been diverted into the East Wilson Pond for treatment and release. ADEQ has issued an NPDES permit to UMETCO for discharges from East Wilson Pond into Wilson Creek at a discharge point designated as Outfall 001. Analytical data indicates the discharge will not meet permit limitations for chloride, sulfate and total dissolved solids.

UMETCO seeks to amend the site specific mineral quality criteria for chloride, sulfate, and total dissolved solids (TDS) and removal of the designated, but not existing, domestic water supply use for Wilson Creek as follows:

Wilson Creek from a point approximately 0.85 mile upstream of Outfall 001 to Outfall 001.

TDS from 142 mg/L to 543 mg/L
Sulfate from 20 mg/L to 260 mg/L
Chloride from 15 mg/L to 56 mg/L

Wilson Creek downstream of Outfall 001 to its mouth

TDS from 142 mg/L to 543 mg/L
Sulfate from 20 mg/L to 260 mg/L
Chloride from 15 mg/L to 56 mg/L

This proposed rule change does not represent a change for current conditions or current water quality in Lake Catherine, which meets state water quality standards. The rulemaking will not increase the loading of Wilson Creek but will establish water quality criteria for Wilson Creek at a level consistent with the current conditions. The proposed rule change will not impact any agricultural or business usage of the affected water courses. There is no economically feasible treatment technology for the removal of minerals.