

**Authorization to Discharge under the National Pollutant Discharge Elimination System
and the Arkansas Water Pollution Control Act**

In accordance with the provisions of the Arkansas Water Pollution Control Act (Act 472 of 1949, as amended, Ark. Code Ann. 8-4-101 et seq.), and the Clean Water Act (33 U.S.C. 1251 et seq.),

**Groundwater and Surface Water Petroleum Remediation Facilities Located within the
State of Arkansas**

are authorized to construct a treatment system and discharge treated groundwater and surface water which may have been contaminated with petroleum fuels as discussed in Part 1.2 to all receiving waters, except as stated in Part 1.3, in accordance with effluent limitations, monitoring requirements, and other conditions set forth in this permit.

After properly filing a Notice of Intent (NOI) under Part 1.4, facilities that are eligible for coverage under this general permit, will receive a Notice of Coverage (NOC) letter, with a tracking number starting with ARG79, and a copy of the permit for the facility. The NOC letter includes the Director's determination that a facility is covered under this general permit and may specify alternate requirements outlined in the permit, such as modified sampling frequencies for certain parameters or the inclusion of monitoring for parameters in addition to those requiring regular monitoring.

Effective Date: April 1, 2021

Expiration Date: March 31, 2026



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7/13/2020
Issue Date

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PART 1 COVERAGE UNDER THIS PERMIT

1.1 Permit Area

The area covered by this permit includes all areas within the State of Arkansas.

1.2 Eligibility and Authorization

This general permit covers discharges of treated wastewater which is directly related to a groundwater petroleum remediation site. For the purposes of this permit, only sites dealing with dewatering from underground petroleum storage tank activities, including dewatering from installation of petroleum tanks, dewatering of excavation related to surface cleanup of spills or leaks from gas stations, convenience stores, truck stops, or petroleum storage facilities, are eligible for this permit. These discharges will henceforth in this permit be described as groundwater and surface water petroleum remediation.

- 1.2.1 This general permit covers construction of a treatment system and discharge of treated petroleum contaminated groundwater and surface water provided the following conditions have been met:
 - 1.2.1.1 The treatment system (e.g. air stripper, etc.) is designed to provide adequate treatment of wastewater to meet the effluent limitations of this general permit;
 - 1.2.1.2 If an existing treatment system will be used, the treatment system was properly permitted under this general permit or a State Construction Permit in accordance with Arkansas Pollution Control and Ecology Commission (APC&EC) Rule¹ 6; and
 - 1.2.1.3 If a new treatment system is proposed, the requirements in Part 1.4.4 below are met.
- 1.2.2 Applicants requesting coverage under this permit must submit a complete Notice of Intent (NOI) to DEQ to discharge under this general permit, as stated in Part 1.4.
- 1.2.3 Facilities within the State of Arkansas discharging from this type of activity must be authorized to discharge by either this general permit or an individual National Pollutant Discharge Elimination System (NPDES) permit.
- 1.2.4 Only the following facilities are authorized to discharge under this general permit:
 - 1.2.4.1 Facilities with an active NOC; and
 - 1.2.4.2 Facilities with a pending recertification NOI are considered covered until a coverage decision is made on the recertification request.

¹ In accordance with Act 315 of the Arkansas General Assembly, the documents formerly established as “regulations” by the APC&EC will be changed to “rules” the next time they are promulgated. All references to “rules” in this general permit also apply to “regulations” that have not yet been re-promulgated.

1.3 Exclusions

This general permit does not cover the following types of discharges. Other permits such as an individual NPDES permit, an alternate general permit or other approval from DEQ may be obtained.

- 1.3.1 Facilities that discharge to Extraordinary Resource Waters (ERWs), Ecologically Sensitive Waterbodies (ESWs), or Natural and Scenic Waterways (NSWs) as designated in APC&EC Rule No. 2. These facilities require coverage under an individual permit.
- 1.3.2 Facilities that discharge to lakes or reservoirs. These facilities require coverage under an individual permit.
- 1.3.3 Facilities not previously permitted or covered by this permit that discharge into a losing stream segment as defined in APC&EC Rule 6.301(B), unless additional information is provided to demonstrate that the pollutant limits and the requirements of the permit are adequate to provide sufficient reduction of all pollutants of concern and protection of the designated uses of the receiving waters.
- 1.3.4 Discharges from a facility to a waterbody listed pursuant to Section 303(d) of the Clean Water Act (CWA) where the pollutant limits and the requirements of the permit are inadequate to provide sufficient reduction of the listed pollutant (e.g. a new source or a new discharge if the discharges would cause or contribute to the water quality impairment), unless the permittee documents that the pollutant(s) for which the waterbody is impaired is not present in the discharge, and retain documentation of this finding on-site.
- 1.3.5 Discharges from a facility into receiving waters for which there is an applicable established Total Maximum Daily Load (TMDL) where the pollutant of concern is present in the discharge and the requirements of the permit are inadequate to provide sufficient reduction of the listed pollutant.
- 1.3.6 Discharges from a facility that the Director determines is, or is reasonably expected to be, contributing to a violation of a water quality standard or is discharging in violation of the APC&EC Rule No. 2, as amended.
- 1.3.7 Any multi-component waste that is not solely comprised of petroleum contaminated groundwater and surface water.
- 1.3.8 Facilities in significant non-compliance with a previously issued individual permit, facilities in significant non-compliance with the previous version of this general permit, or in violation of state water quality rules or regulations. Significant non-compliance will be examined on a case-by-case basis. Repeated failure to submit Discharge Monitoring Reports (DMRs) under the previous version of this permit is considered significant non-compliance, as are repeated effluent limitation violations.
- 1.3.9 Facilities in an industrial subcategory with federal Effluent Limitation Guidelines more stringent than this general permit.
- 1.3.10 On-Scene Coordinator Emergency Response Action. In accordance with federal regulations at 40 CFR §122.3(d), if a groundwater remediation discharge occurs in compliance with the instructions

of an On-Scene Coordinator pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan, then the discharge is excluded from NPDES requirements [40 CFR §300, 33 CFR §153.10(e)].

- 1.3.11 Federal Superfund Clean-up Actions. Facilities discharging treated groundwater as part of an on-site response action conducted pursuant to Sections 104, 106, 120, 121 or 122 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) are not required to obtain NPDES permit coverage under the CWA. The term on-site means the aerial extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action.
- 1.3.12 Underground Injection Control (UIC) Permitted Facilities. Facilities injecting treated groundwater back into the subsurface will require a separate UIC Program permit or authorization under the authority of the Safe Drinking Water Act (SDWA) issued by DEQ and are excluded from this permit.

1.4 Notification Requirements

- 1.4.1 In order to discharge under this general permit, applicants must submit a Notice of Intent (NOI) in accordance with 40 CFR §122.28(b)(2)(ii) and construction information specified in Part 1.4.4 (if applicable), and other required documents to DEQ.
- 1.4.2 The NOI shall include the following minimum information:
 - 1.4.2.1 the legal name and legal address of the applicant;
 - 1.4.2.2 the facility location (street address or legal description);
 - 1.4.2.3 name and telephone number of the facility contact;
 - 1.4.2.4 number and location of outfalls, including a brief narrative description, and latitude and longitude of each;
 - 1.4.2.5 discharge path and name of receiving water(s);
 - 1.4.2.6 actual or projected wastewater flow;
 - 1.4.2.7 the license number of the wastewater operators working at the facility; and
 - 1.4.2.8 all Notices of Intent for coverage under this general permit must be signed and certified in accordance with the provisions of 40 CFR §122.22, as adopted by reference in APC&EC Rule 6.
- 1.4.3 The following information shall be submitted along with the NOI:
 - 1.4.3.1 a site map indicating the location of the facility, treatment areas, and outfalls;
 - 1.4.3.2 a general description of the activities taking place on site, including the type of petroleum being cleaned up;
 - 1.4.3.3 a geological description of the site, including aquifer, direction of groundwater flow, and presence or absence of karst topography;
 - 1.4.3.4 a permit fee as required by APC&EC Rule 9.404;
 - 1.4.3.5 a Disclosure Statement as required by APC&EC Rule 8.204; and
 - 1.4.3.6 if the system is owned by a corporation, then the legal permittee name must be listed as it is registered with the office of the Secretary of State of Arkansas. The legal permittee must be in

Good Standing with the Secretary of State of Arkansas. Additionally, if the legal permittee's state of incorporation is any state other than Arkansas, a Certificate of Good Standing from that state must also be documented with the NOI.

1.4.4 Construction Requirements

1.4.4.1 Any facility requesting approval to construct a treatment system must submit a DEQ Form 1, plans and specifications, and design calculations stamped by a Professional Engineer licensed in the State of Arkansas in accordance with APC&EC Rule 6.202.

1.4.4.2 An additional fee will be required based on APC&EC Rule 9.402(A).

1.4.5 Requests for Coverage shall be submitted as follows:

1.4.5.1 For existing discharges covered under the expiring (2016) General Permit (ARG790000), a recertification NOI and all necessary information must be submitted as soon as possible, but no later than the expiration date of the 2016 general permit (i.e., March 31, 2021);

1.4.5.2 For new discharges, an NOI and all necessary information must be completed and submitted to DEQ no later than ninety (90) days prior to date coverage is desired. Please note that coverage must be obtained prior to construction and discharge from the treatment system.

1.4.5.3 Notices of Intent and other required documents may be submitted via ePortal:

<https://eportal.adeg.state.ar.us>

Applicants may contact DEQ regarding other available submission methods.

1.4.6 The operator of the treatment system shall be a licensed Industrial Operator by the State of Arkansas in accordance with APC&EC Rule No. 3.

1.5 NOI Review and Public Notification Process

All NOIs for permit coverage under this general permit will be reviewed by DEQ prior to undergoing a public notification process as follows:

Upon receipt of the Notice of Intent (NOI), DEQ will review the submitted documents to ensure that all permit requirements are fulfilled. DEQ may request additional information from the applicant if additional information is necessary to complete the NOI. If DEQ makes a preliminary determination that the NOI is complete, the NOI will be made available for a five (5) business day public review and comment period on the DEQ website. DEQ will review comments received during this period and, if necessary, require the applicant to revise the NOI or submit an individual permit application. If determined appropriate by DEQ, the applicant will be granted coverage under this general permit upon written notification by the Director.

Comments will only be considered if they regard a specific facility's NOI. Comments on the contents of the General Permit ARG790000 will not be considered during the public comment period for a specific facility's coverage under this permit.

1.6 Requesting General Permit Coverage

The applicant excluded from coverage by this General Permit solely because the facility already has an individual NPDES permit may request the individual permit be terminated and that the discharge be covered by this General Permit. In order to avoid conflict with the “anti-backsliding” provisions of the Clean Water Act (CWA), coverage under this general permit will be allowed only if the permittee can demonstrate to DEQ’s satisfaction that all limits that are less stringent based on the conversion to this General Permit is consistent with CWA 303(d)(4), CWA 402(o), and 40 CFR §122.44(l). (Note that a simple pH range limit may not necessarily have to be considered a water-quality based limit unless developed to address known discharge problems at a particular facility. Compliance with the numeric limitations under the individual permit may also be criteria for eligibility to transfer from an individual NPDES permit to the General Permit.)

1.7 Requiring an Individual NPDES Permit

1.7.1 At the discretion of the Director, DEQ may require any permittee covered under this general permit to apply for and obtain an individual NPDES permit for reasons that include but are not limited to the following:

1.7.1.1 The discharger is not in compliance with the conditions of the general permit;

1.7.1.2 Conditions or standards have changed so that the discharger no longer qualifies for this general permit;

1.7.1.3 DEQ does not renew this general permit;

1.7.1.4 A change has occurred in the availability of demonstrated technology or practices for control or abatement of pollutants applicable to the point source or treatment works treating petroleum contaminated groundwater/surface water;

1.7.1.5 Effluent limitation guidelines (ELGs) are promulgated for point sources covered by this general permit;

1.7.1.6 A Water Quality Management Plan containing requirements applicable to such point sources is approved; or

1.7.1.7 The discharge(s) is a significant contributor of pollutants. In making this determination, the Director may consider the following factors:

1.7.1.7.1 The location of the discharge with respect to Waters of the State;

1.7.1.7.2 The size of the discharge;

1.7.1.7.3 The quantity and nature of the pollutants discharged to Waters of the State; and

1.7.1.7.4 Other relevant factors.

1.7.2 The permittee will be notified in writing that an application for an individual permit is required. When an individual NPDES discharge permit is issued to a permittee otherwise covered under this general permit, the applicability of the general permit to that permittee automatically terminates upon the effective date of the individual NPDES discharge permit.

Timeliness: Should DEQ determine at any point that the permittee has not submitted or responded to the permitting process or requests for information in a timely manner, DEQ will provide a final notice in writing setting a reasonable time/period for the permittee to complete the necessary application(s) or supplementary material to complete processing. After that time DEQ may terminate

the continued coverage and may terminate the review of any incomplete permit application in accordance with permitting procedures identified by APC&EC Rule No. 8.

- 1.7.3 Any permittee covered by this General Permit may request to be excluded from coverage of this general permit by applying for an individual NPDES discharge permit.

1.8 Terminating Coverage

- 1.8.1 A facility covered by this permit must submit a Notice of Termination (NOT) within thirty (30) days after one of the following conditions have been met:

1.8.1.1 all discharges authorized by this permit are eliminated; or

1.8.1.2 coverage under an Individual NPDES Permit; or alternative general permit, for all discharges authorized by this permit is obtained.

- 1.8.2 A facility covered by this general permit shall adhere to the requirements of this general permit until notified by DEQ that the facility is no longer covered by this general permit regardless of the submission of an NOT.

- 1.8.3 An NOT form can be obtained by contacting the NPDES Permits Branch of the Office of Water Quality to have one sent to the permittee or at the following link:

https://www.adeg.state.ar.us/water/permits/npdes/nonstormwater/pdfs/arg_not.pdf

1.9 Operational Plan

- 1.9.1 Plan Content. The permittee shall prepare an operational plan which shall include:

1.9.1.1 Emergency contact information, including the cognizant or responsible official for the permit coverage, local fire and emergency, and the licensed wastewater operator of the treatment system;

1.9.1.2 Designation by position or name of the person or persons responsible for the operation of the treatment system; and

1.9.1.3 Frequency of inspection of the treatment system.

- 1.9.2 Compliance Schedule. The permittee shall prepare the operational plan no later than 90 days from the effective date of this general permit. Compliance with permit limitations shall be achieved on the date coverage is granted.

- 1.9.3 DEQ Review

1.9.3.1 When requested by the Director or the Director's designee, the permittee shall make the operational plan available for DEQ review.

1.9.3.2 The Director or the Director's designee may notify the permittee at any time that the operational plan is deficient and require correction of the deficiency.

1.9.3.3 The permittee shall correct any operational plan deficiency identified by the Director or the Director's designee within 30 days of receipt of notification and shall certify to DEQ that the

correction has been made.

- 1.9.4 Administrative Procedures. A copy of the operational plan shall be maintained at the facility and shall be available for inspection by representatives of DEQ.

PART 2
EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall 001: The following effluent limitations are applicable to discharges of treated contaminated groundwater and surface water:

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>		<u>Monitoring Requirements</u>	
	Concentration (µg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max.		
Flow ¹	Report	Report	twice/week	instantaneous
Total Petroleum Hydrocarbons (TPH) ²	3.3 mg/l	5.0 mg/l	once/week	Grab
Benzene ³	3.3	5.0	once/week	Grab
Polynuclear Aromatic Hydrocarbons (PAH) ⁴	6.7	10	once/week	Grab
Benzo(a)pyrene (BaP) ⁵	0.13	0.20	once/week	Grab
Total BTEX ^{3, 6}	67	100	once/week	Grab
Total Suspended Solids (TSS)	35.0 mg/l	52.5 mg/l	once/week	Grab
pH	<u>Inst. Minimum</u> 6.0 s.u.	<u>Inst. Maximum</u> 9.0 s.u.	once/week	Grab
Acute WET ⁷	Not < 100%		once/month	Grab ⁸
<u>Pimephales promelas (Acute)</u> ⁷ Pass/Fail Lethality (48-Hr NOEC) TEM6C Survival (48-Hr NOEC) TOM6C Coefficient of Variation (48-Hr NOEC) TQM6C	<u>48-hr Minimum</u> Report (Pass=0/Fail=1) Report % Report %		once/month once/month once/month	Grab ⁸ Grab ⁸ Grab ⁸
<u>Daphnia pulex (Acute)</u> ⁷ Pass/Fail Lethality (48-Hr NOEC) TEM3D Survival (48-Hr NOEC) TOM3D Coefficient of Variation (48-Hr NOEC) TQM3D	<u>48-hr Minimum</u> Report (Pass=0/Fail=1) Report % Report %		once/month once/month once/month	Grab ⁸ Grab ⁸ Grab ⁸

1 Report monthly average and daily maximum as MGD.

2 See 7.2.3.

3 See 7.2.1.

4 See 7.2.2. Total PAH shall be measured as the sum of acenaphthene, acenaphthylene, anthracene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(ghi)perylene, benzo(a)pyrene, chrysene, dibenzo(a,h)anthracene, fluoranthene, fluorene, indeno(1,2,3-cd)pyrene, naphthalene, phenanthrene, and pyrene.

5 See 7.2.2.

6 BTEX = The sum of Benzene, Toluene, Ethyl benzene, and Xylenes.

7 See 7.1.

8 See 7.1.2.1.

There shall be no discharge of distinctly visible solids, scum or foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken following the final treatment unit.

PART 3 GENERAL CONDITIONS

3.1 Duty To Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Federal Clean Water Act and the Arkansas Water and Air Pollution Control Act and is grounds for enforcement action or for requiring a permittee to apply for an individual NPDES permit. Any values reported in the required monitoring reports which are in excess of the effluent limitation specified in Part 2 shall constitute evidence of violation of such effluent limitation and of this permit.

3.2 Penalties for Violations of Permit Conditions

The Arkansas Water and Air Pollution Control Act provides that any person who violates any provisions of a permit issued under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year, or a fine of not more than twenty-five thousand dollars (\$25,000) or by both such fine and imprisonment for each day of such violation. Any person who violates any provision of a permit issued under the Act may also be subject to civil penalty in such amount as the court shall find appropriate, not to exceed ten thousand dollars (\$10,000) for each day of such violation. The fact that any such violation may constitute a misdemeanor shall not be a bar to the maintenance of such civil action.

3.3 Permit Actions

This general permit may be modified, revoked and reissued, or terminated for cause in accordance with the requirements of the National Pollutant Discharge Elimination System (NPDES) Permit Program Regulations at 40 CFR § 122 and 124, as adopted by reference in APC&EC Rule 6. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

3.4 Toxic Pollutants

Notwithstanding Part 3.3, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under APC&EC Rule 2, as amended, (rule establishing water quality standards for surface waters of the State of Arkansas) or Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitations on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the permittee so notified.

The permittee shall comply with effluent standards or prohibitions established under APC&EC Rule 2 (Arkansas Water Quality Standards), as amended, or Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the rules and regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3.5 Civil and Criminal Liability

Except as provided in permit conditions on “Bypassing” (Part 4.4), and “Upsets” (Part 4.5), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

3.6 Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

3.7 Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws, rules, or regulations.

3.8 Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

3.9 Permit Fees

The permittee shall comply with all applicable permit fee requirements for wastewater discharge permits as described in APC&EC Rule 9 (Rule for the Fee System for Environmental Permits). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to terminate this permit under the provisions of 40 CFR §122.64 and 124.5 (d), as adopted in APC&EC Rule 6 and the provisions of APC&EC Rule 8.

3.10 Applicable Federal, State, or Local Requirements

Permittees are responsible for compliance with all applicable terms and conditions of this permit. Receipt of this permit does not relieve any permittee of the responsibility to comply with any other applicable federal, state or local statute, ordinance, policy, rule, or regulation.

3.11 Re-opener Clause

In accordance with 40 CFR § 122.62(a)(2), the permit may be modified, or alternatively, revoked and reissued, if new information is received that was not available at the time of permit issuance that would have justified the application of different permit conditions at the time of permit issuance.

3.12 Continuance of the Expired General Permit

If this permit is not re-issued or replaced prior to the expiration date, it will be administratively continued in accordance with Ark. Code Ann. § 8-4-203(m) and remain in force and effect. If permit coverage was granted prior to the expiration date, the permittee will automatically remain covered by the

continued permit until the earliest of:

- 3.12.1 Re-issuance or replacement of this permit, at which time the permittee must comply with the conditions of the new permit to maintain authorization to discharge;
- 3.12.2 Submittal of a Notice of Termination by the permittee, and confirmation of termination by DEQ;
- 3.12.3 Issuance of an individual permit, or other general permit, for the facility's discharges;
- 3.12.4 A formal permit decision by DEQ to not re-issue this general permit, at which time the permittee must seek coverage under an individual permit or other general permits, if available. See Part 1.7.2;
or
- 3.12.5 Notification from DEQ that the permittee is no longer covered under this permit.

PART 4
OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

4.1 Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to ensure compliance with the conditions of this permit.

4.2 Need to Halt or Reduce not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power for the treatment facility is reduced, is lost, or alternate power supply fails.

4.3 Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment or the water receiving the discharge.

4.4 Bypass of Treatment Facilities

4.4.1 Bypass not exceeding limitation.

4.4.1.1 The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Part 4.4.2 and 4.4.3.

4.4.2 Notice

4.4.2.1 Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

4.4.2.2 Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part 6.4 (24-hour notice).

4.4.3 Prohibition of bypass.

4.4.3.1 Bypass is prohibited and the Director may take enforcement action against a permittee for

bypass, unless:

- 4.4.3.1.1 Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- 4.4.3.1.2 There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- 4.4.3.1.3 The permittee submitted notices as required by Part 4.4.2.

4.4.3.2 The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in 4.4.3.1.

4.5 Upset Conditions

- 4.5.1 Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Part 4.5.2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- 4.5.2 Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 4.5.2.1 An upset occurred and that the permittee can identify the specific cause(s) of the upset;
 - 4.5.2.2 The permitted facility was at the time being properly operated;
 - 4.5.2.3 The permittee submitted notice of the upset as required by Part 4.4.2; and
 - 4.5.2.4 The permittee complied with any remedial measures required by Part 4.3.
- 4.5.3 Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

4.6 Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of waste waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering the Waters of the State. The permittee must comply with all applicable State and Federal regulations and rules governing the disposal of sludge, including but not limited to 40 CFR § 503, 40 CFR § 257, and 40 CFR § 258.

4.7 Power Failure

The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators, or retention of inadequately treated effluent.

PART 5 MONITORING AND RECORDS

5.1 Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Director. Intermittent discharges shall be monitored.

5.2 Flow Measurement

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to ensure the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than +/- 10% from true discharge rates throughout the range of expected discharge volumes and shall be installed at the monitoring point of the discharge.

5.3 Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals frequent enough to ensure accuracy of measurements and shall ensure that both calibration and maintenance activities will be conducted. An adequate analytical quality control program, including the analysis of sufficient standards, spikes, and duplicate samples to ensure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory. At a minimum, spikes and duplicate samples are to be analyzed on 10% of the samples.

5.4 Penalties for Tampering

The Arkansas Water and Air Pollution Control Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year, or a fine of not more than ten thousand dollars (\$10,000) or by both such fine and imprisonment.

5.5 Reporting of Monitoring Results

40 CFR 127.11(a)(1) and 40 CFR 127.16(a) require that monitoring reports be reported on a Discharge Monitoring Report (DMR) and filed electronically. Signatory Authorities must initially request access for a NetDMR account. Once a NetDMR account is established, access to electronic filing should use the following link <https://netdmr.epa.gov>. Permittees who are unable to file electronically may request a waiver from the Director in accordance with 40 CFR 127.15, as detailed below. Monitoring results obtained during the previous monitoring period shall be summarized and reported on a DMR dated and submitted no later

than the 25th day of the month, following the completed reporting period beginning on the effective date of the permit.

To obtain a waiver, contact the Enforcement Branch of the Office of Water Quality at (501) 682-0615. If the electronic reporting requirement is waived, the paper DMRs are to be submitted to DEQ prior to the 25th day of the month following the reporting period at the following address:

Arkansas Division of Environmental Quality
Enforcement Branch, Office of Water Quality
5301 Northshore Drive
North Little Rock, AR 72118

5.6 Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated on the DMR.

5.7 Retention of Records

The permittee shall retain records of all monitoring information, including daily logs, all calibration and maintenance records, all original strip chart recordings or data logging results for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to request coverage under this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

5.8 Record Contents

Records and monitoring information shall include:

- 5.8.1 Name and model of equipment;
- 5.8.2 Calibration date and time;
- 5.8.3 The individual who performed the calibration(s);
- 5.8.4 The date, exact place, time and methods of sampling or measurements;
- 5.8.5 The individual(s) who performed the sampling or measurements;
- 5.8.6 The date(s) analyses were performed;
- 5.8.7 The individual(s) who performed the analyses;
- 5.8.8 The analytical techniques or methods used; and
- 5.8.9 The measurements and results of such analyses.

5.9 Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- 5.9.1 Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

- 5.9.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 5.9.3 Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- 5.9.4 Sample, inspect or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and, any substances or parameters at any location.

PART 6 REPORTING REQUIREMENTS

6.1 Planned Changes

The permittee shall give notice to the Director as soon as possible but no later than 180 days prior to any planned physical alterations or additions to the permitted facility. Notice is required only when:

- 6.1.1 The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR §Part 122.29(b).
- 6.1.2 The alteration or addition could significantly change the nature or increase the quality of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR §122.42(a)(1).

6.2 Transfers

Facilities authorized under this permit that undergo a change in ownership or name change must submit a Permit Transfer form to the Director. A Permit Transfer form can be obtained from the General Permits Section of the Office of Water Quality at the following website:

<https://www.adeg.state.ar.us/water/permits/npdes/nonstormwater/>

For an ownership change, the Permit Transfer form must be submitted a minimum of thirty (30) days prior to the date the transfer to the new permittee will take place. A Disclosure Statement will be required for the new owner unless exempted by Arkansas Code Annotated § 8-1-106(b). The new owner must comply with the existing permit for the facility during the interim period.

6.3 Monitoring Reports

Monitoring results shall be reported at the intervals and in the form specified in Part 5.5. Discharge Monitoring Reports must be submitted even when no discharge occurs during the reporting period.

6.4 Twenty-four Hour Reporting

Please be aware that the notifications can be sent by email to water-enforcement-report@adeq.state.ar.us or at 501-682-0624 for immediate reporting:

- 6.4.1 The permittee shall report any noncompliance which may endanger health or the environment within 24 hours from the time the permittee becomes aware of the circumstances to the Enforcement Branch of the Office of Water Quality of DEQ. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain the following information:
 - 6.4.1.1 A description of the noncompliance and its cause;
 - 6.4.1.2 The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
 - 6.4.1.3 Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

6.4.2 The following must be reported within 24 hours:

- 6.4.2.1 Any unanticipated bypass which exceeds any effluent limitation in the permit;
- 6.4.2.2 Any upset which exceeds any effluent limitation in the permit; and
- 6.4.2.3 Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part 2.

6.4.3 The Director may waive the written report on a case-by-case basis if the notification has been received within 24 hours to the Enforcement Branch of the Office of Water Quality of the DEQ.

6.5 Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Parts 6.3 and 6.4 at the time monitoring reports are submitted. The reports shall contain the information listed in Part 6.4.1.

6.6 Changes in Discharge of Toxic Substances for Industrial Discharges

The permittee shall notify the Director as soon as he/she knows or has reason to believe:

- 6.6.1 That any activity has occurred or will occur which would result in the discharge, in a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR §122.42(a)(1).
- 6.6.2 That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR § 122.42(a)(2).

6.7 Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit. Information shall be submitted in the form, manner and time frame requested by the Director.

6.8 Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified as follows:

6.8.1 All permit applications shall be signed as follows:

6.8.1.1 For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

6.8.1.1.1 A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

- 6.8.1.1.2 The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- 6.8.1.2 For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
- 6.8.1.3 For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
- 6.8.1.3.1 The chief executive officer of the agency; or
- 6.8.1.3.2 A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- 6.8.2 All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- 6.8.2.1 The authorization is made in writing by a person described above;
- 6.8.2.2 The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
- 6.8.2.3 The written authorization is submitted to the Director.
- 6.8.3 Changes to authorization. If an authorization under Part 6.8.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part 6.8.2 of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 6.8.4 Certification. Any person signing a document under this section shall make the following certification:
- “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I

am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

6.9 Availability of Reports

Except for data determined to be confidential under 40 CFR § 2 and APC&EC Rule 6, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of DEQ. As required by the Rules and Regulations, the name and address of any permit applicant or permittee, permit applications, permits and effluent data shall not be considered confidential.

6.10 Penalties for Falsification of Reports

The Arkansas Water and Air Pollution Control Act provides that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under this permit shall be subject to civil penalties specified in Part 3.2 of this permit and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

organisms per replicate must be used in the control and in each effluent dilution of this test.

7.1.1.6 The permittee shall use 100% effluent dilution concentration in addition to a control (0% effluent) in each toxicity test. The low-flow effluent concentration (critical dilution) is defined as 100% effluent.

7.1.1.7 The conditions of this item are effective beginning with the effective date of the WET limit. When the effluent fails the survival endpoint at the critical dilution, the permittee shall be considered in violation of this permit limit.

7.1.2 Required Toxicity Testing Conditions

7.1.2.1 Samples

The permittee shall collect grab samples for test initiation and 24-hour renewal in accordance with Section 8 of EPA-821-R-02-012, or the most recent update thereof. The permittee must have initiated the toxicity test within 36 hours after the collection of the grab sample. Samples shall be chilled to between 0 and 6 degrees Centigrade during collection, shipping, and/or storage.

7.1.2.2 Dilution Water

The synthetic dilution water (control) shall have a pH, hardness, and alkalinity similar to that of the receiving water, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water. Section 7 of EPA-821-R-02-012, or the most recent update thereof, provides additional instructions.

7.1.2.3 Statistical Interpretation

For the Fathead minnow and the Daphnia pulex survival tests, the statistical analyses used shall be in accordance with the methods for determining Pass/Fail for Single-Concentration Tests as described in the EPA manual, "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms", EPA-821-R-02-012, or the most recent update thereof.

7.1.3 Persistent Lethality

If the test results show the effluent to be toxic, the discharge shall be terminated immediately. The effluent shall be retreated and held until such time it has been demonstrated, through toxicity testing as required by this permit, to be non-toxic. If toxicity persists, coverage under this general permit may be terminated and the permittee required to obtain an individual NPDES permit. In all cases, any discharge must demonstrate a lack of toxic effects, as measured by the provisions stipulated above.

7.1.4 Reporting

7.1.4.1 The permittee shall prepare a full report of the results of all tests conducted pursuant to this Part in accordance with the Report Preparation Section of, "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms",

EPA-821-R-02-012, for every valid or invalid toxicity test initiated, whether carried to completion or not. The permittee shall submit full reports to DEQ along with DMRs via NetDMR.

7.1.4.2 If no toxicity is found after six (6) months of testing, the frequency of the acute whole effluent toxicity testing may be reduced to no less than twice per year upon requesting and receiving written permission from DEQ. The monitoring reduction will be valid until the effective date of the next renewal permit.

7.2 Monitoring Frequency Reduction

7.2.1 For the first three (3) months, the permittee shall monitor Benzene, Total BTEX, BaP, Total PAH, and TPH at a frequency of once/week. If no violations are reported during three consecutive months of testing, the required monitoring frequency may be reduced to once/quarter upon request and receipt of written permission from DEQ. The monitoring reduction will be valid until the effective date of the next renewal permit.

7.2.2 For monitoring frequency reduction of WET testing, refer to Part 7.1.4.2.

PART 8 DEFINITIONS

All definitions contained in Section 502 of the Clean Water Act and 40 CFR 122.2 shall apply to this permit and are incorporated herein by reference. Additional definitions of words or phrases used in this permit are as follows:

- 8.1** “**Act**” or “**CWA**” means the Clean Water Act, Public Law 95-217 (33.U.S.C.1251et seq.) as amended.
- 8.2** “**DEQ**” means the Arkansas Division of Environmental Quality.
- 8.3** “**Administrator**” means the Administrator of the U.S. Environmental Protection Agency, or an authorized representative.
- 8.4** “**APC&EC**”: the Arkansas Pollution Control and Ecology Commission.
- 8.5** “**Applicable effluent standards and limitations**” means all State and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.
- 8.6** “**Applicable water quality standards**” means all water quality standards to which a discharge is subject under the federal Clean Water Act and which have been (a) approved or permitted to remain in effect by the Administrator following submission to the Administrator pursuant to Section 303(a) of the Act, or (b) promulgated by the Director pursuant to Section 303(b) or 303(c) of the Act, and standards promulgated under APC&EC Rule. No. 2, as amended, (rule establishing water quality standards for surface waters of the State of Arkansas).
- 8.7** “**BTEX (Benzene, Toluene, Ethylbenzene, and Xylene)**” means the amount of ‘Total BTEX’, the sum of the concentrations of benzene, toluene, ethylbenzene, and xylene.
- 8.8** “**Bypass**” means the intentional diversion of waste streams from any portion of a treatment facility, as defined at 40 CFR Part 122.41(m)(1)(i).
- 8.9** “**Daily Discharge**” means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.
- 8.9.1** **Mass Calculations:** For pollutants with limitations expressed in terms of mass, the “daily discharge” is calculated as the total mass of pollutant discharged over the sampling day.
- 8.9.2** **Concentration Calculations:** For pollutants with limitations expressed in other units of measurement, the “daily discharge” is calculated as the average measurement of the pollutant over the day.
- 8.10** “**Daily Maximum**” means discharge limitation means the highest allowable "daily discharge" during the calendar month.
- 8.11** “**Director**” means the Director of the Arkansas Division of Environmental Quality.
- 8.12** “**Grab sample**” means an individual sample collected in less than 15 minutes in conjunction with an instantaneous flow measurement.
- 8.13** “**Instantaneous flow measurement**” means the flow measured during the minimum time required for the flow-measuring device or method to produce a result in that instance; to the extent practical, instantaneous flow measurements coincide with the collection of any grab samples required for the same sampling period so that together the samples and flow are representative of the discharge during that sampling period.
- 8.14** “**Monitoring and Reporting**” When a permit becomes effective, monitoring requirements are of the immediate period of the permit effective date. The Discharge Monitoring Report (DMR) shall be submitted in accordance with Part 5.5 of this permit.
- 8.14.1** **MONTHLY:**
a calendar month or any portion of a calendar month for monitoring requirement frequency of

once/month or more frequently.

8.14.2 BI-MONTHLY:

two (2) calendar months or any portion of 2 calendar months for monitoring requirement frequency of once/2 months or more frequently.

8.14.3 QUARTERLY:

8.14.3.1 a **fixed calendar quarter** or any part of the fixed calendar quarter for a non-seasonal effluent characteristic with a measurement frequency of once/quarter. Fixed calendar quarters are: January through March, April through June, July through September, and October through December.

8.14.3.2 a **fixed three month period** (or any part of the fixed three month period) of or dependent upon the seasons specified in the permit for a seasonal effluent characteristic with a monitoring requirement frequency of once/quarter that does not coincide with the fixed calendar quarter. Seasonal calendar quarters are: May through July, August through October, November through January, and February through April..

8.15 “Monthly Average” means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

8.16 “National Pollutant Discharge Elimination System (NPDES)” means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under section 307, 402, 318 and 405 of the Clean Water Act.

8.17 “NOI” means Notice of Intent to be covered by this permit.

8.18 “Reservoir” means a surface impoundment of water utilized as a drinking water source.

8.19 “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in productions.

8.20 “Total Maximum Daily Load” or “TMDL” means the sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for non-point sources and natural background. If receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any non-point sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

8.21 “Total Petroleum Hydrocarbons (TPH)” means the concentration or mass of petroleum hydrocarbon constituents present in a given amount of soil or water.

8.22 “Total Suspended Solids (TSS)” means the amount of solid material suspended in water, commonly expressed as a concentration, in terms of mg/l.

8.23 “Treatment works” means any devices and systems used in storage, treatment, recycling, and reclamation of municipal sewage and industrial wastes, of a liquid nature to implement section 201 of the Act, or necessary to recycle reuse water at the most economic cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities, and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

8.24 Units of Measure:

8.24.1 “cfs” cubic feet per second

8.24.2 “µg/l” micrograms per liter or parts per billion (ppb)

8.24.3 **“mg/l”** milligrams per liter or parts per million (ppm)

8.24.4 **“MGD”** million gallons per day

8.24.5 **“ppm”** parts per million

8.24.6 **“s.u.”** standard units

8.25 “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operations.