



ARKANSAS
Department of Environmental Quality

RESPONSE TO COMMENTS FINAL PERMIT DECISION

This is our response to comments received on the subject draft permit in accordance with regulations promulgated at 40 CFR Part 124.17.

Permit No. : AR0037770
Applicant : Ciba Specialty Chemicals Corporation
Prepared by : Alison House
Permit Action : Final permit decision and response to comments received on the draft permit publicly noticed on March 11, 2004.
Date Prepared : June 30, 2004

The following comments have been received on the draft permit.

Letter from Mr. Jim Morse to Ms. Alison House dated April 9, 2004.

I. Response to issues raised

ISSUE #1

The permittee requests to correct facility name to “Ciba Specialty Chemicals Corporation” and to correct facility and outfall coordinates throughout the permit.

RESPONSE #1

Staff agrees.

ISSUE #2

The permittee requests to revise the explanation under ““Previous Permit Activity” in the Fact Sheet and to issue the permit for a four (4) year term, rather than the shorter term proposed in the draft permit.

RESPONSE #2

Staff agrees. This revision has been made throughout the permit.

ISSUE #3

The permittee requests to reduce sampling frequency for FCB to two/month. Additionally, the permittee stated that the sanitary sludge is sent to the local POTW for disposal, and requested clarification on the issue of requiring prior written authorization for this practice.

RESPONSE #3

Staff agrees.

Additional language has been included in the Fact Sheet regarding the disposal of sanitary sludge to the local POTW. Prior authorization from the Department is not required for each removal and disposal of the sludge. However, if sludge disposal practices change, authorization from the Department is required.

ISSUE #4

A footnoted reference is not provided in the Fact Sheet table on Page 5.

RESPONSE #4

Staff agrees. The footnote reference was in error. This has been deleted in the final permit.

ISSUE #5

The permittee commented on Page 6, Paragraph 12 of the Fact Sheet regarding "Process Wastewater (Outfall 001):", and requested that the paragraph pertaining to BOD and TSS limitations be revised.

RESPONSE #5

Staff agrees.

ISSUE #6

The permittee requests that the limits waived in the draft permit (Total Chromium, Copper, Lead, Nickel, and Zinc) be included in the final permit in order to maximize operational flexibility at the facility.

RESPONSE #6

Staff agrees. The additional limitations have been included in the final permit.

ISSUE #7

The permittee indicated that they are currently using tin and zirconium-based catalysts in its processes, and believes that these pollutants may be discharged in the wastewater.

RESPONSE #7

There are no technology-based limitations or water quality standards for tin or zirconium at this time. Therefore, no permit action was taken on these pollutants in the final permit.

ISSUE #8

The permittee requested that the reference in Paragraph 8 of Part II be corrected to 40 CFR Part 122.42 (a)(1).

RESPONSE #8

Staff agrees.

ISSUE #9

The permittee requests a revision to paragraph 4 of Part III to include phrase, “and would trigger the notification requirements of 40 CFR Part 122.42 (a).”

RESPONSE #9

Staff agrees.

ISSUE #10

The permittee requests clarification on Section (D)(1)(a) and states that they feel Outfall 001 is excluded from this requirement.

RESPONSE #10

Staff disagrees. The stormwater language included in Part III of the permit is “boilerplate” language included in all permits requiring a SWPPP (Storm Water Pollution Prevention Plan). The parenthetical refers to all outfalls, not “storm water only” outfalls exclusively. Although Outfall 001 is obviously a process waste water outfall (as described in the outfall description), this certification remains a requirement.

RESPONSE TO COMMENTS

PERMIT NAME	Ciba Specialty Chemicals Water Treatments, Inc.		
PERMIT NUMBER	AR0037770		
	DATE DUE	INITIALS	DATE INITIALED
REVIEWING ENGINEER (Alison House)			
MO SHAFII PERMITS SECTION CHIEF			
MARTIN MANER, P.E. CHIEF, WATER DIVISION			
LIST PEOPLE WHO SUBMITTED COMMENTS*	permittee		
FILE NAME	37770fp		

* **SEND COPIES OF FINAL PERMIT AND RESPONSE TO COMMENTS TO ALL PEOPLE WHO SUBMITTED COMMENTS**

ARE THERE ANY CHANGES IN THE FINAL PERMIT?

YES NO

CALL EPA (IF DRAFT PERMIT HAD BEEN SENT TO EPA AND MAJOR CHANGES ARE PROPOSED IN FINAL PERMIT)

YES NO

REMARKS: _____

AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE ARKANSAS WATER AND AIR POLLUTION CONTROL ACT

In accordance with the provisions of the Arkansas Water and Air 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.),

Ciba Specialty Chemicals Corporation
100 Bridgeport Road
West Memphis, AR 72301

is authorized to discharge from a facility located at

Approx. 1 mile south of I-55 on the first exit on the AR side of the I-55 bridge over the Mississippi River, in Section 22, Township 6 North, Range 9 East in Crittenden County, Arkansas.

Latitude: 35° 07' 50"; Longitude: 90° 05' 90"

to receiving waters named:

Mississippi River in Segment 6C of the Mississippi River Basin.

The outfall is located at the following coordinates:

Outfall 001: Latitude: 35° 07' 45"; Longitude: 90° 06' 05"

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, III, and IV hereof.

This permit shall become effective on June 1, 2004.

This permit and the authorization to discharge shall expire at midnight, May 31, 2008.

Signed this 30th day of April, 2004.

Martin Maner, P.E.
Chief, Water Division
Arkansas Department of Environmental Quality

**PART I
PERMIT REQUIREMENTS**

SECTION A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 001-process
wastewater, stormwater, and treated sanitary wastewater

During the period beginning on effective date and lasting until date of expiration, the permittee is authorized to discharge from outfall serial number 001. Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max		
Flow ¹	N/A	N/A	Report	Report	five/week	instantaneous
Biochemical Oxygen Demand (BOD5)	Report	Report	Report	Report	three/week	24 hr composite
Total Suspended Solids (TSS)	Report	Report	Report	Report	three/week	24 hr composite
Acenaphthene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Acrylonitrile	0.25	0.64	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Benzene	0.10	0.36	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Carbon Tetrachloride	0.05	0.10	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Chlorobenzene	0.04	0.07	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,2,4-Trichlorobenzene	0.18	0.37	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Hexachlorobenzene	0.04	0.07	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,2-Dichloroethane	0.18	0.56	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,1,1-Trichloroethane	0.06	0.14	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Hexachloroethane	0.06	0.14	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,1-Dichloroethane	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,1,2-Trichloroethane	0.06	0.14	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Chloroethane	0.27	0.71	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Chloroform	0.06	0.12	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2-Chlorophenol	0.08	0.26	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,2-Dichlorobenzene	0.20	0.43	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,3-Dichlorobenzene	0.08	0.12	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,4-Dichlorobenzene	0.04	0.07	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,1-Dichloroethylene	0.04	0.07	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,2-trans-Dichloroethylene	0.06	0.14	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2,4-Dichlorophenol	0.10	0.30	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,2-Dichloropropane	0.40	0.61	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,3-Dichloropropylene	0.08	0.12	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2,4-Dimethylphenol	0.05	0.09	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2,4-Dinitrotoluene	0.30	0.75	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2,6-Dinitrotoluene	0.67	1.69	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Ethylbenzene	0.08	0.28	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Fluoranthene	0.07	0.18	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Methylene Chloride	0.11	0.23	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Methyl Chloride	0.23	0.50	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Hexachlorobutadiene	0.05	0.13	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Naphthalene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Nitrobenzene	0.07	0.18	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2-Nitrophenol	0.11	0.18	Report, µg/l	Report, µg/l	once/quarter	24 hr composite

4-Nitrophenol	0.19	0.33	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2,4-Dinitrophenol	0.19	0.32	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
4,6-Dinitro-o-cresol	0.21	0.73	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Phenol, Total Single Compound	0.04	0.07	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Bis(2-ethylhexyl)phthalate	0.27	0.74	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Di-n-butyl phthalate	0.07	0.15	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Diethyl phthalate	0.21	0.53	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Dimethyl phthalate	0.05	0.12	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Benzo (a) anthracene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Benzo (a) pyrene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
3,4-Benzofluoranthene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Benzo (k) fluoranthene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Crysene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Acenaphthylene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Anthracene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Fluorene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Phenanthrene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Pyrene	0.07	0.18	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Tetrachloroethylene	0.06	0.15	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Toluene	0.07	0.21	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Trichloroethylene	0.06	0.14	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Vinyl Chloride	0.27	0.71	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Total Chromium	2.92	7.30	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Total Copper	3.82	8.91	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Total Lead	0.84	1.82	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Total Nickel	4.45	10.49	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Total Zinc	2.77	6.88	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Fecal Coliform Bacteria (FCB)			(colonies/100ml)			
(Apr-Sept)	N/A	N/A	200	400	twice/month	grab
(Oct-Mar)	N/A	N/A	1000	2000	twice/month	grab
pH	N/A	N/A	<u>Minimum</u> 6 s.u.	<u>Maximum</u> 9 s.u.	once/month	grab
Acute Biomonitoring ²		N/A	N/A	N/A	once/quarter	24 hr composite
<u>Pimephales promelas (Acute)²</u> 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/quarter once/quarter once/quarter	24 hr composite 24 hr composite 24 hr composite
<u>Daphnia pulex (Acute)²</u> 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/quarter once/quarter once/quarter	24 hr composite 24 hr composite 24 hr composite

1 Report monthly average and daily maximum as MGD.

2 See Condition No. 5 of Part III.

There shall be no discharge of distinctly visible solids, scum or foam of a persistent nature, nor shall there be any formation of slime, bottom deposits or sludge banks. No visible sheen (Sheen means an iridescent appearance on the surface of the water).

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

SECTION B. SCHEDULE OF COMPLIANCE

The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedule:

Compliance is required on the effective date of the permit.

The conditions of the Consent Administrative Order 94-159, including amendments made thereto, supercede the conditions of NPDES draft permit AR0037770 for BOD5 and TSS.

PART II STANDARD CONDITIONS

SECTION A – GENERAL CONDITIONS

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; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. **Any values reported in the required Discharge Monitoring Report which are in excess of an effluent limitation specified in Part I shall constitute evidence of violation of such effluent limitation and of this permit.**

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 ten thousand dollars (\$10,000) 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. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to the following:

- a. Violation of any terms or conditions of this permit; or
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge; or
- d. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.
- e. Failure of the permittee to comply with the provisions of APCEC Regulation No. 9 (Permit fees) as required by condition II A.10 herein.

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.

4. Toxic Pollutants

Notwithstanding Part II. A.3., if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Regulation No. 2, as amended, (regulation 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 standards or prohibition and the permittee so notified.

The permittee shall comply with effluent standards or prohibitions established under Regulation No. 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 regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Civil and Criminal Liability

Except as provided in permit conditions on “Bypassing” (Part II.B.4.a.), and “Upsets” (Part II.B.5.b), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of this permit or applicable state and federal statutes or regulations which defeats the regulatory purposes of the permit may be subject the permittee to criminal enforcement pursuant to the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

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.

7. State Laws

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 established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Clean Water Act.

8. 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 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 or regulations.

9. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provisions 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.

10. Permit Fees

The permittee shall comply with all applicable permit fee requirements for wastewater discharge permits as described in APCEC Regulation No. 9 (Regulation 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 APCEC Regulation No. 6 and the provisions of APCEC Regulation No. 8.

SECTION B – OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

- a. 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.
- b. The permittee shall provide an adequate operating staff which is duly qualified to carryout operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

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.

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. Bypass of Treatment Facilities

a. **Bypass not exceeding limitation.** 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 assure efficient operation. These bypasses are not subject to the provisions of Part II.B.4.b. and 4

b. Notice

(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.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in part II.D.6 (24-hour notice).

c. Prohibition of bypass

(1) Bypass is prohibited and the Director may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) 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 or preventive maintenance; and

(c) The permittee submitted notices as required by Part II.B.4.b.

(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 Part II.B.4.c(1).

5. Upset Conditions

a. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology base permit effluent limitations if the requirements of Part II.B.5.b 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.

b. Conditions necessary for 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:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset.

(2) The permitted facility was at the time being properly operated.

(3) The permittee submitted notice of the upset as required by Part II.D.6.: and

- (4) The permittee complied with any remedial measures required by Part II.B.3.
c. Burden or proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

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. Written approval for such disposal must be obtained from the ADEQ.

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.

SECTION C: MONITORING AND RECORDS

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.

2. Flow Measurement

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to insure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to insure 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.

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 insure accuracy of measurements and shall insure 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 insure 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.

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. Reporting of Monitoring Results

Monitoring results must be reported on a Discharge Monitoring Report (DMR) form (EPA No. 3320-1). Permittees are required to use preprinted DMR forms provided by ADEQ, unless specific written authorization to use other reporting forms is obtained from ADEQ. Monitoring results obtained during the previous calendar month shall be summarized and reported on a DMR form postmarked no later than the 25th day of the month, following the completed reporting period to begin on the effective date of the permit. Duplicate copies of DMR's signed and certified as required by Part II.d.11 and all other reports required by Part II.D. (Reporting Requirements), shall be submitted to the Director at the following address:

NPDES Enforcement Section
Water Division
Arkansas Department of Environmental Quality
8001 National Drive
P.O. Box 8913
Little Rock, AR 72219-8913

If permittee uses outside laboratory facilities for sampling and/or analysis, the name and address of the contract laboratory shall be included on the DMR.

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.

7. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring

instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit for a period of at least 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.

8. Record Contents

Records and monitoring information shall include:

- a. The date, exact place, time and methods of sampling or measurements, and preservatives used, if any;
- b. The individuals(s) who performed the sampling or measurements;
- c. The date(s) analyses were formed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The measurements and results of such analyses.

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:

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

SECTION D – REPORTING REQUIREMENTS

1. Planned Changes

The permittee shall give notice and provide plans and specification to the Director for review and approval prior to any planned physical alterations or additions to the permitted facility. Notice is required only when:

For Industrial Dischargers

- a. 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).

b. The alternation or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40CRF Part 122.42 (a) (1).

For POTW Dischargers:

a. Any change in the facility discharge (including the introduction of any new source or significant discharge or significant changes in the quantity or quality of existing discharges of pollutants) must be reported to the permitting authority. In no case are any new connections, increased flows, or significant changes in influent quality permitted that cause violation of the effluent limitations specified herein.

2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

The permit is nontransferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

4. Monitoring Reports

Monitoring results shall be reported at the intervals and in the form specified in Part II.C.5. (Reporting). Discharge Monitoring Reports must be submitted even when no discharge occurs during the reporting period.

5. Compliance Schedule

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

6. Twenty-four Hour Report

a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. 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:

(1) a description of the noncompliance and its cause;

- (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
 - (3) Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.
- b. The following shall be included as information which must be reported within 24 hours:
- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - (2) Any upset which exceeds any effluent limitation in the permit and
 - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part III of the permit to be reported within 24 hours.
- c. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

7. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Part II.D.4, 5 and 6, at the time monitoring reports are submitted. The reports shall contain the information listed at Part II.D.6.

8. Changes in Discharge of Toxic Substances for Industrial Dischargers

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

- a. 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 Part 122.42(a) (1).
- b. 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 Part 122.42(a) (2).

9. 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 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.

10. Duty to reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The complete application shall be submitted at least 180 days before the expiration date of this permit. The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date. Continuation of expiring permits shall be governed by regulations promulgated in APCEC Regulation No. 6.

11. Signatory Requirements

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

a. All permit applications shall be signed as follows:

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

(i) 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

(ii) The manager of one or more manufacturing, production, or operation 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.

(2) For a partnership or sole proprietorship: by a general partner or proprietor, respectively; or

(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:

(i) The chief executive officer of the agency, or

(ii) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

b. 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:

(1) The authorization is made in writing by a person described above.

(2) The authorization specified 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. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(3) The written authorization is submitted to the Director.

c. 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.”

12. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2 and Regulation 6, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department of Pollution and Ecology. As required by the Regulations, the name and address of any permit applicant or permittee, permit applications, permits and effluent data shall not be considered confidential.

13. Penalties for Falsification of Reports

The Arkansas Air and Water 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 II.A.2. and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

**PART III
OTHER CONDITIONS**

1. The operator of this wastewater treatment facility shall be licensed by the State of Arkansas in accordance with Act 1103 of 1991, Act 556 of 1993, Act 211 of 1971, and Regulation No. 3, as amended.
2. In accordance with 40 CFR Part 122.62 (a) (2), the permit may be modified 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. The permittee, at all times, shall handle and dispose of sludge in such a manner so as to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants which may be present.
4. Any time the permittee proposes to begin production of any new product that may result in any addition of wastewater(s) to the permitted discharge and would trigger the notification requirements of 40 CFR Part 122.42 (a), the permittee shall submit the following information to the Director of ADEQ:
 - a. Process description including a summary of wastewater(s) generated,
 - b. Proposed method for disposal of any process wastewater(s) generated,
 - c. A qualitative list of toxic pollutants that may be present in any additional wastewater(s) resulting from the new process. (See Appendix D, Table II of 40 CFR 122 for list of toxic pollutants)

If ADEQ determines that any of the above information will result in substantial alterations or variations in the permitted discharges, ADEQ may modify the permit under the provisions of 40 CFR 122.62. The modification will incorporate any conditions necessary to adequately ensure the wastewater(s) are properly treated and are consistent with any applicable regulations including state water quality standards.

5. WHOLE EFFLUENT TOXICITY TESTING (48-HOUR ACUTE NOEC FRESHWATER)

1. SCOPE AND METHODOLOGY
 - a. The permittee shall test the effluent for toxicity in accordance with the provisions in this section.

APPLICABLE TO FINAL OUTFALL: 001

CRITICAL DILUTION (%): **0.016%**

EFFLUENT DILUTION SERIES (%):

0.07%,0.09%,0.012%,0.016%,0.021%

COMPOSITE SAMPLE TYPE: Defined at PART I

TEST SPECIES/METHODS:40 CFR Part 136

Daphnia pulex acute static renewal 48-hour definitive toxicity test using EPA/600/4-90/027F, or the latest update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

Pimephales promelas (fathead minnow) acute static renewal 48-hour definitive toxicity test using EPA/600/4-90/027F, or the latest update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

- b. The NOEC (No Observed Effect Concentration) is defined as the greatest effluent dilution at and below which lethality that is statistically different from the control (0% effluent) at the 95% confidence level does not occur. Acute lethal test failure is defined as a demonstration of a statistically significant lethal effect at test completion to a test species at or below the critical dilution..
- c. This permit may be reopened to require whole effluent toxicity limits, chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.
- d. Test failure is defined as a demonstration of statistically significant lethal effects to a test species at or below the effluent critical dilution.

2. PERSISTENT LETHALITY

The requirements of this subsection apply only when a toxicity test demonstrates significant lethal effects at or below the critical dilution. Significant lethal effects are herein defined as a statistically significant difference at the 95% confidence level between the survival of the appropriate test organism in a specified effluent dilution and the control (0% effluent).

a. Part I Testing Frequency Other Than Monthly

- i. The permittee shall conduct a total of two (2) additional tests for any species that demonstrates significant lethal effects at or below the critical dilution. The two additional tests shall be conducted monthly during the next two consecutive months. The permittee shall not substitute either of the two additional tests in lieu of routine toxicity testing. The full report shall be prepared for each test required by this section in accordance with procedures outlined in Item 4 of this section and submitted with the period discharge monitoring report (DMR) to the permitting authority for review.
- ii. If one or both of the two additional tests demonstrates significant lethal effects at or below the critical dilution, the permittee shall initiate Toxicity Reduction Evaluation (TRE) requirements as specified in Item 5 of this section. The permittee shall notify ADEQ in writing within 5 days of the failure of any retest, and the TRE initiation date will be the test completion date of the first failed retest. A TRE may be also be required due to a demonstration of intermittent lethal effects at or below the critical dilution, or for failure to perform the required retests.
- iii. If one or both of the two additional tests demonstrates significant lethal effects at or below the critical dilution, the permittee shall henceforth increase the frequency of testing for this species to once per quarter for the life of the permit.
- iv. The provisions of Item 2.a are suspended upon submittal of the TRE Action Plan.

3. REQUIRED TOXICITY TESTING CONDITIONS

a. Test Acceptance

The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied, including the following additional criteria:

- i. Each toxicity test control (0% effluent) must have a survival equal to or greater than 90%.
- ii. The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent) for: Daphnia pulex survival test; and fathead minnow survival test.

- iii. The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal effects are exhibited for: Daphnia pulex survival test; and fathead minnow survival test.

Test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%. A repeat test shall be conducted within the required reporting period of any test determined to be invalid.

b. Statistical Interpretation

For the Daphnia pulex survival test and the fathead minnow survival test, the statistical analyses used to determine if there is a statistically significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in EPA/600/4-90/027F or the most recent update thereof.

If the conditions of Test Acceptability are met in Item 3.a above and the percent survival of the test organism is equal to or greater than 90% in the critical dilution concentration and all lower dilution concentrations, the test shall be considered to be a passing test, and the permittee shall report an NOEC of not less than the critical dilution for the DMR reporting requirements found in Item 4 below.

c. Dilution Water

- i. Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but unaffected by the discharge. The permittee shall substitute synthetic dilution water of similar pH, hardness, and alkalinity to the closest downstream perennial water for;
 - (A) toxicity tests conducted on effluent discharges to receiving water classified as intermittent streams; and
 - (B) toxicity tests conducted on effluent discharges where no receiving water is available due to zero flow conditions.
- ii. If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria of Item 3.a), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:

- (A) a synthetic dilution water control which fulfills the test acceptance requirements of Item 3.a was run concurrently with the receiving water control;
- (B) the test indicating receiving water toxicity has been carried out to completion (i.e., 48 hours);
- (C) the permittee includes all test results indicating receiving water toxicity with the full report and information required by Item 4 below; and
- (D) the synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or closest downstream perennial water not adversely affected by the discharge, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water.

d. Samples and Composites

- i. The permittee shall collect two flow-weighted composite samples from the outfall(s) listed at Item 1.a above.
- ii. The permittee shall collect a second composite sample for use during the 24-hour renewal of each dilution concentration for both tests. The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 36 hours. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first composite sample. Samples shall be chilled to 4 degrees Centigrade during collection, shipping, and/or storage.
- iii. The permittee must collect the composite samples such that the effluent samples are representative of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on an intermittent basis.
- iv. If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum number of effluent portions and the sample holding time are waived during that sampling period. However, the permittee must collect an effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent. When possible, the effluent samples used for the toxicity tests shall be

collected on separate days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item 4 of this section.

- v. MULTIPLE OUTFALLS: If the provisions of this section are applicable to multiple outfalls, the permittee shall combine the composite effluent samples in proportion to the average flow from the outfalls listed in Item 1.a above for the day the sample was collected. The permittee shall perform the toxicity test on the flow-weighted composite of the outfall samples.

4. REPORTING

- a. 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 EPA/600/4-90/027F, for every valid or invalid toxicity test initiated, whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of PART II.C.7 of this permit. The permittee shall submit full reports upon the specific request of the Department. For any test which fails, is considered invalid or which is terminated early for any reason, the full report must be submitted for review.
- b. A valid test for each species must be reported on the DMR during each reporting period specified in PART I of this permit unless the permittee is performing a TRE which may increase the frequency of testing and reporting. Only ONE set of biomonitoring data for each species is to be recorded on the DMR for each reporting period. The data submitted should reflect the LOWEST Survival results for each species during the reporting period. All invalid tests, repeat tests (for invalid tests), and retests (for tests previously failed) performed during the reporting period must be attached to the DMR for ADEQ review.
- c. The permittee shall report the following results of each valid toxicity test on DMR for that reporting period in accordance with PART II.D.4 of this permit. Submit retest information clearly marked as such with the following month's DMR. Only results of valid tests are to be reported on the DMR.
 - i. Pimephales promelas (fathead minnow)
 - (A) If the No Observed Effect Concentration (NOEC) for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TEM6C.

- (B) Report the NOEC value for survival, Parameter No. TOM6C.
- (C) Report the highest (critical dilution or control) Coefficient of Variation, Parameter No. TQM6C.

ii. Daphnia pulex

- (A) If the NOEC for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TEM3D.
- (B) Report the NOEC value for survival, Parameter No. TOM3D.
- (C) Report the highest (critical dilution or control) Coefficient of Variation, Parameter No. TQM3D.

5. MONITORING FREQUENCY REDUCTION

- a. The permittee may apply for a testing frequency reduction upon the successful completion of the first four consecutive quarters of testing for one or both test species, with no lethal effects demonstrated at or below the critical dilution. If granted, the monitoring frequency for that test species may be reduced to not less than once per year for the less sensitive species (usually the fathead minnow) and not less than twice per year for the more sensitive test species (usually the *Daphnia pulex*).
- b. **CERTIFICATION** - The permittee must certify in writing that no test failures have occurred and that all tests meet all test acceptability criteria in item 3.a. above. In addition the permittee must provide a list with each test performed including test initiation date, species, NOECs for lethal and sub-lethal effects and the maximum coefficient of variation for the controls. Upon review and acceptance of this information the Department will issue a letter of confirmation of the monitoring frequency reduction. A copy of the letter will be forwarded to the Permit Compliance System section to update the permit reporting requirements.
- c. **SURVIVAL FAILURES** - If any test fails the survival endpoint at any time during the life of this permit, two monthly retests are required and the monitoring frequency for the affected test species shall be increased to once per quarter until the permit is re-issued. Monthly retesting is not required if the permittee is performing a TRE.

- d. This monitoring frequency reduction applies only until the expiration date of this permit, at which time the monitoring frequency for both test species reverts to once per quarter until the permit is re-issued.

6. TOXICITY REDUCTION EVALUATION (TRE)

- a. Within ninety (90) days of confirming lethality in the retests, the permittee shall submit a Toxicity Reduction Evaluation (TRE) Action Plan and Schedule for conducting a TRE. The TRE Action Plan shall specify the approach and methodology to be used in performing the TRE. A Toxicity Reduction Evaluation is an investigation intended to determine those actions necessary to achieve compliance with water quality-based effluent limits by reducing an effluent's toxicity to an acceptable level. A TRE is defined as a step-wise process which combines toxicity testing and analyses of the physical and chemical characteristics of a toxic effluent to identify the constituents causing effluent toxicity and/or treatment methods which will reduce the effluent toxicity. The TRE Action Plan shall lead to the successful elimination of effluent toxicity at the critical dilution and include the following:
 - i. **Specific Activities.** The plan shall detail the specific approach the permittee intends to utilize in conducting the TRE. The approach may include toxicity characterizations, identifications and confirmation activities, source evaluation, treatability studies, or alternative approaches. When the permittee conducts Toxicity Characterization Procedures the permittee shall perform multiple characterizations and follow the procedures specified in the documents "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA-600/6-91/003) or alternate procedures. When the permittee conducts Toxicity Identification Evaluations and Confirmations, the permittee shall perform multiple identifications and follow the methods specified in the documents "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081), as appropriate.

The documents referenced above may be obtained through the National Technical Information Service (NTIS) by phone at (800)553-6847 or by writing:

U.S. Department of Commerce
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161

- ii. Sampling Plan (e.g., locations, methods, holding times, chain of custody, preservation, etc.). The effluent sample volume collected for all tests shall be adequate to perform the toxicity test, toxicity characterization, identification and confirmation procedures, and conduct chemical specific analyses when a probable toxicant has been identified;

Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity. Where lethality was demonstrated within 24 hours of test initiation, each composite sample shall be analyzed independently. Otherwise the permittee may substitute a composite sample, comprised of equal portions of the individual composite samples, for the chemical specific analysis;

- iii. Quality Assurance Plan (e.g., QA/QC implementation, corrective actions, etc.); and
 - iv. Project Organization (e.g., project staff, project manager, consulting services, etc.).
- b. The permittee shall initiate the TRE Action Plan within thirty (30) days of plan and schedule submittal. The permittee shall assume all risks for failure to achieve the required toxicity reduction.
 - c. The permittee shall submit a quarterly TRE Activities Report, with the Discharge Monitoring Report in the months of January, April, July and October, containing information on toxicity reduction evaluation activities including:
 - i. any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;

- ii. any studies/evaluations and results on the treatability of the facility's effluent toxicity; and
 - iii. any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant lethality at the critical dilution.
- d. The permittee shall submit a Final Report on Toxicity Reduction Evaluation Activities no later than twenty-eight (28) months from confirming lethality in the retests, which provides information pertaining to the specific control mechanism selected that will, when implemented, result in reduction of effluent toxicity to no significant lethality at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism.
- e. Quarterly testing during the TRE is a minimum monitoring requirement. EPA recommends that permittees required to perform a TRE not rely on quarterly testing alone to ensure success in the TRE, and that additional screening tests be performed to capture toxic samples for identification of toxicants. Failure to identify the specific chemical compound causing toxicity test failure will normally result in a permit limit for whole effluent toxicity limits per federal regulations at 40 CFR 122.44(d)(1)(v).

6. Storm Water Pollution Prevention Plan Requirements

A. General

- (1) If your facility already has a storm water pollution prevention plan (SWPPP) in place, then you shall continue the implementation of this SWPPP. If you do not have a SWPPP, then you shall prepare a SWPPP for your facility within 60 days of the effective starting date of this permit. Your SWPPP must be prepared in accordance with good engineering practices. Your SWPPP must:
- (a) Identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from your facility;
 - (b) Describe and ensure implementation of practices which you will use to reduce the pollutants in storm water discharges from the facility; and
 - (c) Assure compliance with the terms and conditions of this permit.
- (2) No Exposure Exclusions, as allowed by 40 CFR 122.26(g), can be obtained for the storm water discharges from the facility as long as all of

the required conditions for applicability can be certified. These required conditions can be found in the federal regulation. The No Exposure Exclusion application form can be obtained from the Storm Water section of the ADEQ. Application for this exclusion must be made on the form obtained from the ADEQ.

B. Contents of Plan

(1) Pollution Prevention Team

- (a) You must identify the staff individual(s) (by name or title) that comprise the facility's storm water Pollution Prevention Team. Your Pollution Prevention Team is responsible for assisting the facility/plant manager in developing, implementing, maintaining and revising the facility's SWPPP. Responsibilities of each staff individual on the team must be listed.

(2) Site Description

- (a) Your SWPPP must include the following:
- i. *Activities at Facility.* Description of the nature of the industrial activity(ies) at your facility;
 - ii. *General Location Map.* A general location map (e.g., U.S.G.S. quadrangle, or other map) with enough detail to identify the location of your facility and the receiving waters within one mile of the facility;
 - iii. A legible site map identifying the following:
 - (a) Directions of storm water flow (e.g., use arrows to show which ways storm water will flow);
 - (b) Locations of all existing structural BMPs;
 - (c) Locations of all surface water bodies;
 - (d) Locations of potential pollutant sources identified under Section B(4)(a) of this Part and where significant materials are exposed to precipitation;
 - (e) Location where major spills or leaks identified under Section B(5) of this Part have occurred;

- (f) Locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, and liquid storage tanks;
- (g) Locations of storm water outfalls and an approximate outline of the area draining to each outfall;
- (h) Location and description of non-storm water discharges;
- (i) Locations of the following activities where such activities are exposed to precipitation: processing and storage areas; access roads, rail cars and tracks; the location of transfer of substance in bulk; and machinery;
- (j) Location and source of runoff from adjacent property containing significant quantities of pollutants of concern to the facility (an evaluation of how the quality of the runoff impacts your storm water discharges may be included).

(3) Receiving Waters and Wetlands

- (a) You must provide the name of the nearest receiving water(s), including intermittent streams, dry sloughs, arroyos and the areal extent and description of wetland or other special aquatic sites that may receive discharges from your facility.

(4) Summary of Potential Pollutant Source

- (a) You must identify each separate area at your facility where industrial materials or activities are exposed to storm water. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading/unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product. For each separate area identified, the description must include:

- i. *Activities in Area.* A list of the activities (e.g., material storage, equipment fueling and cleaning, cutting steel beams); and
- ii. *Pollutants.* A list of the associated pollutant(s) or pollutant parameter(s) (e.g., crankcase oil, iron, biochemical oxygen demand, pH, etc.) for each activity. The pollutant list must include all significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three (3) years before being covered under this permit and the present.

(5) **Spills and Leaks**

- (a) You must clearly identify areas where potential spills and leaks, which can contribute pollutants to storm water discharges, can occur, and their accompanying drainage points. For areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility to be covered under this permit, you must provide a list of significant spills and leaks of toxic or hazardous pollutants that occurred during the three (3) year period prior to the starting date of this permit. Your list must be updated if significant spills or leaks occur in exposed areas of your facility during the time you are covered by the permit.
- (b) Significant spills and leaks include, but are not limited to releases of oil or hazardous substances in excess of quantities that are reportable under CWA 311 (see 40 CFR 110.10 AND 40 CFR 117.21) or section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements.

(6) **Sampling Data**

- (a) You must provide a summary of existing storm water discharge sampling data taken at your facility. All storm water sampling data collected during the term of this permit must also be summarized and included in this part of the SWPPP.

(7) **Storm Water Controls**

- (a) Description of Existing and Planned BMPs. Describe the type and location of existing non-structural and structural best management practices (BMPs) selected for each of the areas where industrial materials or activities are exposed to storm water. All the areas

identified in Section B(4)(a) of this Part should have a BMP(s) identified for the areas discharges. For areas where BMPs are not currently in place, describe appropriate BMPs that you will use to control pollutants in storm water discharges. Selection of BMPs should take into consideration:

- i. The quantity and nature of the pollutants, and their potential to impact the water quality of receiving waters;
 - ii. Opportunities to combine the dual purposes of water quality protection and local flood control benefits (including physical impacts of high flows on streams - e.g., bank erosion, impairment of aquatic habitat, etc.);
 - iii. Opportunities to offset the impact impervious areas of the facility on ground water recharge and base flows in local streams (taking into account the potential for ground water contamination.)
- (b) BMP Types to be Considered. The following types of structural, non-structural, and other BMPs must be considered for implementation at your facility. Describe how each is, or will be, implemented. This requirement may have been fulfilled with area-specific BMPs identified under Section B(7)(a) of this Part, in which case the previous descriptions are sufficient. However, many of the following BMPs may be more generalized or non site-specific and therefore not previously considered. If you determine that any of these BMPs are not appropriate for your facility, you must include an explanation of why they are not appropriate. The BMP examples listed below are not intended to be an exclusive list of BMPs that you may use. You are encouraged to keep abreast of new BMPs or new applications of existing BMPs to find the most cost effective means of permit compliance for your facility. If BMPs are being used or planned at the facility which are not listed here (e.g., replacing a chemical with a less toxic alternative, adopting a new or innovative BMP, etc.), include descriptions of them in this section of the SWPPP.

(c) Non-Structural BMPs

- i. *Good Housekeeping:* You must keep all exposed areas of the facility in a clean, orderly manner where such exposed areas could contribute pollutants to storm water discharges. Common problem areas include: around trash containers, storage areas and loading docks. Measures must also include: a schedule for regular pickup and disposal of

garbage and waste materials; routine inspections for leaks and conditions of drums, tanks and containers.

- ii. *Minimizing Exposure:* Where practicable, industrial materials and activities should be protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff.
- iii. *Preventive Maintenance:* You must have a preventive maintenance program which includes timely inspection and maintenance of storm water management devices, (e.g., cleaning oil/water separators, catch basins) as well as inspecting, testing, maintaining and repairing facility equipment and systems to avoid breakdowns or failures that may result in discharges of pollutants to surface waters.
- iv. *Spill Prevention and Response Procedures:* You must describe the procedures which will be followed for cleaning up spills or leaks. Those procedures, and necessary spill response equipment, must be made available to those employees that may cause or detect a spill or leak. Where appropriate, you must explain existing or planned material handling procedures, storage requirements, secondary containment, and equipment (e.g., diversion valves), which are intended to minimize spills or leaks at the facility. Measures for cleaning up hazardous material spills or leaks must be consistent with applicable RCRA regulations at 40 CFR Part 264 and 40 CFR Part 265.
- v. *Routine Facility Inspections:* In addition to or as part of the comprehensive site evaluation required under Section G of this Part, you must have qualified facility personnel inspect all areas of the facility where industrial materials or activities are exposed to storm water. The inspections must include an evaluation of existing storm water BMPs. Your SWPPP must identify how often these inspections will be conducted. You must correct any deficiencies you find as soon as practicable, but no later than 14 days from the date of the inspection. You must document in your SWPPP the results of your inspections and the corrective actions you took in response to any deficiencies or opportunities for improvement that you identify.
- vi. *Employee Training:* You must describe the storm water employee training program for the facility. The description should include the topics to be covered, such as spill

response, good housekeeping, and material management practices, and must identify periodic dates (e.g., every 6 months during the months of July and January) for such training. You must provide employee training for all employees that work in areas where industrial materials or activities are exposed to storm water, and for employees that are responsible for implementing activities identified in the SWPPP (e.g., inspectors, maintenance people). The employee training should inform them of the components and goals of your SWPPP.

(d) Structural BMPs

- i. *Sediment and Erosion Control*: You must identify the areas at your facility which, due to topography, land disturbance (e.g., construction), or other factors, have a potential for significant soil erosion. You must describe the structural, vegetative, and/or stabilization BMPs that you will be implementing to limit erosion.
- ii. *Management of Runoff*: You must describe the traditional storm water management practices (permanent structural BMPs other than those which control the generation or source(s) of pollutants) that currently exist or that are planned for your facility. These types of BMPs typically are used to divert, infiltrate, reuse, or otherwise reduce pollutants in storm water discharges from the site. Factors to consider when you are selecting appropriate BMPs should include: 1) the industrial materials and activities that are exposed to storm water, and the associated pollutant potential of those materials and activities; and 2) the beneficial and potential detrimental effects on surface water quality, ground water quality, receiving water base flow (dry weather stream flow), and physical integrity of receiving waters. Structural measures should be placed on upland soils, avoiding wetlands and flood plains, if possible. Structural BMPs may require a separate permit under section 404 of the CWA before installation begins.
- iii. *Example BMPs*: BMPs you could use include but are not limited to: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices).

(e) Other Controls

- i. No solid materials, including floatable debris, may be discharged to waters of the United States, except as authorized by a permit issued under section 404 of the CWA. Off-site vehicle tracking of raw, final, or waste materials or sediments, and the generation of dust must be minimized. Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas must be minimized. Velocity dissipation devices must be placed at discharge locations and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).

C. Maintenance

- (1) All BMPs you identify in your SWPPP must be maintained in effective operating condition. If site inspections required by Section B(7)(c)(v) of this Part identify BMPs that are not operating effectively, maintenance must be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable. In the case of non-structural BMPs, the effectiveness of the BMP must be maintained by appropriate means (e.g., spill response supplies available and personnel trained, etc.).

D. Non-Storm Water Discharges

(1) **Certification of Non-Storm Water Discharges**

- (a) Your SWPPP must include a certification that all discharges (i.e., outfalls) have been tested or evaluated for the presence of non-storm water. The certification must be signed in accordance with Part II Section D.11 of the individual permit, and include:
 - i. The date of any testing and/or evaluation;
 - ii. Identification of potential significant sources of non-storm water at the site;
 - iii. A description of the results of any test and/or evaluation for the presence of non-storm water discharges;

- iv. A description of the evaluation criteria or testing method used; and
- v. A list of the outfalls or onsite drainage points that were directly observed during the test.
- vi. If you are unable to provide the certification required (testing for non-storm water discharges), you must notify the Director 180 days after the effective starting date of this permit to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification must describe:
- vii. The reason(s) why certification was not possible;
- viii. The procedure of any test attempted;
- ix. The results of such test or other relevant observations; and
- x. Potential sources of non-storm water discharges to the storm sewer.
- xi. A copy of the notification must be included in the SWPPP at the facility. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

E. Allowable Non-storm Water Discharges

- (1) Certain sources of non-storm water are allowable under this permit. In order for these discharges to be allowed, your SWPPP must include:
 - (a) An identification of each allowable non-storm water source;
 - (b) The location where it is likely to be discharged; and
 - (c) Descriptions of appropriate BMPs for each source.
 - (d) Except for flows from fire fighting activities, you must identify in your SWPPP all sources of allowable non-storm water that are discharged under the authority of this permit.
 - (e) If you include mist blown from cooling towers amongst your allowable non-storm water discharges, you must specifically evaluate the potential for the discharges to be contaminated by chemicals used in the cooling tower and determined that the levels of such chemicals in the discharges would not cause or contribute

to a violation of an applicable water quality standard after implementation of the BMPs you have selected to control such discharges.

F. Comprehensive Site Compliance Evaluation

(1) Frequency and Inspectors

- (a) You must conduct facility inspections at least once a year. The inspections must be done by qualified personnel provided by you. The qualified personnel you use may be either your own employees or outside consultants that you have hired, provided they are knowledgeable and possess the skills to assess conditions at your facility that could impact storm water quality and assess the effectiveness of the BMPs you have chosen to use to control the quality of your storm water discharges. If you decide to conduct more frequent inspections, your SWPPP must specify the frequency of inspections.

(2) Scope of the Compliance Evaluation

- (a) Your inspections must include all areas where industrial materials or activities are exposed to storm water, as identified in Section B(4)(a) of this Part, and areas where spills and leaks have occurred within the past 3 years. Inspectors should look for: a) industrial materials, residue, or trash on the ground that could contaminate or be washed away in storm water; b) leaks or spills from industrial equipment, drums, barrels, tanks, or similar containers; c) offsite tracking of industrial materials or sediment where vehicles enter or exit the site; d) tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas; and e) for evidence of, or the potential for, pollutants entering the drainage system. Storm water BMPs identified in your SWPPP must be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they must be inspected to see whether BMPs are effective in preventing significant impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations must be inspected if possible.

(3) Follow-up Actions

- (a) Based on the results of the inspections, you must modify your SWPPP as necessary (e.g., show additional controls on the map required by Section B(2)(a)(iii) of this Part and revise the description of controls required by Section B(7)(a) of this Part to

include additional or modified BMPs designed to correct the problems identified. You must complete revisions to the SWPPP within 14 calendar days following the inspection. If existing BMPs need to be modified or if additional BMPs are necessary, implementation must be completed before the next anticipated storm event. If implementation before the next anticipated storm event is impracticable, they must be implemented as soon as practicable.

(4) Compliance Evaluation Report

- (a) You must insure a report summarizing the scope of the inspection, name(s) of personnel making the inspection, the date(s) of the inspection, and major observations relating to the implementation of the SWPPP is completed and retained as part of the SWPPP for at least three years from the date permit coverage expires or is terminated. Major observations should include: the location(s) of discharges of pollutants from the site; and location(s) of BMPs that need to be maintained; location(s) where additional BMPs are needed that did not exist at the time of inspection. You must retain a record of actions taken in accordance with Part II Section C.7 (Retention of Records) of this permit as part of the storm water pollution prevention plan for at least three years from the date that permit coverage expires or is terminated. The inspection reports must identify any incidents of non-compliance. Where an inspection report does not identify any incidents of non-compliance, the report must contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. Both the inspection report and any reports of follow-up actions must be signed in accordance with Part II Section D (Reporting Requirements) of this permit.

(5) Credit As a Routine Facility Inspection

- (a) Where compliance evaluation schedules overlap with inspections required under Section B(7)(c)(v) of this Part, your annual compliance evaluation may also be used as one of the Section B(7)(c)(v) of this Part , routine inspections.

G. Maintaining Updated SWPPP

- (1) You must amend the storm water pollution prevention plan whenever:
- (a) There is a change in design, construction, operation, or maintenance at your facility which has a significant effect on the

discharge, or potential for discharge, of pollutants from your facility;

- (b) During inspections or investigations by you or by local, State, Tribal or Federal officials it is determined the SWPPP is ineffective in eliminating or significantly minimizing pollutants from sources identified under Section B(4) of this Part, or is otherwise not achieving the general objectives of controlling pollutants in discharges from your facility.

H. Signature, Plan Review and Making Plans Available

- (1) You must sign your SWPPP in accordance with Part II Section D.11, and retain the plan on-site at the facility covered by this permit (see Part II Section C.7 for records retention requirements).
- (2) You must keep a copy of the SWPPP on-site or locally available to the Director for review at the time of an on-site inspection. You must make your SWPPP available upon request to the Director, a State, Tribal or local agency approving storm water management plans, or the operator of a municipal separate storm sewer receiving discharge from the site. Also, in the interest of public involvement, EPA encourages you to make your SWPPPs available to the public for viewing during normal business hours.
- (3) The Director may notify you at any time that your SWPPP does not meet one or more of the minimum requirements of this permit. The notification will identify provisions of this permit which are not being met, as well as the required modifications. Within thirty (30) calendar days of receipt of such notification, you must make the required changes to the SWPPP and submit to the Director a written certification that the requested changes have been made.
- (4) You must make the SWPPP available to the USFWS or NMFS upon request.

I. Additional Requirements for Storm Water Discharges Associated With Industrial Activity From Facilities Subject to EPCRA Section 313 Reporting Requirements.

- (1) Potential pollutant sources for which you have reporting requirements under EPCRA 313 must be identified in your summary of potential pollutant sources as per Section B(4) of this Part. Note this additional requirement only applies to you if you are subject to reporting requirements under EPCRA 313.

PART IV DEFINITIONS

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

1. **“Act”** means the Clean Water Act, Public Law 95-217 (33.U.S.C. 1251 et seq.) as amended.
2. **“Administrator”** means the Administrator of the U.S. Environmental Protection Agency.
3. **“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.
4. **“Applicable water quality standards”** means all water quality standards to which a discharge is subject under the federal Clean Water Act and which has 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 regulation No. 2, as amended, (regulation establishing water quality standards for surface waters of the State of Arkansas.)
5. **“Bypass”** means the intentional diversion of waste streams from any portion of a treatment facility.
6. **“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. 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. For pollutants with limitations expressed in other units of measurement, the “daily discharge” is calculated as the average measurement of the pollutant over the sampling day. “Daily discharge” determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the “daily discharge” determination of concentration shall be the arithmetic average (weighted by flow value) of all the samples collected during that sampling day.
7. **“Daily Average” (also known as monthly average)** discharge limitations means the highest allowable average of “daily discharges(s)” over a calendar month, calculated as the sum of all “daily discharges(s)” measured during a calendar month divided by the number of “daily discharges(s)” measured during that month. When the permit establishes daily average concentration effluent limitations or conditions, the daily average concentration means the arithmetic average (weighted by flow) of all “daily discharges(s)” of concentration determined during the calendar month where C= daily concentration, F=daily flow and n=number of daily samples; daily average discharge=

$$C_1F_1 + C_2F_2 + \dots + C_nF_n$$

$$F_1 + F_2 + \dots + F_n$$

For Fecal Coliform Bacteria (FCB) report the monthly average as a 30-day geometric mean in colonies per 100 ml.

8. **“Daily Maximum”** discharge limitation means the highest allowable “daily discharge” during the calendar month. For Fecal Coliform Bacteria (FCB) report the daily maximum as a 7-day geometric mean in colonies per 100 ml.
9. **“Department”** means the Arkansas Department of Environmental Quality (ADEQ).
10. **“Director”** mean the Administrator of the U.S. Environmental Protection Agency and/or the Director of the Arkansas Department of Environmental Quality.
11. **“Grab sample”** means an individual sample collected in less than 15 minutes in conjunction with an instantaneous flow measurement.
12. **“Industrial User”** means a nondomestic discharger, as identified in 40 CFR 403, introducing pollutants to a publicly-owned treatment works.
13. **“National Pollutant Discharge Elimination System”** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318 and 405 of the Clean Water Act.
14. **“POTW”** means a Publicly Owned Treatment Works.
15. **“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 products.
16. **“APCEC”** means the Arkansas Pollution Control and Ecology Commission.
17. **“Sewage sludge”** means the solids, residues, and precipitate separated from or created in sewage by the unit processes a publicly-owned treatment works. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and storm water runoff that are discharged to or otherwise enter a publicly-owned treatment works.
18. **“7-day average”** discharge limitation, other than for fecal coliform bacteria, is the highest allowable arithmetic means of the values for all effluent samples collected during the calendar week. The 7-day average for fecal coliform bacteria is the geometric mean of the values of all effluent samples collected during the calendar week. The DMR should report the highest 7-day average obtained during the calendar month. For reporting purposes, the 7-day average values should be reported as occurring in the month in which the Saturday of the calendar week falls in.
19. **“30-day average”**, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during 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. The 30-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar month.
20. **“24-hour composite sample”** consists of a minimum of 12 effluent portions collected at equal time intervals over the 24-hour period and combined proportional to flow or a sample collected at frequent intervals proportional to flow over the 24-hour period.
21. **“12-hour composite sample”** consists of 12 effluent portions, collected no closer together than one hour and composited according to flow. The daily sampling intervals shall include the highest flow periods.
22. **“6-hour composite sample”** consists of six effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.

23. **“3-hour composite sample”** consists of three effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.

24. **“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.

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. Any upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack or preventive maintenance, or careless or improper operations.

26. **“Fecal Coliform Bacteria”**, a sample consists of one effluent grab portion collected during a 24-hour period at peak loads.

27. **“Dissolved oxygen”**, shall be defined as follows:

a. When limited in the permit as a monthly minimum, shall mean the lowest acceptable monthly average value, determined by averaging all samples taken during the calendar month;

b. When limited in the permit as an instantaneous minimum value, shall mean that no value measured during the reporting period may fall below the stated value.

28. **The term “MGD”** shall mean million gallons per day.

29. **The term “mg/l”** shall mean milligrams per liter or parts million (ppm).

30. **The term “µg/l”** shall mean micrograms per liter or parts per billion (ppb).

31. **The term “cfs”** shall mean cubic feet per second.

32. **The term “ppm”** shall mean part per million.

33. **The term “s.u.”** shall mean standard units.

34. **Monitoring and Reporting:**

When a permit becomes effective, monitoring requirements are of the immediate period of the permit effective date. Where the monitoring requirement for an effluent characteristic is Monthly or more frequently, the Discharge Monitoring Report shall be submitted by the 25th of the month following the sampling. Where the monitoring requirement for an effluent characteristic is Quarterly, Semi-Annual, Annual, or Yearly, the Discharge Monitoring report shall be submitted by the 25th of the month following the monitoring period end date.

MONTHLY:

is defined as a calendar month or any portion of a calendar month for monitoring requirement frequency of Once/month or more frequently.

QUARTERLY:

(1) is defined as 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; or

(2) is defined as 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 May through July, August through October, November through January, and February through April.

SEMI-ANNUAL:

is defined as the fixed time periods January through June, and July through December (or any portion thereof) for an effluent characteristic with a measurement frequency of Once/6 months or Twice/year.

ANNUAL or YEARLY:

is defined as a fixed calendar year or any portion of the fixed calendar year for an effluent characteristic or parameter with a measurement frequency of Once/year. A calendar year is January through December, or any portion thereof.

Final Fact Sheet

for renewal of draft NPDES Permit Number AR0037770 to discharge to Waters of the State

1. PERMITTING AUTHORITY.

The issuing office is:

Arkansas Department of Environmental Quality
8001 National Drive
Post Office Box 8913
Little Rock, Arkansas 72219-8913

2. APPLICANT.

The applicant is:

Ciba Specialty Chemicals Corporation
100 Bridgeport Road
West Memphis, AR 72301

3. PREPARED BY.

The permit was prepared by:

Alison House
NPDES Branch, Water Division

4. DATE PREPARED.

The permit was prepared on 4/28/2004.

5. PREVIOUS PERMIT ACTIVITY.

Effective Date: 4/1/1995
Expiration Date: 3/31/2000

The permittee submitted a permit renewal application on 11/1/1999. The permittee had entered into a Consent Administrative Order in December 1994 (as amended in June 1996) addressing BOD₅ and TSS limitations, in light of the FDF (Fundamentally Different Factor) variance request submitted by Ciba to US EPA in 1988. The permittee then entered into a Settlement Agreement with US EPA on July 12, 2001 in which EPA agreed, in part, to establish alternative BPT limitations for BOD₅ and TSS contingent upon Ciba's completion of construction of a new wastewater treatment plant on or before October 1, 2005. In the Settlement Agreement, USEPA and Ciba also agreed that Ciba would retain a wastewater treatment consultant (with EPA's concurrence) to make a

recommendation concerning appropriate alternative BPT limits for BOD₅ and TSS for the plant. The independent consultant's recommendation would be based, in part, upon its review of at least one year of performance data generated from the new wastewater treatment system. Once the consultant receives that performance data, EPA will then propose alternative BPT limits for BOD₅ and TSS within 285 days after Ciba's consultant receives that data. (For example, assuming the new treatment plant is constructed by October 1, 2005 and one-year of performance data is made available to the consultant by November 1, 2006, EPA would propose alternative BPT limits no later than 285 days after November 1, 2006, which would fall during August 2007.)

Therefore, to avoid the need to prematurely reissue this permit, it is proposed that the current permit be issued for a four (4)-year term in accordance with the CAO and 40 CFR 122.46(c).

6. RECEIVING STREAM SEGMENT AND DISCHARGE LOCATION.

The outfall is located at the following coordinates:

Latitude: 35° 07' 45" Longitude: 90° 06' 05"

The receiving waters named:

Mississippi River in Segment 6C of the Mississippi River Basin. The receiving stream is a Water of the State classified for primary contact recreation, raw water source for public, industrial, and agricultural water supplies, propagation of desirable species of fish and other aquatic life, and other compatible uses.

7. 303d List and Endangered Species Considerations

A. 303d List

The receiving stream is not listed on the 303d list. Therefore; no permit action is needed.

B. Endangered Species:

No comments were received from the U.S. Fish and Wildlife Service (USF&WS). Therefore; no permit action is needed.

8. OUTFALL AND TREATMENT PROCESS DESCRIPTION.

The following is a description of the facility described in the application:

Average Flow: 0.318 MGD, based on the highest monthly average flow over the past two (2) years.

Type of treatment: pH adjustment, equalization, pre-aeration, extended aeration, settling, activated sludge (sanitary waste).

Discharge Description: process wastewater, stormwater, and treated sanitary wastewater.

9. APPLICANT ACTIVITY.

The applicant's activities are the operation of an industrial organic chemical manufacturing facility.

10. SEWAGE SLUDGE PRACTICES.

Sludge is accumulating in the bottom of the pond. Sludge disposal, if any, requires prior written authorization from the Department.

Sanitary sludge will be transported to and disposed of at the local POTW.

11. PERMIT CONDITIONS.

The Arkansas Department of Environmental Quality has made a tentative determination to issue a permit for the discharge described in the application. Permit requirements are based on NPDES regulations (40 CFR Parts 122, 124, and Subchapter N) and regulations promulgated pursuant to the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended, Ark. Code Ann. 8-4-101 et. seq.).

a. **Final Effluent Limitations**

Outfall 001-process wastewater, stormwater, and treated sanitary wastewater

i. **Conventional and/or Toxic Pollutants**

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max		
Flow	N/A	N/A	Report	Report	five/week	instantaneous
Biochemical Oxygen Demand (BOD5)	Report	Report	Report	Report	three/week	24 hr composite
Total Suspended Solids (TSS)	Report	Report	Report	Report	three/week	24 hr composite
Acenaphthene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Acrylonitrile	0.25	0.64	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Benzene	0.10	0.36	Report, µg/l	Report, µg/l	once/quarter	24 hr composite

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max		
Carbon Tetrachloride	0.05	0.10	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Chlorobenzene	0.04	0.07	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,2,4-Trichlorobenzene	0.18	0.37	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Hexachlorobenzene	0.04	0.07	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,2-Dichloroethane	0.18	0.56	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,1,1-Trichloroethane	0.06	0.14	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Hexachloroethane	0.06	0.14	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,1-Dichloroethane	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,1,2-Trichloroethane	0.06	0.14	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Chloroethane	0.27	0.71	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Chloroform	0.06	0.12	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2-Chlorophenol	0.08	0.26	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,2-Dichlorobenzene	0.20	0.43	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,3-Dichlorobenzene	0.08	0.12	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,4-Dichlorobenzene	0.04	0.07	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,1-Dichloroethylene	0.04	0.07	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,2-trans-Dichloroethylene	0.06	0.14	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2,4-Dichlorophenol	0.10	0.30	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,2-Dichloropropane	0.40	0.61	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
1,3-Dichloropropylene	0.08	0.12	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2,4-Dimethylphenol	0.05	0.09	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2,4-Dinitrotoluene	0.30	0.75	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2,6-Dinitrotoluene	0.67	1.69	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Ethylbenzene	0.08	0.28	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Fluoranthene	0.07	0.18	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Methylene Chloride	0.11	0.23	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Methyl Chloride	0.23	0.50	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Hexachlorobutadiene	0.05	0.13	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Naphthalene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Nitrobenzene	0.07	0.18	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2-Nitrophenol	0.11	0.18	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
4-Nitrophenol	0.19	0.33	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
2,4-Dinitrophenol	0.19	0.32	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
4,6-Dinitro-o-cresol	0.21	0.73	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Phenol, Total Single Compound	0.04	0.07	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Bis(2-ethylhexyl)phthalate	0.27	0.74	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Di-n-butyl phthalate	0.07	0.15	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Diethyl phthalate	0.21	0.53	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Dimethyl phthalate	0.05	0.12	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Benzo (a) anthracene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Benzo (a) pyrene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
3,4-Benzofluoranthene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Benzo (k) fluoranthene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max		
Crysene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Acenaphthylene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Anthracene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Fluorene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Phenanthrene	0.06	0.16	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Pyrene	0.07	0.18	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Tetrachloroethylene	0.06	0.15	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Toluene	0.07	0.21	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Trichloroethylene	0.06	0.14	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Total Chromium	2.92	7.30	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Total Copper	3.82	8.91	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Total Lead	0.84	1.82	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Total Nickel	4.45	10.49	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Total Zinc	2.77	6.88	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Vinyl Chloride	0.27	0.71	Report, µg/l	Report, µg/l	once/quarter	24 hr composite
Fecal Coliform Bacteria (FCB)			(colonies/100ml)			
(Apr-Sept)	N/A	N/A	200	400	twice/month	grab
(Oct-Mar)	N/A	N/A	1000	2000	twice/month	grab
pH	N/A	N/A	<u>Minimum</u> 6 s.u.	<u>Maximum</u> 9 s.u.	once/month	grab
Acute Biomonitoring		N/A	N/A	N/A	once/quarter	24 hr composite
<u>Pimephales promelas (Acute)</u> Pass/Fail Lethality TEM6C Survival TOM6C Coefficient of Variation TQM6C			<u>48-hr Minimum</u> Report (Pass=0/Fail=1) Report % Report %		once/quarter once/quarter once/quarter	24 hr composite 24 hr composite 24 hr composite
<u>Daphnia pulex (Acute)</u> Pass/Fail Lethality TEM3D Survival TOM3D Coefficient of Variation TQM3D			<u>48-hr Minimum</u> Report (Pass=0/Fail=1) Report % Report %		once/quarter once/quarter once/quarter	24 hr composite 24 hr composite 24 hr composite

- ii. **Solids, Foam, and Free Oil:** There shall be no discharge of distinctly visible solids, scum or foam of a persistent nature, nor shall there be any formation of slime, bottom deposits or sludge banks. No visible sheen (Sheen means an iridescent appearance on the surface of the water).

12. BASIS FOR PERMIT CONDITIONS.

The following is an explanation of the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons suggesting the tentative decisions as required under 40 CFR 124.7 (48 FR 1413, April 1, 1983).

A. Technology-Based versus Water Quality-Based Effluent Limitations and Conditions

Following regulations promulgated at 40 CFR Part 122.44 (1) (2) (ii), the draft permit limits are based on either technology-based effluent limits pursuant to 40 CFR Part 122.44 (a) or on State water quality standards and requirements pursuant to 40 CFR Part 122.44 (d), whichever are more stringent.

B. Technology-Based Effluent Limitations and/or Conditions

(1) **General Comments**

Regulations promulgated at 40 CFR Part 122.44 (a) require technology-based effluent limitations to be placed in NPDES permits based on effluent limitations guidelines where applicable, on Best Professional Judgment (BPJ) in the absence of guidelines, or on a combination of the two.

(2) **Applicable Effluent Limitations Guidelines or Best Professional Judgment of the Permit Writer**

Discharges from facilities of this type are covered by Federal effluent limitations guidelines promulgated under 40 CFR Part 414, Subparts H and I, Organic Chemicals, Plastics, and Synthetic Fibers Point Source Category.

(3) **Process wastewater (Outfall 001)**

Mass limitations for pollutants limited by this permit have changed due to an increase in process wastewater flow. Based on 40 CFR 122.44(l) this increase in limitations does not violate the anti-backsliding provision.

From 40 CFR Part 414.81:

Technology-based limits for Conventional Pollutants

Effluent Characteristic	BPT effluent limitations (mg/l)		Calculated Mass limitations (lb/day)	
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max
BOD₅*	45	120	119	318
TSS*	57	183	151	485
pH	6-9 s.u.		6-9 s.u.	

***Note: The conditions of the Consent Administrative Order 94-159, including amendments made thereto, supercede the conditions of NPDES draft permit AR0037770:**

The permittee submitted a permit renewal application on 11/1/1999. The permittee had entered into a Consent Administrative Order in December 1994 (as amended in June 1996) addressing BOD₅ and TSS limitations, in light of the FDF (Fundamentally

Different Factor) variance request submitted by Ciba to US EPA in 1988. The permittee then entered into a Settlement Agreement with US EPA on July 12, 2001 in which EPA agreed, in part, to establish alternative BPT limitations for BOD₅ and TSS contingent upon Ciba's completion of construction of a new wastewater treatment plant on or before October 1, 2005. In the Settlement Agreement, USEPA and Ciba also agreed that Ciba would retain a wastewater treatment consultant (with EPA's concurrence) to make a recommendation concerning appropriate alternative BPT limits for BOD₅ and TSS for the plant. The independent consultant's recommendation would be based, in part, upon its review of at least one year of performance data generated from the new wastewater treatment system. Once the consultant receives that performance data, EPA will then propose alternative BPT limits for BOD₅ and TSS within 285 days after Ciba's consultant receives that data. (For example, assuming the new treatment plant is constructed by October 1, 2005 and one-year of performance data is made available to the consultant by November 1, 2006, EPA would propose alternative BPT limits no later than 285 days after November 1, 2006, which would fall during August 2007.)

Therefore, to avoid the need to prematurely reissue this permit, it is proposed that the current permit be issued for a four (4)-year term in accordance with the CAO and 40 CFR 122.46(c).

From 40 CFR Part 414.91:

Technology-based Effluent limitations for Toxic Pollutants

Effluent Characteristic	BAT Concentration limits (µg/l)		Calculated Mass limits (lb/day)	
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max
Acenaphthene	22	59	0.06	0.16
Acrylonitrile	96	242	0.25	0.64
Benzene	37	136	0.10	0.36
Carbon Tetrachloride	18	38	0.05	0.10
Chlorobenzene	15	28	0.04	0.07
1,2,4-Trichlorobenzene	68	140	0.18	0.37
Hexachlorobenzene	15	28	0.04	0.07
1,2-Dichloroethane	68	211	0.18	0.56
1,1,1-Trichloroethane	21	54	0.06	0.14
Hexachloroethane	21	54	0.06	0.14
1,1-Dichloroethane	22	59	0.06	0.16
1,1,2-Trichloroethane	21	54	0.06	0.14
Chloroethane	104	268	0.27	0.71
Chloroform	21	46	0.06	0.12
2-Chlorophenol	31	98	0.08	0.26
1,2-Dichlorobenzene	77	163	0.20	0.43
1,3-Dichlorobenzene	31	44	0.08	0.12
1,4-Dichlorobenzene	15	28	0.04	0.07
1,1-Dichloroethylene	16	25	0.04	0.07
1,2-trans-Dichloroethylene	21	54	0.06	0.14
2,4-Dichlorophenol	39	112	0.10	0.30
1,2-Dichloropropane	153	230	0.40	0.61
1,3-Dichloropropylene	29	44	0.08	0.12

Effluent Characteristic	BAT Concentration limits (µg/l)		Calculated Mass limits (lb/day)	
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max
2,4-Dimethylphenol	18	36	0.05	0.09
2,4-Dinitrotoluene	113	285	0.30	0.75
2,6-Dinitrotoluene	255	641	0.67	1.69
Ethylbenzene	32	108	0.08	0.28
Fluoranthene	25	68	0.07	0.18
Methylene Chloride	40	89	0.11	0.23
Methyl Chloride	86	190	0.23	0.50
Hexachlorobutadiene	20	49	0.05	0.13
Naphthalene	22	59	0.06	0.16
Nitrobenzene	27	68	0.07	0.18
2-Nitrophenol	41	69	0.11	0.18
4-Nitrophenol	72	124	0.19	0.33
2,4-Dinitrophenol	71	123	0.19	0.32
4,6-Dinitro-o-cresol	78	277	0.21	0.73
Phenol, Total Single Compound	15	26	0.04	0.07
Bis(2-ethylhexyl)phthalate	103	279	0.27	0.74
Di-n-butyl phthalate	27	57	0.07	0.15
Diethyl phthalate	81	203	0.21	0.53
Dimethyl phthalate	19	47	0.05	0.12
Benzo (a) anthracene	22	59	0.06	0.16
Benzo (a) pyrene	23	61	0.06	0.16
3,4-Benzofluoranthene	23	61	0.06	0.16
Benzo (k) fluoranthene	22	59	0.06	0.16
Crysene	22	59	0.06	0.16
Acenaphthylene	22	59	0.06	0.16
Anthracene	22	59	0.06	0.16
Fluorene	22	59	0.06	0.16
Phenanthrene	22	59	0.06	0.16
Pyrene	25	67	0.07	0.18
Tetrachloroethylene	22	56	0.06	0.15
Toluene	26	80	0.07	0.21
Trichloroethylene	21	54	0.06	0.14
Vinyl Chloride	104	268	0.27	0.71
Total Chromium	1110	2770	2.92	7.30
Total Copper	1450	3380	3.82	8.91
Total Lead	320	690	0.84	1.82
Total Nickel	1690	3980	4.45	10.49
Total Zinc	1050	2610	2.77	6.88
Total Cyanide*	120	1200	0.32	3.16

* Note: No waste streams containing Cyanide are present at the facility. Therefore, limitations for this parameter are not included in the draft permit in accordance with 40 CFR Part 414.91(b).

Mass limitations for Conventional Pollutants and Toxic Pollutants were calculated based on the highest monthly average flow of 0.318 MGD and the following equation:

$$\text{lbs/day} = \text{Concentration (mg/l)} \times \text{Flow (MGD)} \times 8.34$$

(4) **Stormwater runoff**

Effluent limitations guidelines have not been promulgated for discharges of this sort. Therefore, under the authority of Section 402 (a) (1) of the Clean Water Act and State laws, the State has developed a permit on a case-by-case basis. Stormwater pollution prevention plan requirements are included.

C. **State Water Quality Numerical Standards Based Limitations**

(1) **Conventional and Non-Conventional Pollutants**

pH limitations are continued from the previous permit based on 40 CFR Part 122.44(l). FCB limits have been included based upon Regulation 2, Section 2.507 (B).

D. **Toxics Pollutants-Priority Pollutant Scan (PPS)**

(1) **General Comments**

Effluent limitations and/or conditions established in the draft permit are in compliance with the Arkansas Water Quality Standards and the applicable Water Quality Management Plan.

(2) **Post Third Round Policy and Strategy**

Section 101 of the Clean Water Act(CWA) states that "...it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited...". To insure that the CWA's prohibitions on toxic discharges are met, EPA has issued a "Policy for the Development of Water Quality-Based Permit Limitations by Toxic Pollutants"(49 FR 9016-9019,3/9/84). In support of the national policy, Region 6 adopted the "Policy for post Third Round NPDES Permitting" and the "Post Third Round NPDES Permit Implementation Strategy" on October 1, 1992. The Regional policy and strategy are designed to insure that no source will be allowed to discharge any wastewater which (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical State water quality standard resulting in non-conformance with the provisions of 40 CFR Part 122.44(d); (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation which threatens human health.

(3) **Implementation**

The State of Arkansas is currently implementing EPA's Post Third-Round Policy in conformance with the EPA Regional strategy. The 5-year NPDES permits contain technology-based effluent limitations reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, or where there are no applicable technology-based limits, additional water quality-based effluent limitations and/or conditions are included in the NPDES permits. State narrative and numerical water quality standards from the Regulation No. 2 are used in conjunction with EPA criteria and other available toxicity information to determine the adequacy of technology-based permit limits and the need for additional water quality-based controls.

(4) **Priority Pollutant Scan**

In accordance with the regional policy ADEQ has reviewed and evaluated the effluent in evaluating the potential toxicity of each analyzed pollutant:

- a. The results were evaluated and compared to EPA's Minimum Quantification Levels (MQLs) to determine the potential presence of a respective toxic pollutant. Those pollutants which are greater than or equal to the MQLs are determined to be reasonably present in the effluent and an evaluation of their potential toxicity is necessary.
- b. Those pollutants with one datum shown as "non-detect" (ND), providing the level of detection is equal to or lower than MQL are determined to be not potentially present in the effluent and eliminated from further evaluation.
- c. Those pollutants with a detectable value even if below the MQL are determined to be reasonably present in the effluent and an evaluation of their potential toxicity is necessary.
- d. For those pollutants with multiple data values and all values are determined to be non-detect, therefore, no further evaluation is necessary. However, where data set includes some detectable concentrations and some values as ND, one-half of the detection level is used for those values below the level of detection to calculate the geometric mean of the data set.

The concentration of each pollutant after mixing with the receiving stream was compared to the applicable water quality standards as established in the Arkansas Water Quality Standards, Reg. No. 2 and with the aquatic toxicity, human health, and drinking water criteria obtained from the "Quality Criteria for Water, 1986 (Gold Book)". The following expression was used to calculate the pollutant instream waste concentration(IWC):

$$IWC = ((C_e \times Q_e) + (C_b \times Q_b)) / (Q_e + Q_b)$$

where:

IWC = instream concentration of pollutant after mixing with receiving stream (F g/l)

C_e = pollutant concentration in effluent (F g/l)

Q_e = effluent flow of facility (cfs)

C_b = background concentration of pollutant in receiving stream (F g/l)

Q_b = background flow of receiving stream (cfs)

The following values were used in the IWC calculations:

C_e = varies with pollutant. A single value from the Priority Pollutant Screen (PPS) submitted by the permittee as part of the NPDES permit application or the geometric mean of a group of data points (less than 20 data points) is multiplied by a factor of 2.13. This factor is based on EPA's Region VI procedure (See attachment IV of Continuing Planning Process (CPP)) to extrapolate limited data sets to better evaluate the potential toxicity for higher effluent concentrations to exceed water quality standards. This procedure employs a statistical approach which yields an estimate of a selected upper percentile value (the 95th percentile) of an effluent data set which would be expected to exceed 95% of effluent concentrations in a discharge. If 20 or more data points during the last two years are available, do not multiply by 2.13, but instead use the maximum reported values.

Q_e = 0.318 MGD = 0.49 cfs, based on highest monthly average flow from the industry during the last two (2) years

C_b = 0 μ g/l

Q_b = (See below):

e. Aquatic Toxicity

Chronic Toxicity: Flow = 29750 cfs, for comparison with chronic aquatic toxicity. This flow is **25** percent of the 7-day, 10-year low-flow (7Q10) for the receiving stream. The 7Q10 of 119000 cfs is based on "Identification and Classification of Perennial Stream of Arkansas", Arkansas Geological Commission Map.

Acute Toxicity: Flow = 7140 cfs, for comparison with acute aquatic toxicity. This flow is **6** percent of the 7Q10 for the receiving stream.

f. Bioaccumulation

i. Flow = 609380 cfs, for comparison with bioaccumulation criteria. This flow is based on information in the previous permit.

g. Drinking Water

i. Flow = 119000 cfs, for comparison with drinking water criteria. This flow is the 7Q10 for the receiving stream.

The following values were used to determine limits for the pollutants:

Hardness = 126.93 mg/l, based on attachment VI of CPP.

pH = 7.54 s.u., based on compliance data from "Arkansas Water Quality Inventory Report"305(b).

(5) **Water Quality Standards for Metals and Cyanide**

Standards for Chromium (VI), Mercury, Selenium, and Cyanide are expressed as a function of the pollutant's water-effect ratio (WER), while standards for cadmium, chromium (III), copper, lead, nickel, silver, and zinc are expressed as a function of the pollutant's water-effect ratio, and as a function of hardness.

The **Water-effect ratio** (WER) is assigned a value of 1.0 unless scientifically defensible study clearly demonstrates that a value less than 1.0 is necessary or a value greater than 1.0 is sufficient to fully protect the designated uses of the receiving stream from the toxic effects of the pollutant.

The WER approach compares bioavailability and toxicity of a specific pollutant in receiving water and in laboratory test water. It involves running toxicity tests for at least two species, measuring LC50 for the pollutant using the local receiving water collected from the site where the criterion is being implemented, and laboratory toxicity testing water made comparable to the site water in terms of chemical hardness. The ratio between site water and lab water LC50 is used to adjust the national acute and chronic criteria to site specific values.

(6) **Conversion of Dissolved Metals Criteria for Aquatic Life to Total Recoverable Metal**

Metals criteria established in Regulation No. 2 for aquatic life protection are based on dissolved metals concentrations and hardness values (See Page 6 of **Attachment 1**). However, Federal Regulations cited at 40 CFR 122.45(c) require that effluent limitations for metals in NPDES permits be expressed as total recoverable (See Pages 1 and 6 of **Attachment 1**). Therefore, a dissolved to the total recoverable metal conversion must be implemented. This involves determining a linear partition coefficient for the metal of concern and using this coefficient to determine the fraction of metal dissolved, so that the dissolved metal ambient criteria may be translated to a total effluent limit. The formula for converting dissolved metals to total recoverable metals for streams and lakes are provided in **Attachment 2** and Region 6 Implementation Guidance for Arkansas Water Quality Standards promulgated at 40 CFR 131.36.

(7) **Results of the comparison of the submitted information with the appropriate water quality standards and criteria**

The following pollutants were determined to be present in the effluent at levels greater than or equal to the Minimum Quantification Level(MQL) for each pollutant as reported by the permittee.

Pollutant	Concentration Reported, µg/l	MQL, µg/l
Arsenic, Total	23	10
Chromium, Total	12	10
Chromium, Hex	20	10
Copper, Total	58	10
Silver, Total	2	2
Zinc, Total	132	20
Phenols, Total	230	5
Cyanide, Total	25	20
Gamma-BHC	0.23	0.05
4,4'-DDD	0.51	0.1
Heptachlor	0.34	0.05
Heptachlor epoxide	0.34	1.0

However, ADEQ has determined from the information submitted by the permittee that no water quality standards or Gold Book criteria are exceeded. Therefore, no permit action is necessary to maintain these standards or criteria (See **Attachment 1.**)

(8) Technology-based limits vs. AWQS

The following pollutants were expressly limited by technology-based effluent limitation found in 40 CFR Part 414 at levels greater than or equal to the Minimum Quantification Level(MQL).

Pollutant	Concentration Reported, µg/l	MQL, µg/l
Acenaphthene	59	10
Acrylonitrile	242	50
Benzene	136	10
Carbon Tetrachloride	38	10
Chlorobenzene	28	10
1,2,4-Trichlorobenzene	140	10
Hexachlorobenzene	28	10
1,2-Dichloroethane	211	10
1,1,1-Trichloroethane	54	10

Pollutant	Concentration Reported, $\mu\text{g/l}$	MQL, $\mu\text{g/l}$
Hexachloroethane	54	10
1,1-Dichloroethane	59	10
1,1,2-Trichloroethane	54	10
Chloroethane	268	50
Chloroform	46	10
2-Chlorophenol	98	10
1,2-Dichlorobenzene	163	10
1,3-Dichlorobenzene	44	10
1,4-Dichlorobenzene	28	10
1,1-Dichloroethylene	25	10
1,2-trans-Dichloroethylene	54	10
2,4-Dichlorophenol	112	10
1,2-Dichloropropane	230	10
1,3-Dichloropropylene	44	10
2,4-Dimethylphenol	36	10
2,4-Dinitrotoluene	285	10
2,6-Dinitrotoluene	641	10
Ethylbenzene	108	10
Fluoranthene	68	10
Methylene Chloride	89	20
Methyl Chloride	190	50
Hexachlorobutadiene	49	10
Naphthalene	59	10
Nitrobenzene	68	10
2-Nitrophenol	69	20
4-Nitrophenol	124	20
2,4-Dinitrophenol	123	50
4,6-Dinitro-o-cresol	277	50
Phenol, Total Single Compound	26	10

Pollutant	Concentration Reported, µg/l	MQL, µg/l
Bis(2-ethylhexyl)phthalate	279	10
Di-n-butyl phthalate	57	10
Diethyl phthalate	203	10
Dimethyl phthalate	47	10
Benzo (a) anthracene	59	10
Benzo (a) pyrene	61	10
3,4-Benzofluoranthene	61	10
Benzo (k) fluoranthene	59	10
Crysene	59	10
Acenaphthylene	59	10
Anthracene	59	10
Fluorene	59	10
Phenanthrene	59	10
Pyrene	67	10
Tetrachloroethylene	56	10
Toluene	80	10
Trichloroethylene	54	10
Vinyl Chloride	268	10
Total Chromium	2770	10
Total Copper	3380	10
Total Lead	690	10
Total Nickel	3980	10
Total Zinc	2610	10

After comparison of the technology-based limitations for Outfall 001 versus water quality standards, it has been determined that these limitations will not be violated AWQS (See **Attachment 3**).

E. Final Limitations

The following effluent limitations or "report" requirements were placed in the permit based on the more stringent of the technology-based, water quality-based or previous NPDES permit limitations:

Parameter	Water Quality-Based		Technology-Based/BPJ		Previous NPDES Permit		Draft Permit	
	Monthly Avg. lb/day	Daily Max. lb/day	Monthly Avg. lb/day	Daily Max. lb/day	Monthly Avg. lb/day	Daily Max. lb/day	Monthly Avg. lb/day	Daily Max. lb/day
Outfall 001:								
Biochemical Oxygen Demand (BOD5)	N/A	N/A	119*	318*	55.0	146.6	Report*	Report*
Total Suspended Solids (TSS)	N/A	N/A	151*	485*	69.6	223.6	Report*	Report*
Acenaphthene	N/A	N/A	0.06	0.16	0.027	0.072	0.06	0.16
Acrylonitrile	N/A	N/A	0.25	0.64	0.117	0.296	0.25	0.64
Benzene	N/A	N/A	0.10	0.36	0.045	0.166	0.10	0.36
Carbon Tetrachloride	N/A	N/A	0.05	0.10	0.022	0.046	0.05	0.10
Chlorobenzene	N/A	N/A	0.04	0.07	0.018	0.034	0.04	0.07
1,2,4-Trichlorobenzene	N/A	N/A	0.18	0.37	0.083	0.171	0.18	0.37
Hexachlorobenzene	N/A	N/A	0.04	0.07	0.018	0.034	0.04	0.07
1,2-Dichloroethane	N/A	N/A	0.18	0.56	0.083	0.258	0.18	0.56
1,1,1-Trichloroethane	N/A	N/A	0.06	0.14	0.026	0.066	0.06	0.14
Hexachloroethane	N/A	N/A	0.06	0.14	0.026	0.066	0.06	0.14
1,1-Dichloroethane	N/A	N/A	0.06	0.16	0.027	0.072	0.06	0.16
1,1,2-Trichloroethane	N/A	N/A	0.06	0.14	0.026	0.066	0.06	0.14
Chloroethane	N/A	N/A	0.27	0.71	0.127	0.327	0.27	0.71
Chloroform	N/A	N/A	0.06	0.12	0.026	0.056	0.06	0.12
2-Chlorophenol	N/A	N/A	0.08	0.26	0.038	0.120	0.08	0.26
1,2-Dichlorobenzene	N/A	N/A	0.20	0.43	0.094	0.200	0.20	0.43
1,3-Dichlorobenzene	N/A	N/A	0.08	0.12	0.038	0.054	0.08	0.12
1,4-Dichlorobenzene	N/A	N/A	0.04	0.07	0.018	0.034	0.04	0.07
1,1-Dichloroethylene	N/A	N/A	0.04	0.07	0.020	0.031	0.04	0.07
1,2-trans-Dichloroethylene	N/A	N/A	0.06	0.14	0.026	0.066	0.06	0.14

Parameter	Water Quality-Based		Technology-Based/BPJ		Previous NPDES Permit		Draft Permit	
	Monthly Avg. lb/day	Daily Max. lb/day	Monthly Avg. lb/day	Daily Max. lb/day	Monthly Avg. lb/day	Daily Max. lb/day	Monthly Avg. lb/day	Daily Max. lb/day
2,4-Dichlorophenol	N/A	N/A	0.10	0.30	0.048	0.137	0.10	0.30
1,2-Dichloropropane	N/A	N/A	0.40	0.61	0.187	0.281	0.40	0.61
1,3-Dichloropropylene	N/A	N/A	0.08	0.12	0.035	0.054	0.08	0.12
2,4-Dimethylphenol	N/A	N/A	0.05	0.09	0.022	0.044	0.05	0.09
2,4-Dinitrotoluene	N/A	N/A	0.30	0.75	0.138	0.348	0.30	0.75
2,6-Dinitrotoluene	N/A	N/A	0.67	1.69	0.312	0.783	0.67	1.69
Ethylbenzene	N/A	N/A	0.08	0.28	0.039	0.132	0.08	0.28
Fluoranthene	N/A	N/A	0.07	0.18	0.031	0.083	0.07	0.18
Methylene Chloride	N/A	N/A	0.11	0.23	0.049	0.109	0.11	0.23
Methyl Chloride	N/A	N/A	0.23	0.50	0.105	0.232	0.23	0.50
Hexachlorobutadiene	N/A	N/A	0.05	0.13	0.024	0.060	0.05	0.13
Naphthalene	N/A	N/A	0.06	0.16	0.027	0.072	0.06	0.16
Nitrobenzene	N/A	N/A	0.07	0.18	0.085	0.033	0.07	0.18
2-Nitrophenol	N/A	N/A	0.11	0.18	0.087	0.050	0.11	0.18
4-Nitrophenol	N/A	N/A	0.19	0.33	0.155	0.088	0.19	0.33
2,4-Dinitrophenol	N/A	N/A	0.19	0.32	0.154	0.087	0.19	0.32
4,6-Dinitro-o-cresol	N/A	N/A	0.21	0.73	0.095	0.338	0.21	0.73
Phenol, Total Single Compound	N/A	N/A	0.04	0.07	0.018	0.032	0.04	0.07
Bis(2-ethylhexyl)phthalate	N/A	N/A	0.27	0.74	0.126	0.341	0.27	0.74
Di-n-butyl phthalate	N/A	N/A	0.07	0.15	0.033	0.070	0.07	0.15
Diethyl phthalate	N/A	N/A	0.21	0.53	0.100	0.248	0.21	0.53
Dimethyl phthalate	N/A	N/A	0.05	0.12	0.023	0.057	0.05	0.12
Benzo (a) anthracene	N/A	N/A	0.06	0.16	0.027	0.072	0.06	0.16
Benzo (a) pyrene	N/A	N/A	0.06	0.16	0.028	0.075	0.06	0.16
3,4-Benzofluoranthene	N/A	N/A	0.06	0.16	0.028	0.075	0.06	0.16
Benzo (k) fluoranthene	N/A	N/A	0.06	0.16	0.027	0.072	0.06	0.16
Crysene	N/A	N/A	0.06	0.16	0.027	0.072	0.06	0.16

Parameter	Water Quality-Based		Technology-Based/BPJ		Previous NPDES Permit		Draft Permit	
	Monthly Avg. lb/day	Daily Max. lb/day	Monthly Avg. lb/day	Daily Max. lb/day	Monthly Avg. lb/day	Daily Max. lb/day	Monthly Avg. lb/day	Daily Max. lb/day
Acenaphthylene	N/A	N/A	0.06	0.16	0.027	0.072	0.06	0.16
Anthracene	N/A	N/A	0.06	0.16	0.027	0.072	0.06	0.16
Fluorene	N/A	N/A	0.06	0.16	0.027	0.072	0.06	0.16
Phenanthrene	N/A	N/A	0.06	0.16	0.027	0.072	0.06	0.16
Pyrene	N/A	N/A	0.07	0.18	0.031	0.082	0.07	0.18
Tetrachloroethylene	N/A	N/A	0.06	0.15	0.027	0.068	0.06	0.15
Toluene	N/A	N/A	0.07	0.21	0.031	0.097	0.07	0.21
Trichloroethylene	N/A	N/A	0.06	0.14	0.027	0.068	0.06	0.14
Vinyl Chloride	N/A	N/A	0.27	0.71	0.127	0.327	0.27	0.71
Total Chromium	N/A	N/A	2.92	7.30	N/A	N/A	2.92	7.30
Total Copper	N/A	N/A	3.82	8.91	N/A	N/A	3.82	8.91
Total Lead	N/A	N/A	0.84	1.82	N/A	N/A	0.84	1.82
Total Nickel	N/A	N/A	4.45	10.49	N/A	N/A	4.45	10.49
Total Zinc	N/A	N/A	2.77	6.88	N/A	N/A	2.77	6.88
FCB (col/100 ml)								
Apr-Sept	200	400	N/A	N/A	N/A	N/A	200	400
Oct-Mar	1000	2000	N/A	N/A	N/A	N/A	1000	2000
pH	6-9 s.u.		6-9 s.u.		6-9 s.u.		6-9 s.u.	

*Note: See Item 12.B(3) for explanation of “report” only requirement for BOD5 and TSS.

F. Biomonitoring

Section 101(a)(3) of the Clean Water Act states that ".....it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited." In addition, ADEQ is required under 40 CFR Part 122.44(d)(1), adopted by reference in Regulation 6, to include conditions as necessary to achieve water quality standards as established under Section 303 of the Clean Water Act. Arkansas has established a narrative criteria which states "toxic materials shall not be present in receiving waters in such quantities as to be toxic to human, animal, plant or aquatic life or to interfere with the normal propagation, growth and survival of aquatic biota."

Whole effluent biomonitoring is the most direct measure of potential toxicity which incorporates the effects of synergism of effluent components and receiving stream water quality characteristics. It is the national policy of EPA to use bioassays as a measure of toxicity to allow evaluation of the effects of a discharge upon a receiving water (49 Federal Register 9016-9019, March 9, 1984). EPA Region 6 and the State of Arkansas are now implementing the Post Third Round Policy and Strategy established on September 9, 1992.

Biomonitoring of the effluent is thereby required as a condition of this permit to assess potential toxicity. The biomonitoring procedures stipulated as a condition of this permit are as follows:

TOXICITY TESTS	FREQUENCY
Acute Biomonitoring	Once/quarter

Requirements for measurement frequency are based on appendix D of CPP.

Since 7Q10 is greater than 100 cfs (ft³/sec) and dilution ration is greater than 100:1, acute biomonitoring requirements will be included in the permit.

The calculations for dilution used for the acute biomonitoring are as follows:

$$\text{Critical Dilution (CD)} = (Q_d / (Q_d + Q_b)) \times 100$$

$$Q_d = \text{Average Flow} = 0.318 \text{ MGD} = 0.49 \text{ Cfs}$$

$$7Q_{10} = 119000 \text{ Cfs}$$

$$Q_b = \text{Background flow} = 0.1 \times 0.25 \times 7Q_{10} = 2975 \text{ cfs}$$

$$CD = ((0.49) / (2975 + 0.49)) \times 100 = 0.016\%$$

Toxicity tests shall be performed in accordance with protocols described in "Methods for Measuring the Acute Toxicity of Effluent to Freshwater and Marine Organisms", EPA/600/4-90/027. A minimum of five effluent dilutions in addition to an appropriate control (0%) are to be used in the toxicity tests. These additional effluent concentrations are **0.007%, 0.009%, 0.012%, 0.016%, and 0.021%** (See **Attachment I** of CPP). The low-flow effluent concentration (critical dilution) is defined as **0.016%** effluent. The requirement for acute biomonitoring tests is based on the magnitude of the facility's discharge with respect to receiving stream flow. The stipulated test species are representative of organisms indigenous to the geographic area of the facility; the use of these is consistent with the requirements of the State water quality standards. The biomonitoring frequency has been established to provide data representative of the toxic potential of the facility's discharge, in accordance with the regulations promulgated at 40 CFR Part 122.48.

Results of all dilutions as well as the associated chemical monitoring of pH, temperature, hardness, dissolved oxygen, conductivity, and alkalinity shall be reported according to EPA/600/4-90/027 and shall be submitted as an attachment to the Discharge Monitoring Report (DMR).

This permit may be reopened to require further biomonitoring studies, Toxicity Reduction Evaluation (TRE) and/or effluent limits if biomonitoring data submitted to the Department shows toxicity in the permittee's discharge. Modification or revocation of this permit is subject to the provisions of 40 CFR 122.62, as adopted by reference in ADEQ Regulation No. 6. Increased or intensified toxicity testing may also be required in accordance with Section 308 of the Clean Water Act and Section 8-4-201 of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

Administrative Records

The following information summarized toxicity test submitted by the permittee during the term of the current permit at outfall 001. (**See Attachment 4.**)

G. Sample Type and Sampling Frequency

Requirements for sample type and sampling frequency have been based on the current NPDES permit, with the exception of 4,6-Dinitro-o-cresol. The monitoring frequency for 4,6-Dinitro-o-cresol has been reduced from two/month to once/quarter based on no violations during the past two (2) years and the EPA guidance document, "NPDES Performance Based Reduction Worksheet".

H. Changes from the previously issued permit

1. Part III has been revised.
2. Language referring to CAO 94-159 has been included in the Schedule of Compliance.
3. BOD5 and TSS limits have been replaced with a "report" requirement.
4. Mass limits have changed for toxic pollutants, based on change in monthly average flow.
5. FCB limit has been included with a monitoring frequency of twice/month.
6. Location description has changed.
7. Monitoring frequency for 4,6-Dinitro-o-cresol has been reduced to once/quarter.
8. The reporting units for toxic pollutants have changed from mg/l to µg/l.
9. The discharge description has changed (sanitary wastewater has been included).
10. Facility and outfall coordinates have been corrected.
11. Limitations and monitoring requirements for Total Chromium, Copper, Lead, Nickel and Zinc have been included.

13. SCHEDULE OF COMPLIANCE.

Compliance with final effluent limitations is required by the following schedule:

Compliance is required on the effective date of the permit.

The conditions of the Consent Administrative Order 94-159, including amendments made thereto, supercede the conditions of NPDES draft permit AR0037770 for BOD5 and TSS.

14. OPERATION AND MONITORING.

The applicant is at all times required to properly operate and maintain the treatment facility; to monitor the discharge on a regular basis; and report the results monthly. The monitoring results will be available to the public.

15. SOURCES.

The following sources were used to draft the permit:

- A. NPDES application No. AR0037770 received 11/1/1999.
- B. Regulation No. 2.
- C. Regulation No. 6.
- D. 40 CFR 122, 125, 414.
- E. NPDES permit file AR0037770.
- F. Discharge Monitoring Reports (DMRs).
- G. "Arkansas Water Quality Inventory Report 2000 (305B)", ADEQ.
- H. "Identification and Classification of Perennial Streams of Arkansas", Arkansas Geological Commission.
- I. Continuing Planning Process (CPP).
- J. Technical Support Document For Water Quality-based Toxic Control.
- K. Region 6 Implementation Guidance for Arkansas Water Quality Standards promulgated at 40 CFR 131.36.
- L. Consent Administrative Order 94-159, including amendments.
- M. Letter dated 4/9/2004 from Mr. Jim Morse to Ms. Alison House.

16. NPDES POINT OF CONTACT.

For additional information, contact:

Alison House
NPDES Branch, Water Division
Arkansas Department of Environmental Quality
8001 National Drive
Post Office Box 8913
Little Rock, Arkansas 72219-8913
Telephone: (501) 682-0622



ARKANSAS
Department of Environmental Quality

March 11, 2004

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (7002 0860 0007 6823 0399)

Mr. Jim Morse
Ciba Specialty Chemicals Corporation
100 Bridgeport Road
West Memphis, AR 72301

RE: Application to Discharge to Waters of the State Permit Number AR0037770

Dear Mr. Morse:

Enclosed is the public notice, Fact Sheet, and a copy of the permit which the Arkansas Department of Environmental Quality has drafted under the authority of the National Pollutant Discharge Elimination System and the Arkansas Water and Air Pollution Control Act. A copy of the final permit will be mailed to you when the Department has made a final permit decision.

Federal law requires that all draft NPDES permits prepared by this Department complete a 30 day public notice period. The enclosed public notice will be published by ADEQ in the local paper of general circulation. Act 163 of 1993 requires the permit applicant to bear the expense of the notice's publication. Therefore, an invoice will be sent to you for the cost of publishing the public notice. Until this Department receives proof of publication and proof of payment of the publication, no further action will be taken on your NPDES permit.

Comments must be received at ADEQ prior to the close of the public comment period as shown in the enclosed public notice. The public comment period will begin on the date of publication and will end no sooner than 30 days from that date.

Under the provisions of federal and state laws and regulations, all persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period. Once a final permit is issued by the Director and becomes effective, the permittee must comply with all terms and conditions of the permit, or be subject to enforcement actions for any instances of noncompliance during the duration of the permit, usually five (5) years. Consequently, **it is imperative that you, as the applicant, thoroughly review the enclosed documentation for accuracy, applicability, and your ability to comply with all conditions therein. Comments must be received at ADEQ prior to the close of the public comment period as shown in the enclosed public notice.**

Should you have any questions concerning any part of the permit, please feel free to contact the Arkansas Department of Environmental Quality, NPDES Branch, at (501) 682-0622.

Sincerely,

Martin Maner, P.E.
Chief, Water Division

MM:ah

Enclosure

Arkansas Department of Environmental Quality NPDES authorization to discharge to Waters of the State, permit number AR0037770.

The applicant's mailing address is:

Ciba Specialty Chemicals Corporation
100 Bridgeport Road
West Memphis, AR 72301

The discharge from this facility is made into the Mississippi River in Segment 6C of the Mississippi River Basin. The receiving stream is a Water of the State classified for raw water source for public, industrial, and agricultural water supplies, propagation of desirable species of fish and other aquatic life, and other compatible uses. The facility is located as follows: Approx. 1 mile south of I-55 on the first exit on the AR side of the I-55 bridge over the Mississippi River; Latitude: 35° 09' 45"; Longitude: 90° 06' 58" in Section 22, Township 6 North, Range 9 East in Crittenden County, Arkansas, and the outfall is located at the following coordinates: Latitude: 35° 09' 45" Longitude: 90° 06' 58".

Sludge is accumulating in the bottom of the pond. Sludge disposal, if any, requires prior written authorization from the Department.

A Fact Sheet is available upon request. Under the standard industrial classification (SIC) code 2869 the applicant's activities are the operation of an industrial organic chemical manufacturing facility

Changes from the previously issued permit are as follows:

1. Part III has been revised.
2. Language referring to CAO 94-159 has been included in the Schedule of Compliance.
3. BOD5 and TSS limits have been replaced with a "report" requirement.
4. Mass limits have changed for toxic pollutants, based on change in monthly average flow.
5. FCB limit has been included.
6. Location description has changed.
7. Monitoring frequency for 4,6-Dinitro-o-cresol has been reduced to once/quarter.
8. The reporting units for toxic pollutants have changed from mg/l to µg/l.
9. The discharge description has changed (sanitary wastewater has been included).

ARKANSAS Department of Environmental Quality NPDES AUTHORIZATION
TO DISCHARGE TO Waters of the State, PERMIT NUMBER AR0037770

This is to give notice that the Arkansas Department of Environmental Quality has developed Draft Permit for the following applicant under the National Pollutant Discharge Elimination System and the Arkansas Water and Air Pollution Control Act. Development of the draft permit(s) was based on a preliminary staff review.

Arkansas Department of Environmental Quality NPDES authorization to discharge to Waters of the State, permit number AR0037770 .

The applicant's mailing address is:

Ciba Specialty Chemicals Corporation
100 Bridgeport Road
West Memphis, AR 72301

The discharge from this facility is made into the Mississippi River in Segment 6C of the Mississippi River Basin. The receiving stream is a Water of the State classified for raw water source for public, industrial, and agricultural water supplies, propagation of desirable species of fish and other aquatic life, and other compatible uses. The facility is located as follows: Approx. 1 mile south of I-55 on the first exit on the AR side of the I-55 bridge over the Mississippi River; Latitude: 35° 09' 45"; Longitude: 90° 06' 58" in Section 22, Township 6 North, Range 9 East in Crittenden County, Arkansas, and the outfall is located at the following coordinates: Latitude: 35° 09' 45" Longitude: 90° 06' 58". Sludge is accumulating in the bottom of the pond. Sludge disposal, if any, requires prior written authorization from the Department.

A Fact Sheet is available upon request. Under the standard industrial classification (SIC) code 2869 the applicant's activities are the operation of an industrial organic chemical manufacturing facility.

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3. BOD5 and TSS limits have been replaced with a "report" requirement.
4. Mass limits have changed for toxic pollutants, based on change in monthly average flow.
5. FCB limit has been included.
6. Location description has changed.
7. Monitoring frequency for 4,6-Dinitro-o-cresol has been reduced to once/quarter.
8. The reporting units for toxic pollutants have changed from mg/l to µg/l.
9. The discharge description has changed (sanitary wastewater has been included).

The permit(s) will become effective on or after May 1, 2004, unless:

Comments are received and/or public hearing is requested prior to April 12, 2004, in which case the permit will be effective on or after June 1, 2004.

The ADEQ contact person for submitting written comments, requesting information regarding the draft permit, and/or obtaining copies of the permit and the Fact Sheet is:

Alison House
NPDES Branch, Water Division
Arkansas Department of Environmental Quality
Post Office Box 8913
Little Rock, Arkansas 72219-8913
(501) 682-0622

NPDES comments and public hearing procedures may be found at 40 CFR 124.10 and 124.12 (49 Federal Register 14264, April 1, 1983, as amended at 49 Federal Register 38051, September 26, 1984). The period during which written comments on the draft permit may be submitted extends for 30 days from the date of this notice. During the comment period, any interested person may request a public hearing by filing a written request which must state the issues to be raised. A public hearing will be held if ADEQ finds a significant degree of public interest. ADEQ will notify the applicant, and each person who has submitted written comments or requested notice, of the final permit decision. A final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit. Any interested person who has submitted comments may appeal a final decision by ADEQ in accordance with the Arkansas Department of Environmental Quality Regulation No. 8 (Administrative Procedures).

Attachment 2

Linear Partition Coefficients for Priority Metals in Streams and Lakes*

METAL	STREAMS		LAKES	
	K _{po}	a	K _{po}	a
Arsenic	0.48 X 10 ⁶	-0.73	0.48 X 10 ⁶	-0.73
Cadmium	4.00 X 10 ⁶	-1.13	3.52 X 10 ⁶	-0.92
Chromium**	3.36 X 10 ⁶	-0.93	2.17 X 10 ⁶	-0.27
Copper	1.04 X 10 ⁶	-0.74	2.85 X 10 ⁶	-0.9
Lead***	2.80 X 10 ⁶	-0.8	2.04 X 10 ⁶	-0.53
Mercury	2.90 X 10 ⁶	-1.14	1.97 X 10 ⁶	-1.17
Nickel	0.49 X 10 ⁶	-0.57	2.21 X 10 ⁶	-0.76
Silver****	2.40 X 10 ⁶	-1.03	2.40 X 10 ⁶	-1.03
Zinc	1.25 X 10 ⁶	-0.7	3.34 X 10 ⁶	-0.68

$$K_p = K_{po} \times TSS^a$$

K_p = Linear Partition Coefficient

TSS = Total Suspended Solids (mg/l)-(See **Attachment 3**)

K_{po} = found from table

a = found from table

$$C/C_t = 1/(1 + (K_p \times TSS \times 10^{-6})) \quad C/C_t = \text{Fraction of Metal Dissolved}$$

* Delos, C. G., W. L. Richardson, J. V. DePinto, R. B., Ambrose, P. W. Rogers, K. Rygwelski, J. P. St. John, W. J. Shaughnessey, T. A. Faha, W. N. Christie. Technical Guidance for Performing Waste Load Allocations, Book II: Streams and Rivers. Chapter 3: Toxic Substances, for the U. S. Environmental Protection Agency.(EPA-440/4-84-022).

** Linear partition coefficient shall not apply to the Chromium VI numerical criterion. The approved analytical method for Chromium VI measures only the dissolved form. Therefore, permit limits for Chromium VI shall be expressed in the dissolved form. See 40 CFR 122.45(c)(3).

*** Reference page 18 of EPA memo dated March 3, 1992, from Margaret J. Stasikowski(WH-586) to Water management Division Directors, Region I-IX.

**** Texas Environmental Advisory Council, 1994

Attachment 3

TOTAL SUSPENDED SOLIDS(15th PERCENTILE) BY RECEIVING STREAM AND ECOREGION

For direct discharges to the Arkansas, Red, Ouachita, White, and St. Francis Rivers use the following mean values:

TSS(15th percentile)		
Receiving Stream	TSS	Unit
Arkansas River:		
Ft. Smith to Dardanelle Dam	12.0	mg/l
Dardanelle Dam to Terry L&D	10.5	mg/l
Terry L&D to L&D #5	8.3	mg/l
L&D #5 to Mouth	9.0	mg/l
Red River	33	mg/l
Ouachita River:		
above Caddo River	2.0	mg/l
below Caddo River	5.5	mg/l
White River:		
above Beaver Lake	2.5	mg/l
Bull Shoals to Black River	3.3	mg/l
Black River to Mouth	18.5	mg/l
St. Francis River	18	mg/l

For all other discharges use the following ecoregion TSS:

TSS (15th percentile)		
Ecoregion	TSS	Unit
Ouachita	2	mg/l
Gulf Coastal	5.5	mg/l
Delta	8	mg/l
Ozark Highlands	2.5	mg/l
Boston Mountains	1.3	mg/l
Arkansas River Valley	3	mg/l

Attachment 4

Calculations