Permit Number: AR0038822

AUTHORIZATION TO DISCHARGE WASTEWATER 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.),

The applicant's mailing and physical address is:

Cooper Tire & Rubber Company
3500 Washington Road
Texarkana, AR 71854

is authorized to discharge from a facility located as follows: 1.5 miles east of the center of the city of Texarkana, bounded on north by Washington Road, on the west by Arkansas Loop 245, south by Tennessee Road, and east by farmland in Miller County, Arkansas.

Latitude: 33° 25' 23.4"; Longitude: 94° 00' 13.6"

to receiving waters named:

unnamed tributary of Nix Creek, thence to Nix Creek, thence to Day's Creek, thence to Sulfur River, thence to the Red River in Segment 1B of the Red River Basin.

The outfall is located at the following coordinates:

Outfall 001: Latitude: 33° 25' 7.3"; Longitude: 94° 00' 14.6"

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

Response to Comments is attached.

Issue Date: March 31, 2009

Effective Date: May 1, 2009

Expiration Date: April 30, 2014

Steven L. Drown
Chief, Water Division
Arkansas Department of Environmental Quality

PART I
PERMIT REQUIREMENTS

SECTION A. INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 001 – air conditioner condensate and stormwater.

During the period beginning on the effective date and lasting until three years after the effective date, the permittee is authorized to discharge from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristics	**Discharge Limitations**				**Monitoring Requirements**	
	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, MGD	Report, MGD	continuous	totalizing meter
Biochemical Oxygen Demand (BOD5)						
(May-Oct)	N/A	N/A	50.0	75.0	once/month[4]	grab
(Nov-Apr)	N/A	N/A	40.0	60.0	once/month[4]	grab
Total Suspended Solids (TSS)	N/A	N/A	20.0	30.0	two/month[4]	grab
Dissolved Oxygen[1]						
(May-Oct)	N/A	N/A	Report (Instantaneous Min.)		once/month[4]	grab
(Nov-Apr)	N/A	N/A	Report (Instantaneous Min.)		once/month[4]	grab
Zinc, Total Recoverable	N/A	N/A	116 µg/l	232 µg/l	once/month[4]	3-hr composite
Mercury, Total Recoverable	N/A	N/A	Report µg/l	Report µg/l	once/month[4]	3-hr composite
Oil and Grease (O & G)	N/A	N/A	10.0	15.0	once/month[4]	grab
pH	N/A	N/A	Minimum 6.0 s.u.	Maximum 9.0 s.u.	once/month[4]	grab
Whole Effluent Toxicity (48-hr NOEC)[2,3] 22414	30-day Avg Min not < 100%[6]		48-hr Minimum not < 100%[6]		once/2 months[4]	24-hr composite[5]
Pimephales promelas (Acute)[3]			48-hr Minimum			
Pass/Fail Lethality (48-Hr NOEC) **TEM6C**			Report (Pass=0/Fail=1)		once/2 months[4]	24-hr composite[5]
Survival (48-Hr NOEC) **TOM6C**			Report %		once/2 months[4]	24-hr composite[5]
Daphnia pulex (Acute)[3]			48-hr Minimum			
Pass/Fail Lethality (48-Hr NOEC) **TEM3D**			Report (Pass=0/Fail=1)		once/quarter[4]	24-hr composite[5]
Survival (48-Hr NOEC) **TOM3D**			Report %		once/quarter[4]	24-hr composite[5]

1 See item #27(a) of Part IV (Dissolved Oxygen Requirements).
2 See Condition No. 5 of Part II (WET Testing Requirements).
3 The daily average minimum lethality and 48-hr minimum lethality (48-hr NOEC) value shall not be less than 100% effluent. The NOEC value is defined as the greatest effluent concentration which does not elicit lethality that is statistically different from the control (0% effluent) at the 95% confidence level.
4 Samples and measurements taken shall be representative of the volume and nature of the monitored discharge during the entire monitoring period.
5 See Condition No. 4 of Part II.
6 WET limit applies only to *Pimephales promelas* test species.

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. There shall be no visible sheen due to the presence of oil (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 outfall 001.

PART I
PERMIT REQUIREMENTS

SECTION A. FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 001 – air conditioner condensate and stormwater.

During the period beginning three years after the effective date and lasting until the date of expiration, the permittee is authorized to discharge from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristics	Discharge Limitations				Monitoring Requirements	
	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, MGD	Report, MGD	continuous	totalizing meter
Biochemical Oxygen Demand (BOD5)						
(May-Oct)	N/A	N/A	50.0	75.0	once/month[4]	grab
(Nov-Apr)	N/A	N/A	40.0	60.0	once/month[4]	grab
Total Suspended Solids (TSS)	N/A	N/A	20.0	30.0	two/month[4]	grab
Dissolved Oxygen[1]						
(May-Oct)	N/A	N/A	3.0 (Instantaneous Min.)		once/month[4]	grab
(Nov-Apr)	N/A	N/A	6.0 (Instantaneous Min.)		once/month[4]	grab
Zinc, Total Recoverable	N/A	N/A	116 µg/l	232 µg/l	once/month[4]	3-hr composite
Mercury, Total Recoverable	N/A	N/A	0.014 µg/l	0.027 µg/l	once/month[4]	3-hr composite
Oil and Grease (O & G)	N/A	N/A	10.0	15.0	once/month[4]	grab
pH	N/A	N/A	Minimum 6.0 s.u.	Maximum 9.0 s.u.	once/month[4]	grab
Whole Effluent Toxicity (48-hr NOEC)[2,3] 22414	30-day Avg Min not < 100%[6]		48-hr Minimum not < 100%[6]		once/2 months[4]	24-hr composite[5]
Pimephales promelas (Acute)[3]			48-hr Minimum			
Pass/Fail Lethality (48-Hr NOEC) **TEM6C**			Report (Pass=0/Fail=1)		once/2 months[4]	24-hr composite[5]
Survival (48-Hr NOEC) **TOM6C**			Report %		once/2 months[4]	24-hr composite[5]
Daphnia pulex (Acute)[3]			48-hr Minimum			
Pass/Fail Lethality (48-Hr NOEC) **TEM3D**			Report (Pass=0/Fail=1)		once/quarter[4]	24-hr composite[5]
Survival (48-Hr NOEC) **TOM3D**			Report %		once/quarter[4]	24-hr composite[5]

1 See item #27(a) of Part IV (Dissolved Oxygen Requirements).
2 See Condition No. 6 of Part II (WET Testing Requirements).
3 The daily average minimum lethality and 48-hr minimum lethality (48-hr NOEC) value shall not be less than 100% effluent. The NOEC value is defined as the greatest effluent concentration which does not elicit lethality that is statistically different from the control (0% effluent) at the 95% confidence level.
4 Samples and measurements taken shall be representative of the volume and nature of the monitored discharge during the entire monitoring period.
5 See Condition No. 4 of Part II.
6 WET limit applies only to *Pimephales promelas* test species.

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. There shall be no visible sheen due to the presence of oil (Sheen means an iridescent appearance on the surface of the water). Samples taken in compliance with the monitoring requirements specified above shall be taken from outfall 001.

SECTION B. PERMIT 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 for all parameters except for Total Recoverable Mercury and Dissolved Oxygen.

A. Compliance with Total Recoverable Mercury and Dissolved Oxygen limits are required in accordance with the following schedule:

Compliance Schedule for Mercury and Dissolved Oxygen	
Activity	Compliance Date
Submit progress report	1 year after effective date of permit
Submit progress report	2 years after effective date of permit
Achieve compliance	3 years after effective date of permit

B. Cooper Tire shall complete an engineering study on the current flow measurement method at outfall 001 within 90 days after the effective date of this permit. The study shall include at a minimum the following items:

1. Determination if the current flow measurement practices and devices are in compliance with Part III, Section C.2 of this permit, and

2. Recommended corrective actions, if any, to comply with Part III, Section C.2 of this permit.

Cooper Tire shall complete all corrective actions that the study recommends and be in compliance with Part III, Section C.2 of this permit within 180 days after the effective date of this permit.

PART II
OTHER CONDITIONS

1. In accordance with 40 CFR Parts 122.62 (a)(2) and 124.5, this permit may be reopened for modification or revocation and/or reissuance to require additional monitoring and/or effluent limitations when new information is received that actual or potential exceedance of State water quality criteria and/or narrative criteria are determined to be the result of the permittee's discharge(s) to a relevant water body, or a Total Maximum Daily Load (TMDL) is established or revised for the water body that was not available at the time of the permit issuance that would have justified the application of different permit conditions at the time of permit issuance.

2. Other Specified Monitoring Requirements

   The permittee may use alternative appropriate monitoring methods and analytical instruments other than as specified in Part I Section A of the permit without a major permit modification under the following conditions:

   - The monitoring and analytical instruments are consistent with accepted scientific practices;
   - The requests shall be submitted in writing to the Permits Section of the ADEQ Water Division for use of the alternate method or instrument.
   - The method and/or instrument is in compliance with 40 CFR Part 136 or approved by the Director; and
   - All associated devices are installed, calibrated and maintained to insure the accuracy of the measurements and are consistent with the accepted capability of that type of device. The calibration and maintenance shall be performed as part of the permittee's laboratory Quality Control/Quality Assurance program.

   Upon written approval of the alternative monitoring method and/or analytical instruments, these methods or instruments must be consistently utilized throughout the monitoring period. ADEQ must be notified in writing and the permittee must receive written approval from ADEQ if the permittee decides to return to the original permit monitoring requirements.

3. This permit is exclusively for the discharge of stormwater and air conditioner condensate. Any direct discharge of process wastewater to waters of the state shall be a violation of this permit.

4. In accordance with 40 CFR 122.21(g)(7)(ii), the flow weighted composite sample may be taken at any time during the day with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen (15) minutes.

5. The permittee may use any EPA approved method based on 40 CFR Part 136 provided the MQL for the chosen method is equal to or less than what has been specified in chart below:

Pollutant	MQL (µg/l)
Zinc, Total Recoverable	20
Mercury, Total Recoverable	0.005

The permittee may develop a matrix specific method detection limit (MDL) in accordance with Appendix B of 40 CFR Part 136. For any pollutant for which the permittee determines a site specific MDL, the permittee shall send to ADEQ, NPDES Permits Branch, a report containing QA/QC documentation, analytical results, and calculations necessary to demonstrate that a site specific MDL was correctly calculated. A site specific minimum quantification level (MQL) shall be determined in accordance with the following calculation:

MQL = 3.3 X MDL

Upon written approval by Permits Branch, the site specific MQL may be utilized by the permittee for all future Discharge Monitoring Report (DMR) calculations and reporting requirements.

6. **WHOLE EFFLUENT TOXICITY TEST REQUIREMENT**(WET Limits, 48 HR. ACUTE, FRESHWATER)

1. <u>SCOPE AND METHODOLOGY</u>

a. The permittee shall test the effluent for toxicity in accordance with the provisions in this section.

APPLICABLE TO FINAL OUTFALL(S): **001**

REPORTED ON DMR AS OUTFALL: **001**

CRITICAL DILUTION: **100%**

Pimephales promelas WET Limit: **not < 100%**

EFFLUENT DILUTION SERIES: **32-42-56-75-100**

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. The conditions of this Item are effective beginning with the effective date of the WET limit. When the testing frequency stated above is less than monthly and the effluent fails the survival endpoint at the critical dilution, the permittee shall be considered in violation of this permit limit and the frequency for the affected species will increase to monthly until such time compliance with the Lethal No Observed Effect Concentration (NOEC) effluent limitation is demonstrated for a period of three consecutive months, at which time the permittee may return to the testing frequency stated in Part I of this permit. During the period the permittee is out of compliance, test results shall be reported on the DMR for that reporting period.

d. This permit may be reopened to require chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.

2. 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 the *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 the *Daphnia pulex* survival test the and/or the 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 2.a above and the percent survival of the test organism is equal to or greater than 80% 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 3 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 where the receiving stream is classified as intermittent or where the receiving stream has no flow 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 2.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 2.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 3.a. 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 24-hour composite samples from the outfall(s) listed at Item 1.a above. A 24-hour composite sample consists of a minimum of 4 effluent portions collected at equal time intervals representative of a 24-hour operating day and combined proportional to flow or a sample continuously collected proportional to flow over a 24-hour operating day.

ii. The permittee shall collect a second 24-hour composite sample for use during the 24-hour renewal of each dilution concentration for both tests. The permittee must collect the 24-hour 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 24-hour composite sample. Samples shall be chilled to 6 degrees Centigrade during collection, shipping and/or storage.

iii. The permittee shall collect the 24-hour 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 3 of this section.

v. MULTIPLE OUTFALLS: If the provisions of this section are applicable to multiple outfalls, the permittee shall combine the 24-hour 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.

vi. At the time of sample collection the permittee shall measure the TRC of the effluent. The measured concentration of TRC for each sample shall be included in the lab report submitted by the permittee. The permittee shall not allow the sample to be dechlorinated prior to delivery to the laboratory nor at the laboratory.

3. 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 III.C of this permit. The permittee shall also submit full reports to the Department.

b. The permittee shall report the Whole Effluent Lethality values for the 30-Day Average Minimum and the 48-Hr. Minimum under Parameter No. 22414 on the DMR for that reporting period.

If more than one valid test for a species was performed during the reporting period, the test NOECs will be averaged arithmetically and reported as the DAILY AVERAGE MINIMUM NOEC for that reporting period.

If more than one species is tested during the reporting period, the permittee shall report the lowest 30-Day Average Minimum NOEC and the lowest 48-Hr. Minimum NOEC for Whole Effluent Lethality.

c. The permittee shall submit the results of the valid toxicity test on the DMR for that reporting period. 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.

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.

7. Stormwater Pollution Prevention Plan Requirements

1. General

i. If your facility already has a stormwater 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:

1. Identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges from your facility;

2. Describe and ensure implementation of practices which you will use to reduce the pollutants in stormwater discharges from the facility; and

3. Assure compliance with the terms and conditions of this permit.

ii. No Exposure Exclusions, as allowed by 40 CFR 122.26(g), can be obtained for the stormwater 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 Stormwater section of the ADEQ. Application for this exclusion must be made on the form obtained from the ADEQ.

2. Contents of Plan

i. Pollution Prevention Team: You must identify the staff individual(s) (by name or title) that comprise the facility's stormwater 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.

ii. Site Description: Your SWPPP must include the following:

1. Activities at Facility. Description of the nature of the industrial activity(ies) at your facility;

2. 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;

3. A legible site map identifying the following:

    a. Directions of stormwater flow (e.g., use arrows to show which ways stormwater 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 stormwater outfalls and an approximate outline of the area draining to each outfall;

    h. Location and description of non-stormwater 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 stormwater discharges may be included).

iii. Receiving Waters and Wetlands: 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.

iv. Summary of Potential Pollutant Source: You must identify each separate area at your facility where industrial materials or activities are exposed to stormwater. 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:

1. Activities in Area. A list of the activities (e.g., material storage, equipment fueling and cleaning, cutting steel beams); and

2. 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 stormwater between the time of three (3) years before being covered under this permit and the present.

v. Spills and Leaks:

1. You must clearly identify areas where potential spills and leaks, which can contribute pollutants to stormwater discharges, can occur, and their accompanying drainage points. For areas that are exposed to precipitation or that otherwise drain to a stormwater 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.

2. 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.

vi. Sampling Data: You must provide a summary of existing stormwater discharge sampling data taken at your facility. All stormwater sampling data collected during the term of this permit must also be summarized and included in this part of the SWPPP.

vii. Stormwater Controls

1. 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 stormwater. 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 stormwater discharges. Selection of BMPs should take into consideration:

a. The quantity and nature of the pollutants, and their potential to impact the water quality of receiving waters;

b. 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.);

c. 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.)

2. 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.

3. Non-Structural BMPs

a. Good Housekeeping: You must keep all exposed areas of the facility in a clean, orderly manner where such exposed areas could contribute pollutants to stormwater 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.

b. 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.

c. Preventive Maintenance: You must have a preventive maintenance program which includes timely inspection and maintenance of stormwater 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.

d. 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.

e. 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 stormwater. The inspections must include an evaluation of existing stormwater 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.

f. Employee Training: You must describe the stormwater 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 stormwater, 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.

4. Structural BMPs

   a. 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.

   b. Management of Runoff: You must describe the traditional stormwater 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 stormwater 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 stormwater, 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.

   c. Example BMPs: BMPs you could use include but are not limited to: stormwater detention structures (including wet ponds); stormwater retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices).

5. Other Controls: No solid materials, including floatable debris, may be discharged to waters of the State, 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).

3. Maintenance: 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 stormwater 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.).

4. Non-Stormwater Discharges: Certification of Non-Stormwater Discharges

   i. Your SWPPP must include a certification that all discharges (i.e., outfalls) have been tested or evaluated for the presence of non-stormwater. The certification must be signed in accordance with Part III Section D.11 of the individual permit, and include:

      1. The date of any testing and/or evaluation;

      2. Identification of potential significant sources of non-stormwater at the site;

      3. A description of the results of any test and/or evaluation for the presence of non-stormwater discharges;

      4. A description of the evaluation criteria or testing method used; and

      5. A list of the outfalls or onsite drainage points that were directly observed during the test.

      6. If you are unable to provide the certification required (testing for non-stormwater 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:

      7. The reason(s) why certification was not possible;

      8. The procedure of any test attempted;

9. The results of such test or other relevant observations; and

10. Potential sources of non-stormwater discharges to the storm sewer.

11. A copy of the notification must be included in the SWPPP at the facility. Non-stormwater discharges to waters of the State which are not authorized by an NPDES permit are unlawful, and must be terminated.

5. Allowable Non-stormwater Discharges: Certain sources of non-stormwater are allowable under this permit. For the list of allowable non-stormwater discharges please see Part I.B.1.a.i on Page 15 of the Industrial Stormwater General Permit number ARR000000. In order for these discharges to be allowed, your SWPPP must include:

   i. An identification of each allowable non-stormwater source;

   ii. The location where it is likely to be discharged; and

   iii. Descriptions of appropriate BMPs for each source.

   iv. Except for flows from fire fighting activities, you must identify in your SWPPP all sources of allowable non-stormwater that are discharged under the authority of this permit.

   v. If you include mist blown from cooling towers amongst your allowable non-stormwater 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.

6. Comprehensive Site Compliance Evaluation

   i. Frequency and Inspectors: 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 stormwater quality and assess the effectiveness of the BMPs you have chosen to use to control the quality of your stormwater discharges. If you decide to conduct more frequent inspections, your SWPPP must specify the frequency of inspections.

   ii. Scope of the Compliance Evaluation: Your inspections must include all areas where industrial materials or activities are exposed to stormwater, 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 stormwater; 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. Stormwater 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.

iii. Follow-up Actions: 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.

iv. Compliance Evaluation Report: 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 III Section C.7 (Retention of Records) of this permit as part of the stormwater 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 stormwater pollution prevention plan and this permit. Both the inspection report and any reports of follow-up actions must be signed in accordance with Part III Section D (Reporting Requirements) of this permit.

v. Credit As a Routine Facility Inspection: 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.

7. Maintaining Updated SWPPP: You must amend the stormwater pollution prevention plan whenever:

   i. 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; and

   ii. 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.

8. Signature, Plan Review and Making Plans Available

   i. You must sign your SWPPP in accordance with Part III Section D.11, and retain the plan on-site at the facility covered by this permit (see Part III Section C.7 for records retention requirements).

   ii. 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 stormwater 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.

   iii. 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.

   iv. You must make the SWPPP available to the USFWS upon request.

9. Additional Requirements for Stormwater Discharges Associated With Industrial Activity From Facilities Subject to EPCRA Section 313 Reporting Requirements: 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 III
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; and/or for denial of a permit renewal application. **Any values reported in the required Discharge Monitoring Report (DMR) 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 twenty-five thousand dollars ($25,000) or by both such fine and imprisonment for each day of such violation. Any person who violates any provision of a permit issued under the Act may also be subject to civil penalty in such amount as the court shall find appropriate, not to exceed ten thousand dollars ($10,000) for each day of such violation. The fact that any such violation may constitute a misdemeanor shall not be a bar to the maintenance of such civil action.

3. 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 Part III.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 III.A.3., if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under APCEC Regulation No. 2, as amended, 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, narrative criteria, or prohibitions established under APCEC Regulation No. 2, 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 III.B.4.a.), and "Upsets" (Part III.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 statues or regulations which defeats the regulatory purposes of the permit may 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 to 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 Parts 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 Parts II.B.4.b. and 4.c.

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 III.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 III.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 III.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 based permit effluent limitations if the requirements of Part III.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 III.D.6.; and
   (4) The permittee complied with any remedial measures required by Part III.B.3.
c. Burden of 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 must be obtained from the ADEQ for land application only.

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 or other approved Form by ADEQ). 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 forms signed and certified as required by Part III.D.11. and all other reports required by Part III.D., shall be submitted to the Director at the following address:

Permits Enforcement Branch
Water Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

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 Part 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) and time analyses were performed;
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:

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 alteration 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 40 CFR Part 122.42 (a)(1).

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 III.C.5. **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 I of the permit to be reported within 24 hours to the Enforcement Section of the Water Division of the ADEQ.

c. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours to the Enforcement Section of the Water Division of the ADEQ.

7. Other Noncompliance

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

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 as follows:

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 APCEC Regulation No. 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 Environmental Quality. 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 III.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 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 (APCEC) Regulation No. 2, as amended.
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. *Mass Calculations:* For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of pollutant discharged over the sampling day. *Concentration Calculations*: For pollutants with limitations expressed in other units of measurement, 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 by using the following formula: where C= daily concentration, F=daily flow and n=number of daily samples

$$\frac{C_1F_1 + C_2F_2 + \cdots + C_nF_n}{F_1 + F_2 + \cdots + F_n}$$

7. **"Monthly average"** means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month. For Fecal Coliform Bacteria (FCB) report the monthly average (see 30-day average below).
8. **"Daily Maximum"** discharge limitation means the highest allowable "daily discharge" during the calendar month. The daily average for Fecal Coliform Bacteria (FCB) is the geometric mean of the values of all effluent samples collected during the day in colonies per 100 ml.

9. **"Department"** means the Arkansas Department of Environmental Quality (**ADEQ**).
10. **"Director"** means 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 Part 403, introducing pollutants to a POTW.
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 at a POTW. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and stormwater runoff that are discharged to or otherwise enter a POTW.
18. **"7-day average"** discharge limitation, other than for Fecal Coliform Bacteria (FCB), is the highest allowable arithmetic mean of the values for all effluent samples collected during the calendar week. The 7-day average for Fecal Coliform Bacteria (FCB) is the geometric mean of the values of all effluent samples collected during the calendar week in colonies/100 ml. The Discharge Monitoring Report 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 (FCB), 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 (FCB) is the geometric mean of the values for all effluent samples collected during a calendar month. For Fecal Coliform Bacteria (FCB), report the monthly average as a 30-day geometric mean in colonies per 100 ml.
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 or a sample collected at frequent intervals proportional to flow over the 12-hour period.
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 or a sample collected at frequent intervals proportional to flow over the 6-hour period.

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 or a sample collected at frequent intervals proportional to flow over the 3-hour period.
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 of preventive maintenance, or careless of improper operations.
26. **"For Fecal Coliform Bacteria (FCB)"**, a sample consists of one effluent grab portion collected during a 24-hour period at peak loads. For Fecal Coliform Bacteria (FCB) report the monthly average as a 30-day geometric mean in colonies per 100 ml.
27. **"Dissolved oxygen limit"**, shall be defined as follows:
    a. When limited in the permit as a monthly average 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 per 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 parts per million.
33. **The term "s.u."** shall mean standard units.
34. **The term "Instantaneous Maximum"** when limited in the permit as an instantaneous maximum value, shall mean that no value measured during the reporting period may fall above the stated value.

35. **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 (DMR) 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 DMR 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 are: 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.

36. **The term "Weekday"** means Monday – Friday.

Final Statement of Basis

For renewal of discharge Permit Number AR0038822 to discharge to Waters of the State

1. **PERMITTING AUTHORITY.**

   The issuing office is:

   Arkansas Department of Environmental Quality
   5301 Northshore Drive
   North Little Rock, Arkansas 72118-5317

2. **APPLICANT.**

   The applicant's mailing address and physical address is:

   Cooper Tire & Rubber Company
   3500 Washington Road
   Texarkana, AR 71854

3. **PREPARED BY.**

   The permit was prepared by:

   Shane Byrum
   Staff Engineer
   Permits Branch, Water Division
   (501) 682-0618
   E-Mail: Shane Byrum@adeq.state.ar.us

4. **PERMIT ACTIVITY.**

Previous Permit Effective Date:	07/01/2003
Previous Permit Modification Date:	N/A
Previous Permit Expiration Date:	6/30/2008

   The permittee submitted a permit renewal application on 5/5/2008. The discharge permit is being reissued for a 5-year term in accordance with regulations promulgated at 40 CFR Part 122.46(a).

DMR Review:

The Discharge Monitoring Reports (DMR's) from the previous permit cycle were reviewed during the permit renewal process. The following permit violations were noted during the review of permit data from May 2003 to May 2008:

Parameter	Date of Violation
Whole Effluent Toxicity	June 2003
	December 2004
	January 2005
	January 2006
	September 2007
	January 2008
	March 2008
	April 2008
Chemical Oxygen Demand	June 2003
	August 2003 through October 2003
	April 2004
	June 2004
	August 2004
	September 2004
	December 2004
	March 2005 through September 2005
	December 2005 through April 2006
	July 2006
	September 2006 through November 2006
	March 2007
pH	July 2005
Total Suspended Solids	May 2003
	June 2003
	December 2003 through March 2004
	October 2004
	November 2004
	January 2005
	March 2005
	July 2005
	November 2005
	January 2006 (19 mg/L)
	February 2006 (28 mg/L)
	April 2006 (30 mg/L)
	June 2006 (34 mg/L)
	July 2006 (44 mg/L)
	March 2007 (55 mg/L)
	May 2007 (23 mg/L)
	February 2008 (21 mg/L)
	March 2008 (23 mg/L)
	September 2008 (33 mg/L)

Parameter	Date of Violation
Zinc, Total Recoverable	August 2003 through February 2004
	April 2004 through December 2004
	March 2005 through December 2006
	February 2007
	June 2007
	August 2007 through December 2007

TSS violations

Numerous improvements to housekeeping practices, installation of roofs over exposed material, etc., have decreased the frequency of TSS permit violations significantly in the past two years. There were 3 violations in 2008, 2 violations in 2007, compared with 14 violations during 2003-2006. Therefore, the current TSS limitations are continued from the previous permit and no further permitting action is necessary at this time.

COD violations

The COD limit is being replaced by a BOD5 and DO limit with this permit renewal. The past COD limit was derived based on best engineering judgement. The new BOD5 limit is water quality based in order to protect the dissolved oxygen levels in the receiving stream and is based on a water quality desktop model.

Zinc violations

The facility has shown a decrease in zinc concentrations in the effluent over the past several years. The facility is continuing to work toward consistent compliance with the permit limits, and have shown steady progress being made through the use of good housekeeping practices, installation of roofs over exposed materials, and several other Best Management Practices.

Legal Order Review:

The facility is currently under CAO LIS 07-013 at the time of drafting this permit. This CAO contains interim zinc limits (832 µg/l) which last until April 10, 2009. A new CAO is currently being developed, subject to Director's approval, that will supersede the current CAO and set forth new interim zinc limits (600 µg/l) until April 30, 2011. After this date the water quality-based limits in this permit will become effective.

5. FINANCIAL ASSURANCE

Financial assurance is not required from this facility since this facility is not operating a nonmunicipal domestic sewage treatment system serving two or more individually owned, rented, or temporarily occupied lots or dwellings.

6. SIGNIFICANT CHANGES FROM THE PREVIOUSLY ISSUED PERMIT.

The permittee is responsible for carefully reading the permit in detail and becoming familiar with all of the changes therein:

1. COD limits were replaced with BOD5 limits.
2. Facility and outfall coordinates were revised to more accurate values.
3. All limits are now expressed to the nearest tenth.
4. Dissolved oxygen limits were added.
5. A compliance schedule for dissolved oxygen and mercury was included.
6. Flow sample type and frequency was revised.
7. Seasonal limits for Zinc were changed to year-round limits.
8. Air conditioner condensate was added as a source of permitted wastewater.
9. The WET limit has been replaced with a monitor and report requirement for the *Daphnia pulex* test species.
10. The sampling frequency for BOD5, Oil & Grease, and pH was changed from twice/month to once/month.

7. RECEIVING STREAM SEGMENT AND DISCHARGE LOCATION.

The outfall is located at the following coordinates based on Google Earth using WGS84 map datum:

Latitude: 33° 25' 7.3" Longitude: 94° 00' 14.6"

The receiving waters named:

unnamed tributary of Nix Creek, thence to Nix Creek, thence to Day's Creek, thence to Sulfur River, thence to the Red River in Segment 1B of the Red River Basin. The receiving stream with USGS Hydrologic Unit Code (H.U.C) of 11140302 and reach # 003 is a Water of the State classified for secondary contact recreation, raw water source for domestic (public and private), industrial, and agricultural water supplies, propagation of desirable species of fish and other aquatic life, and other compatible uses.

8. 303(d) LIST AND ENDANGERED SPECIES CONSIDERATIONS.

a. 303(d) List:

The direct receiving stream (unnamed tributary of Nix Creek) is not listed on the 303(d) list. However, Days Creek (Reach 11140302-003) is listed for nitrates. A final TMDL report dated 12/23/2005 was published which states that Cooper Tire is not a source of nitrates. Since a wasteload allocation for this point source was not established in the report, no further permitting action is needed.

b. Endangered Species:

No comments on the application were received from the U.S. Fish and Wildlife Service (USF&WS). The draft permit and Statement of Basis were sent to the USF&WS for their review and no comments were received.

9. OUTFALL AND TREATMENT PROCESS DESCRIPTION.

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

Average Flow: 10.3 MGD, based on the highest monthly average flow during the last two years.

Type of Treatment: None.

Discharge Description: air conditioner condensate and stormwater.

Facility Status: This facility was evaluated using the NPDES Permit Rating Worksheet (MRAT) to determine the correct permitting status. Since the facility's MRAT score (65 points) is less than 80, this facility is classified as a Minor industrial.

10. APPLICANT ACTIVITY.

Under the Standard Industrial Classification (SIC) code of 3011 or North American Industry Classification System (NAICS) code of 326211, the applicant's activities are the operation of automobile and light truck tire manufacturing.

11. APPLICABLE EFFLUENT LIMIT GUIDELINES

This facility falls under 40 CFR Part 428, Subpart A – Tire and Inner Tube Plants Subcategory. This effluent limit guideline regulates the quantity of TSS and Oil & Grease that can be discharged in the process wastewater based on the quantity of production. However, this facility discharges all of their process wastewater to the sanitary sewer collection system serviced by the City of Texarkana POTW. Therefore, the limitations in this subpart do not apply to this facility because the term "discharge of pollutants" means the addition of any pollutant to navigable waters from any point source, as defined in 40 CFR 401.11(h).

12. **SLUDGE PRACTICES.**

The discharge consists of stormwater only. No sludge is generated by this facility.

13. **PERMIT CONDITIONS.**

The Arkansas Department of Environmental Quality has made a determination to issue a permit for the discharge described in the application. Permit requirements are based on federal 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. **Interim Effluent Limitations**

Outfall 001- air conditioner condensate and stormwater

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

Effluent Characteristics	Discharge Limitations				Monitoring Requirements	
	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, MGD	Report, MGD	continuous	totalizing meter
Biochemical Oxygen Demand (BOD5)						
(May-Oct)	N/A	N/A	50.0	75.0	once/month	grab
(Nov-Apr)	N/A	N/A	40.0	60.0	once/month	grab
Total Suspended Solids (TSS)	N/A	N/A	20.0	30.0	two/month	grab
Dissolved Oxygen						
(May-Oct)	N/A	N/A	Report (Instantaneous Min.)		once/month	grab
(Nov-Apr)	N/A	N/A	Report (Instantaneous Min.)		once/month	grab
Zinc, Total Recoverable	N/A	N/A	116 µg/l	232 µg/l	once/month	3-hr composite
Mercury, Total Recoverable	N/A	N/A	Report µg/l	Report µg/l	once/month	3-hr composite
Oil and Grease (O & G)	N/A	N/A	10.0	15.0	once/month	grab
pH	N/A	N/A	Minimum 6.0 s.u.	Maximum 9.0 s.u.	once/month	grab
Whole Effluent Toxicity (48-hr NOEC) 22414	30-day Avg Min not < 100%		48-hr Minimum not < 100%		once/2 months	24-hr composite
Pimephales promelas (Acute)			48-hr Minimum			
Pass/Fail Lethality (48-Hr NOEC) **TEM6C**			Report (Pass=0/Fail=1)		once/2 months	24-hr composite
Survival (48-Hr NOEC) **TOM6C**			Report %		once/2 months	24-hr composite
Daphnia pulex (Acute)			48-hr Minimum			
Pass/Fail Lethality (48-Hr NOEC) **TEM3D**			Report (Pass=0/Fail=1)		once/quarter	24-hr composite
Survival (48-Hr NOEC) **TOM3D**			Report %		once/quarter	24-hr composite

2. **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. There shall be no visible sheen due to the presence of oil (Sheen means an iridescent appearance on the surface of the water).

b. **Final Effluent Limitations**

Outfall 001- air conditioner condensate and stormwater

1. Conventional and/or Toxic Pollutants

Effluent Characteristics	Discharge Limitations				Monitoring Requirements	
	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, MGD	Report, MGD	continuous	totalizing meter
Biochemical Oxygen Demand (BOD5)						
(May-Oct)	N/A	N/A	50.0	75.0	once/month	grab
(Nov-Apr)	N/A	N/A	40.0	60.0	once/month	grab
Total Suspended Solids (TSS)	N/A	N/A	20.0	30.0	two/month	grab
Dissolved Oxygen						
(May-Oct)	N/A	N/A	3.0 (Instantaneous Min.)		once/month	grab
(Nov-Apr)	N/A	N/A	6.0 (Instantaneous Min.)		once/month	grab
Zinc, Total Recoverable	N/A	N/A	116 µg/l	232 µg/l	once/month	3-hr composite
Mercury, Total Recoverable	N/A	N/A	0.014 µg/l	0.027 µg/l	once/month	3-hr composite
Oil and Grease (O & G)	N/A	N/A	10.0	15.0	once/month	grab
pH	N/A	N/A	Minimum 6.0 s.u.	Maximum 9.0 s.u.	once/month	grab
Whole Effluent Toxicity (48-hr NOEC) 22414	30-day Avg Min not < 100%		48-hr Minimum not < 100%		once/2 months	24-hr composite
Pimephales promelas (Acute)			48-hr Minimum			
Pass/Fail Lethality (48-Hr NOEC) **TEM6C**			Report (Pass=0/Fail=1)		once/2 months	24-hr composite
Survival (48-Hr NOEC) **TOM6C**			Report %		once/2 months	24-hr composite
Daphnia pulex (Acute)			48-hr Minimum			
Pass/Fail Lethality (48-Hr NOEC) **TEM3D**			Report (Pass=0/Fail=1)		once/quarter	24-hr composite
Survival (48-Hr NOEC) **TOM3D**			Report %		once/quarter	24-hr composite

2. **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. There shall be no visible sheen due to the presence of oil (Sheen means an iridescent appearance on the surface of the water).

14. BASIS FOR PERMIT CONDITIONS.

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

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

Following regulations promulgated at 40 CFR Part 122.44 (1) (2) (ii), the final 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 as follows:

Parameter	Water Quality-Based		Technology-Based		Previous Permit		Final Permit	
	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l
BOD5								
(May-Oct)	50.0	75.0	N/A	N/A	N/A	N/A	50.0	75.0
(Nov-Apr)	40.0	60.0	N/A	N/A	N/A	N/A	40.0	60.0
TSS	N/A	N/A	20	30	20	30	20.0	30.0
Dissolved Oxygen								
(May-Oct)	3.0 (Inst. Min)		N/A	N/A	N/A		3.0 (Inst. Min)	
(Nov-Apr)	6.0 (Inst. Min)		N/A	N/A	N/A		6.0 (Inst. Min)	
Zinc	116 µg/l	232 µg/l	N/A	N/A	116 µg/l	232 µg/l	116 µg/l	232 µg/l
Mercury	0.014 µg/l	0.027 µg/l	N/A	N/A	N/A	N/A	0.014 µg/l	0.027 µg/l
O & G	10.0	15.0	N/A	N/A	10.0	15.0	10.0	15.0
pH	6.0-9.0 s.u.		N/A		6-9 s.u.		6.0-9.0 s.u.	
Whole Effluent Toxicity	Not <100%		N/A		Not < 100%		Not <100%	

Parameter	Water Quality or Technology	Justification
BOD5*	Water Quality	MultiSMP Model run on 9/3/2008 and Section 2.505 of Regulation No. 2
TSS	Technology	Best Professional Judgement of the permit writer and previous permit.
DO	Water Quality	Section 2.505 of Regulation No. 2 / MultiSMP Model run on 9/3/2008
Oil & Grease	Water Quality	Section 2.510 of Regulation No. 2
pH	Water Quality	Section 2.504 of Regulation No. 2
Mercury	Water Quality	Section 2.508 of Regulation No. 2
Zinc	Water Quality	Section 2.508 of Regulation No. 2
Whole Effluent Toxicity	Water Quality	Section 2.409 of Regulation No. 2, 40 CFR 122.44(l), and previous permit.

*COD in previous permit

a. **Anti-backsliding**

The final permit is consistent with the requirements to meet Anti-backsliding provisions of the Clean Water Act (CWA), Section 402(o) [40 CFR 122.44(l)]. The final effluent limitations for reissuance permits must be as stringent as those in the previous permit, unless the less stringent limitations can be justified using exceptions listed in 40 CFR 122.44 (l)(2)(i).

The final permit maintains the requirements of the previous permit with the exception of revised limitations for Zinc. The seasonal limits for Zinc have been removed and replaced with year-round limits since this facility discharges greater than 1 cfs, which results in more stringent Zinc limits for the period November through April.

COD limits were removed from the permit and replaced with water-quality based BOD5 limits and Dissolved Oxygen limits. The new BOD5 and DO limits are based on a desktop model used to predict the effect of the discharge on the oxygen level in the receiving stream. This is considered new information under 40 CFR 122.44(l)(2)(i), therefore is not considered backsliding.

The previous permit continued existing WET limits for the *Daphnia pulex* test species. The facility has performed and passed, at the 100% critical dilution, all twenty quarterly *Daphnia pulex* tests over the last five years, and the WET limit was in effect for the full five years. This represents new information not previously available which indicates that reasonable potential for toxicity to the *Daphnia pulex* test species no longer exists. Therefore, the WET limit has been replaced with a monitor and report requirement for the *Daphnia pulex* test species.

b. **Limits Calculations**

i. Mass limits:

Mass limits are not included in this permit because the water discharged under this permit consists of air conditioner condensate and stormwater in which the flow rate is highly variable depending on the size of the storm event.

ii. Daily Maximum Limits:

BOD5, TSS, and O&G

Daily Maximum limits = Monthly average limits X 1.5

Zinc and Mercury

See page 15 of this Statement of Basis for determination of limits.

c. **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 in this individual permit which covers approximately 95% of the stormwater runoff from the facility (Outfall 001). The facility also has a stormwater general permit No. ARR00B800, which covers approximately 5% of the total stormwater runoff from the facility, and includes stormwater runoff from the parking lot area on the north side of the facility (Outfall 004) and stormwater runoff from the office area on the west side of the facility (Outfall 003).

d. **208 Plan (Water Quality Management Plan)**

The 208 Plan, developed by the ADEQ under provisions of Section 208 of the federal Clean Water Act, is a comprehensive program to work toward achieving federal water goals in Arkansas. The initial 208 Plan, adopted in 1979, provides for annual updates, but can be revised more often if necessary. The 208 Plan has been revised to add BOD5 and Dissolved Oxygen to the existing water quality limitations.
May-October: BOD5/DO = 50/3 mg/l
November-April: BOD5/DO = 40/6 mg/l
Facility Flow: 10.3 MGD
Background Flow of the receiving stream (7Q10): 0 cfs

A. Toxics Pollutants

(1) 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.

(2) Implementation

The State of Arkansas is currently implementing EPA's Post Third-Round Policy in conformance with the EPA Regional strategy. The 5-year discharge 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 discharge permits. State narrative and numerical water quality standards from 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.

(3) 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 (μg/l)
C_e = pollutant concentration in effluent (μg/l)
Q_e = effluent flow of facility (cfs)
C_b = background concentration of pollutant in receiving stream (μg/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 discharge 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 over the last two years are available, do not multiply by 2.13, but instead use the maximum value reported.

Q_e = 10.3 MGD = 15.91 cfs, based on highest monthly average flow from the industry during the last two (2) years

C_b = 0 µg/l

Q_b = (See below):

I. Aquatic Toxicity

Chronic Toxicity: Flow = 0 cfs, for comparison with chronic aquatic toxicity. This flow is **67** percent of the 7-day, 10-year low-flow (7Q10) for the receiving stream. The 7Q10 of 0 cfs is based on "Identification and Classification of Perennial Stream of Arkansas", Arkansas Geological Commission Map.

Acute Toxicity: Flow = 0 cfs, for comparison with acute aquatic toxicity. This flow is **33** percent of the 7Q10 for the receiving stream.

II. Bioaccumulation

Flow = 0 cfs, for comparison with bioaccumulation criteria. This flow is the long term average (LTA) of the receiving stream which is based on "Identification and Classification of Perennial Stream of Arkansas", Arkansas Geological Commission Map.

III.Drinking Water

Flow = 0 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 = 31 mg/l, based on attachment VI of CPP.

pH = 6.96 s.u., based on compliance data from Arkansas Water Quality Inventory Report 305(b), Water Quality Data Base System, utilizing ADEQ accumulated data for Station RED0004a.

(4) 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.

(5) 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 discharge 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 V of CPP and Region 6 Implementation Guidance for Arkansas Water Quality Standards promulgated at 40 CFR Part 131.36.

(6) Comparison of the submitted information with the water quality standards and criteria

The following pollutants were determined to be present in the effluent as reported by the permittee.

Pollutant	Concentration Reported, µg/l	MQL, µg/l
Copper, Total Recoverable	0.52*	0.5
Nickel, Total Recoverable	0.95*	0.5
Phenols	16*	5
Mercury, Total Recoverable	0.029**	0.002
Zinc, Total Recoverable	393***	2

*Single value reported on priority pollutant scan submitted with application
**Geometric mean of 4 values sampled on 3/25/08 and 3/26/08 (24, 20, 38, 43 ng/l).
***Highest reported value of past 20 values reported on discharge monitoring reports.

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

(a) Aquatic Toxicity

(i) Pollutants with numerical water quality standards

ADEQ has determined from the information submitted by the permittee that there is a reasonable potential for the discharge to cause an instream excursion above the acute and/or chronic numeric standards as specified in the Arkansas Water Quality Standards, Reg. No. 2 (See Attachment 1.)

ADEQ has identified the following toxicants in the discharge in amounts which could potentially have a toxic impact on the receiving stream:

Chronic Aquatic Toxicity Results				
Pollutant	C_e, µg/l	C_e X 2.13	IWC, µg/l	AWQS, µg/l
Mercury, Total Recoverable	0.029*	0.062	0.062	0.012
Zinc, Total Recoverable	393**	393	393	119.5

*Geometric mean of 4 values reported during 3/25/08 and 3/26/08 sampling (24, 20, 38, 43 ng/l)
**Highest reported value of past 20 values reported on discharge monitoring reports.

Permit Action

Under Federal Regulation 40 CFR Part 122.44(d), as adopted by Regulation No. 6, if a discharge poses the reasonable potential to cause or contribute to an exceedance above a water quality standard, the permit must contain an effluent limitation for that pollutant. Effluent limitations for the toxicants listed above have been derived in a manner consistent with the Technical Support Document (TSD) for Water Quality-based Toxics Control (EPA, March 1991), the State's implementations procedures, and 40 CFR Part 122.45(c).

Permit Limit Determination

The instream waste load allocation (WLA), which is the level of effluent concentration that would comply with the water quality standard (WQS) of the receiving stream, is calculated for both chronic and acute WLA using the following equations:

$WLA_c = (WQS \times (Q_d + Q_b) - Q_b \times C_b))/Q_d$

Where:

WLA_c = chronic waste load allocation (μg/l)
Q_d = discharge flow (cfs)
Q_b = 0.67 X 7Q10 (cfs)
C_b = background concentration (μg/l)
WQS = chronic aquatic toxicity standards (μg/l)

and;

$WLA_a = (WQS \times (Q_d + Q_b) - Q_b \times C_b))/Q_d$

Where:

WLA_a = acute waste load allocation (μg/l)
Q_d = discharge flow (cfs)
Q_b = 0.33 X 7Q10 (cfs)
C_b = background concentration (μg/l)
WQS = acute aquatic toxicity standards (μg/l)

The long term average (LTA) effluent concentration is then calculated based on the chronic and acute WLA as follows:

$LTA_c = 0.72 \times WLA_c$
$LTA_a = 0.57 \times WLA_a$

The lowest of these two (2) values is selected as being the limiting LTA. The limiting LTA is then used to calculate the monthly average (AML) and daily maximum (DML) for the final limits. AML and DML are calculated as follows:

AML = 1.55 X Limiting LTA
DML = 3.11 X Limiting LTA

Limits included in the permit are as follows:

Arkansas Numerical Aquatic Toxicity Limits		
Parameter	AML*, µg/l	DML*, µg/l
Mercury, Total Recoverable	0.014	0.027
Zinc, Total Recoverable	116	232

15. **WHOLE EFFLUENT TOXICITY.**

a. Post Third Round Policy and Strategy

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....." To ensure that the CWA's prohibitions for toxics are met, EPA has issued a "Policy for the Development of Water Quality-Based Permit Limitations for 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. 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.

The Regional policy and strategy are designed to ensure 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 (WQS) 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.

Whole effluent toxicity (WET) testing has been establishing for assessing and protecting against impacts upon water quality and designated used caused by the aggregate toxic effect of the discharge of pollutants. The stipulated test species, which are appropriate to measure whole effluent toxicity, are consistent with the requirements of the State Water Quality Standards. The WET testing frequency has been established to reflect the likelihood of ambient toxicity and 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.

b. Implementation

Arkansas has established a narrative water quality standard under the authority of Section 303 of the CWA 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 toxicity testing conducted by the permittee has shown potential ambient toxicity to be the result of the permittee's discharge to receiving stream or water body, at the appropriate instream critical dilution. Pursuant to 40 CFR 122.44(d)(1)(v), ADEQ has determined from the permittee's self reporting that the discharge from this facility does have the reasonable potential to cause, or contribute to an instream excursion above the narrative standard within the applicable State Water Quality Standards, in violation of Section 101(a)(3) of the Clean Water Act. Therefore, the draft permit must establish both monthly average and 48-hr minimum effluent limitations for lethality following Regulations promulgated by 40 CFR 122.44(d)(1)(v). These effluent limitations for lethality (48-hr NOEC) are applied at outfall 001 and are continued from the previous permit. The daily average lethality (48-hr NOEC) and 48-hr minimum lethality (48-hr NOEC) value shall not be less than 100% (Critical Dilution) effluent for outfall 001.

Whole Effluent Toxicity (WET) testing of the effluent is thereby required as a condition of this permit to assess potential toxicity. The WET testing procedures stipulated as a condition of this permit are as follows:

TOXICITY TESTS	**FREQUENCY**
Acute WET	Once/2 months (*Pimephales promelas*)
Acute WET	Once/quarter (*Daphnia pulex*)

The discharge consists of stormwater and air conditioning condensate only and the discharge is not continuous, therefore acute WET testing requirements are appropriate and will be included in the permit.

The calculations for dilution used for acute WET testing are as follows:

Critical Dilution (CD) = (Qd / (Qd + Qb)) X 100

Qd = Average Flow = 10.3 MGD = 15.91 cfs
7Q10 = 0 cfs
Qb = background flow = 0.1 X 0.67 X 7Q10 = 0
CD = (15.91 / (15.91 + 0)) X 100 = 100%

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 32%, 42%, 56%, 75%, and 100%. The low-flow effluent concentration (critical dilution) is defined as 100% effluent based on a 7Q10 flow = 0 of the receiving stream.

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/600/4-89/001 and shall be submitted as an attachment to the Discharge Monitoring Report (DMR).

c. Administrative Records

The following information summarized toxicity test failures submitted by the permittee during the term of the current permit at outfall 001:

WHOLE EFFLUENT TOXICITY TESTING FREQUENCY RECOMMENDATION AND RATIONALE FOR ADDITIONAL REQUIREMENTS

Permit Number: **AR0038822** AFIN: **46-00005**
Facility Name**: Cooper Tire & Rubber Company**
Outfall Number**: 001**
Previous Critical Dilution: **100%** Proposed Critical Dilution: **100%**
Date of Review: **9/30/08** Name of Reviewer: **Barnett**

Number of tests performed during previous 5 years by species:
Pimephales promelas **(Fathead minnow): 29**
Daphnia pulex **(water flea): 20**

Failed test dates during previous 5 years by species:

Pimephales promelas **(Fathead minnow):**

Lethal
12/04
01/05
01/06
09/07 (2)
01/08
03/08
04/08

Daphnia pulex **(water flea):**

Lethal
None

Previous TRE activities: None

Frequency recommendation by species:
Pimephales promelas **(Fathead minnow): six/year**
Daphnia pulex **(water flea): four/year**

Additional requirements (including WET Limits) rationale/comments concerning permitting:
Current WET limits for *P. promelas* are required and appropriate.

P. promelas Rationale:
Based on the frequency of failures for *P. promelas*, WET testing frequency will be once/2 months.

D. pulex Rationale:
According to the EPA Region 6 Post-Third Round Whole Effluent Toxicity Testing Frequencies: "All major dischargers, and those minor dischargers specifically identified by EPA or the State permitting authority (based on available information on a case-by case basis) as posing a significant unaddressed toxic risk, will be required to perform Whole Effluent Toxicity testing at a frequency of once per quarter for the invertebrate tests species for the first year of a new or reissued permit."

Reasonable Potential Calculation

Facility Name: Cooper Tire & Rubber Company
NPDES Permit Number: AR0038822 Outfall number: 001
Proposed Critical Dilution: 100 * Critical Dilution in draft permit, do not use % sign.

Test Data Enter data in yellow shaded cells only. Fifty percent should be entered as 50.

See Dates Below	Vertebrate Lethal NOEC		Vertebrate Lethal TU		Invertebrate Lethal NOEC		Invertebrate Lethal TU	
	100		1.00		100		1.00	
	100		1.00		100		1.00	
	100		1.00		100		1.00	
	100		1.00		100		1.00	
	75		1.33		100		1.00	
	75		1.33		100		1.00	
	100		1.00		100		1.00	
	100		1.00		100		1.00	
	100		1.00		100		1.00	
	100		1.00		100		1.00	
	75		1.33		100		1.00	
	100		1.00		100		1.00	
	100		1.00		100		1.00	
	100		1.00		100		1.00	
	100		1.00		100		1.00	
	100		1.00		100		1.00	
	100		1.00		100		1.00	
	100		1.00		100		1.00	
	75		1.33		100		1.00	
	75		1.33		100		1.00	
	100		1.00					
	100		1.00					
	75		1.33					
	100		1.00					
	75		1.33					
	75		1.33					
	100		1.00					
	100		1.00					
	100		1.00					
Min NOEC Observed	75	0			100	0		
TU at Min Observed			1.33				1.00	
	Count		29		Count		20	
	Mean		1.092		Mean		1.000	
	Std. Dev.		0.152		Std. Dev.		0.000	
	CV		0.1		CV		0	
	RPMF		1.1				1.1	

1.000 Reasonable Potential Acceptance Criteria.

Vertebrate Lethal: 1.467 Reasonable Potential exists, Permit requires WET monitoring and WET limi

Invertebrate Lethal: 1.100 Reasonable Potential exists, Permit requires WET monitoring and WET limi

NOTES:

Regarding the RP decision for the invertebrate species (*Daphnia pulex*) only, "Where a facility does not intend to significantly alter the effluent quality or quantity during the permit term, has a critical dilution of 90% or greater, has performed quarterly testing and has demonstrated no significant lethal or sub-lethal effects during the previous fiveyear period, a finding of no reasonable potential may be made."

WET limits for *P.promeals* are appropriate.

Since the facility has performed and passed, at the 100% critical dilution, all twenty quarterly *D. pulex* tests over the last five years, and the WET limit was in effect for the full five years, the WET limit for *D. pulex* has been replaced with a monitor and report requirement.

TEST DATE	Vertebrate	Invertebrate
	Lethal NOEC	Lethal NOEC
Dec-03	100	100
Mar-04	100	100
Jun-04	100	100
Sep-04	100	100
Dec-04	75	100
Jan-05	75	
Mar-05	100	100
Feb-05	100	
Apr-05	100	
Sep-05	100	100
Jan-06	75	100
Feb-06	100	100
Mar-06	100	100
Apr-06	100	100
Sep-06	100	100
Dec-06	100	100
Jun-07	100	100
Mar-07	100	100
Sep-07	75	100
Sep-07	75	
Dec-07	100	100
Dec-07	100	
Jan-08	75	100
Jan-08	100	
Mar-08	75	
Apr-08	75	
May-08	100	
Jun-08	100	100
Sep-08	100	100

16. SAMPLE TYPE AND FREQUENCY.

Regulations promulgated at 40 CFR Part 122.44(i) (l) require the permit to establish monitoring requirements which assure compliance with permit limitations.

Flow sample type which was changed to totalizing meter since the facility installed a totalizing meter in April 2006. The sample type and sampling frequency for the added mercury limits are consistent with the zinc sample type and sampling frequency. Sample frequency was changed from two/month to once/month for Oil & Grease and pH based on no violations for these parameters from January 2007 through January 2009. Sample frequency for the new BOD5 and DO limits were set at once/month in order to be consistent with sample frequency for Zinc, Mercury, Oil & Grease, and pH.

Parameter	Previous Permit		Final Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
Flow	Once/day	Estimate	Continuous	Totalizing meter

Parameter	Previous Permit		Final Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
BOD5*	Two/month	Grab	Once/month	Grab
TSS	Two/month	Grab	Two/month	Grab
Dissolved Oxygen	N/A	N/A	Once/month	Grab
Zinc, Total Recoverable	Once/month	3-hr composite	Once/month	3-hr composite
Mercury, Total Recoverable	N/A	N/A	Once/month	3-hr composite
Oil & Grease	Two/month	Grab	Once/month	Grab
pH	Two/month	Grab	Once/month	Grab
Acute WET Testing	Once/quarter	24-hr composite	Once/2 months[1] Once/quarter[2]	24-hr composite

1 *Pimephales promelas*
2 *Daphnia pulex*
* COD limit in previous permit, BOD report only in previous permit

17. **PERMIT 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 for all parameters except for Total Recoverable Mercury and Dissolved Oxygen.

A. Compliance with Total Recoverable Mercury and Dissolved Oxygen limits are required in accordance with the following schedule:

Compliance Schedule for Mercury and Dissolved Oxygen	
Activity	Compliance Date
Submit progress report	1 year after effective date of permit
Submit progress report	2 years after effective date of permit
Achieve compliance	3 years after effective date of permit

B. Cooper Tire shall complete an engineering study on the current flow measurement method at outfall 001 within 90 days after the effective date of this permit. The study shall include at a minimum the following items:

1. Determination if the current flow measurement practices and devices are in compliance with Part III, Section C.2 of this permit, and

2. Recommended corrective actions, if any, to comply with Part III, Section C.2 of this permit.

Cooper Tire shall complete all corrective actions that the study recommends and be in compliance with Part III, Section C.2 of this permit within 180 days after the effective date of this permit.

18. MONITORING AND REPORTING.

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

19. SOURCES.

The following sources were used to draft the permit:

a. Application No. AR0038822 received 5/5/2008.
b. Arkansas Water Quality Management Plan (WQMP).
c. APCEC Regulation No. 2.
d. APCEC Regulation No. 3.
e. APCEC Regulation No. 6.
f. 40 CFR Parts 122, 125.
g. Discharge permit file AR0038822.
h. Discharge Monitoring Reports (DMRs).
i. "2004 Arkansas Integrated Water Quality Monitoring and Assessment Report 2004 (305B)", ADEQ.
j. "Identification and Classification of Perennial Streams of Arkansas", Arkansas Geological Commission.
k. Continuing Planning Process (CPP).
l. Technical Support Document For Water Quality-based Toxic Control.
m. Region 6 Implementation Guidance for Arkansas Water Quality Standards promulgated at 40 CFR Part 131.36.
n. Inspection Report dated 6/24/2008.
o. CAO LIS 07-013.
p. EPA NPDES Permit Certification Checklist dated 10/27/2008.
q. NPDES Permit Rating Sheet dated 10/24/2008.
r. Site visit on 12/10/2008.
s. Comments concerning WET testing from EPA email dated 1/09/2009.
t. Comments on draft permit from Cooper Tire received on 3/16/2009.
u. Final TMDL report dated 12/23/2005 for Days Creek for Nitrates.

20. POINT OF CONTACT.

For additional information, contact:

Shane Byrum
Permits Branch, Water Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317
Telephone: (501) 682-0618

RESPONSE TO COMMENTS
FINAL PERMITTING DECISION

Response to comments received on the subject draft permit in accordance with regulations promulgated at 40 CFR Part 124.17 are as follows:

Permit No.: AR0038822

Applicant: Cooper Tire and Rubber Company

Prepared by: Shane Byrum

Public Notice Date: The draft permit was publicly noticed on or about 2/13/2009.

Date Prepared: 3/24/2009

The following comments have been received on the draft permit:

Correspondence from Tom Cullins (Cooper Tire) to Shane Byrum (ADEQ) dated 3/16/2009.

ISSUE #1

Section 9 of the Statement of Basis indicates that the average flow for the facility is 10.3 MGD, based on the highest monthly average flow reported during the last 2 years. Because of this flow, seasonal limits for zinc were removed from the permit and seasonal limits for mercury were not established. Cooper is conducting a flow study to establish a more accurate flow measurement method. Cooper reserves the right to modify the permit to include seasonal limits for mercury and zinc, if appropriate, based on the results of this study.

RESPONSE #1

The facility may submit a request for a permit modification for review in the event that the flow study indicates that the facility flow used to calculate mercury and zinc limits should be classified as a "primary season critical flow" as defined in Reg. 2.106. Any permit modification would be subject to the applicable permit modification fee at that time.

ISSUE #2

Section 14 of the Statement of Basis indicates that the draft permit limits (20 mg/L monthly average and 30 mg/L daily maximum) for Total Suspended Solids (TSS) are based on 40 CFR 122.44(l) and the previous permit. The antibacksliding requirements found in 40 CFR 122.44(l) prevent the permitting authority from issuing permits with limits that are less stringent that the previous permit. However, 40 CFR 122.44(l)(2)(i) provides exceptions to the antibacksliding requirements in cases where substantial alterations to the facility have occurred or where information is available that was not available at the time of permit issuance that justifies the application of a less stringent limitation.

Since the previous permit was issued on May 31, 2003, Cooper has made a significant investment in substantial alterations to the facility and procedures aimed at reducing TSS concentrations. These improvements represent the best available technology (BAT) for reducing TSS discharges from these areas. The areas that these alterations have occurred include the

outfall 001 structure, south trash compactor building, north trash handling area, oil storage building, scrap metal hopper, carbon black handling system, dust collection systems, mixing building roof, curing/finishing roof, tank truck/rail car unloading areas, and tank farm.

Cooper also contracted with FTN Associates to conduct an assessment of the receiving stream downstream of Cooper's discharge. The purpose of the assessment was to evaluate whether Cooper's discharge caused or contributed to violations of the narrative criteria for solids found in Reg. 2.408. FTN conducted a visual investigation on March 11, 2009, from the outfall 001 discharge point to approximately 0.3 miles downstream. Within this reach, 25 locations along the stream were evaluated for the deposition of solids. FTN's assessment found no evidence of distinctly visible solids, bottom deposits, or shoaling in the stream, indicating that the narrative criteria are being met. During this investigation, the TSS concentration in the receiving stream upstream of Cooper's discharge was measured to be 656 mg/L. The predominant flow upstream of Cooper's discharge is from off-site sources.

Given that Cooper has implemented BAT to control TSS discharges, that the narrative criteria is being met downstream of Cooper's discharge, and that background concentrations of TSS in the receiving stream appear to be much higher than Cooper's permit limit, Cooper requests that the TSS limitations be removed. Cooper is committed to maintaining the BAT control measures and would be willing to provide ADEQ annual verification that the BMPs implemented to address the TSS issues are being maintained at BAT levels, if necessary.

RESPONSE #2

While in suspension, TSS increases the turbidity of the receiving stream, reduces light penetration and impairs the photosynthetic activity of aquatic plants, thereby contributing to oxygen depletion. TSS can kill fish and shellfish through abrasive injury or clogging of gills and respiratory passages. Excessive TSS can destroy aquatic habitats by coating the bottom with sediment. The Department acknowledges that Cooper has made significant efforts to reduce the concentration of TSS being discharged from the facility. A review of the TSS concentrations reported during the last permit term indicate that these efforts have been successful at significantly reducing the number of permit violations for TSS. However, the Department's position is that a TSS limit is still necessary to ensure protection of the receiving stream and that the proper implementation and maintenance of the various BMPs will continue. Therefore, the TSS limits will be continued from the previous permit.

ISSUE #3

Should ADEQ decide to keep TSS limits in the permit, Cooper requests that less stringent limits be considered based on implementation of BAT resulting from significant alteration to the facility, and new information in the form of DMR data submitted under the current permit, and the FTN investigation. DMR data from July 2003 to February 2009 indicates improved and less variable TSS concentration beginning in August 2006 when BAT was fully implemented and effective. These improvements reduced the average TSS concentration from 24 mg/L (July 2003 through July 2006) to 16 mg/L (August 2006 – February 2009), and the rate of permit exceedences dropped from 40% to 19%. Despite the implementation of BAT and resulting improvements in TSS discharges, a non-compliance rate of approximately 20% is still anticipated with current TSS limitations. The receiving stream shows no impact from previous exceedences indicating that the TSS limits are more stringent than necessary to protect the receiving stream. Given the application of BAT, FTN's stream investigation, and the anticipated non-compliance rate with current TSS limits, Cooper requests less stringent TSS limits in the

permit if ADEQ still feels limits are necessary. For your consideration, please note that the 95th percentile of observed monthly average data since August 2006 is 33 mg/L.

RESPONSE #3

The Department acknowledges that Cooper has made significant efforts to reduce the concentration of TSS being discharged from the facility. A review of the TSS concentrations reported during the last permit term indicate that these efforts have been successful at significantly reducing the number of permit violations for TSS. However, the Department does not agree to revise the TSS limits at this time based on the limited information that was submitted during the comment period. A more detailed stream study is required to justify changing the limits. The recent stream investigation covered only one TSS sample in the receiving stream and visible observations for one day only. Upon completion of a more detailed stream study, the permittee may request a permit modification to change the TSS limits.

ISSUE #4

The draft permit contains a "report only" for mercury for the first 3 years of the permit, followed by final mercury limits effective 3 years after the effective date of the permit. Cooper objects to mercury limits being placed in the permit at this time. In view of the fact that the inclusion of mercury limits are based on minimal data and that little can be done to control and reduce concentrations, Cooper requests that ADEQ change the mercury limitations to "report only" for the entire term of the permit, unless additional data warrant the inclusion of mercury limits.

RESPONSE #4

Mercury limitations were included in the permit based on the four samples submitted with the permit application. An analysis of these four data values indicated that reasonable potential exists for mercury concentrations to exceed the water quality standards for mercury set forth in Reg. 2.508. Pursuant to 40 CFR 122.44(d), as adopted by Regulation No. 6, if a discharge poses the reasonable potential to cause or contribute to an exceedance above a water quality standard, the permit must contain an effluent limitation for that pollutant. Effluent limitations for mercury were derived in a manner consistent with the Technical Support Document (TSD) for Water Quality-based Toxics Control (EPA, March 1991), the State's 2009 Continuing Planning Process, and 40 CFR 122.45(c).

During the three year interim period, Cooper can request a permit modification to remove the mercury limits. The Department will consider the additional data to determine if reasonable potential to exceed water quality standards still exists. If the Department determines that no reasonable potential exists after additional data is collected, the permit can be modified to remove the final mercury limits. This would not violate the antibacksliding regulations since this determination would be based on new information that was not available at the time of permit issuance. Any permit modification would be subject to the applicable permit modification fee at that time.

ISSUE #5

The draft permit includes a requirement to monitor toxicity for *P. promelas* once per two months. If toxicity is identified, the draft permit requires monthly monitoring until the limitation is met for three consecutive months. In the previous permit, the monitoring requirement was once/quarter. Cooper requests that once per quarter monitoring frequency for *P. promelas* be retained in the new permit.

RESPONSE #5

The Department does not concur with Cooper's request. The increase in frequency from four/year to six/year for whole effluent toxicity testing for the *P. promelas* test species was based on the frequency of test failures during the previous permit term. According to ADEQ records there were eight lethal test failures during the last permit term for *P. promelas* test species.

ISSUE #6

Cooper requests that the monitoring frequency be changed from twice/month to once/month for BOD5, DO, TSS, Oil & Grease, and pH. BOD5 and DO are new parameters, but no compliance issues are anticipated based on data collected. TSS concentrations have decreased significantly over the past permit term. There have been no compliance issues with Oil & Grease and pH. In view of this, and the fact that this is a stormwater discharge, monitoring once/month seems adequate and appropriate. It is also noted that the Zinc and Mercury monitoring frequency is already set at once/month.

RESPONSE #6

In order to be eligible for a monitoring frequency reduction, the 2009 Continuing Planning Process (CPP) states that no violations could have occurred in the past two years for the parameter(s) in question. A review of the past two years of reported values (January 2007 through January 2009) for BOD5, TSS, Oil & Grease, and pH, reveals that there were no Oil & Grease or pH violations, and four TSS violations. Also, BOD5 values reported during the above time period were all lower than the new permit limit. Therefore BOD5, Oil & Grease, and pH have been determined to be eligible for a frequency reduction from twice/month to once/month. Since there were TSS violations, TSS is not eligible for a frequency reduction at this time. However, TSS may be eligible for a frequency reduction in the next permit cycle. Dissolved Oxygen monitoring frequency will be set at once/month to be consistent with BOD5, O&G, pH, Zinc, and Mercury since no compliance issues with dissolved oxygen are anticipated.

ISSUE #7

The table of permit limits in Part IA of the permit contains a footnote that refers to the monitoring frequency of twice/month for BOD5, TSS, DO, O&G, and pH. The footnote indicates that the samples should be taken at the first discharge of the monitoring period. This requirement is somewhat confusing because the first discharge of the monitoring period occurs once per month, yet the monitoring frequency is twice per month. Cooper requests that this requirement be once per month.

RESPONSE #7

The intent of the footnote was to ensure that the sample is representative of a discharge for the entire monitoring period and not just a sample from the base flow. In order to clarify the requirement, the footnote will be changed to read, "Samples and measurements taken shall be representative of the volume and nature of the monitored discharge during the entire monitoring period."

ISSUE #8

Section 14.c. of the Statement of Basis includes the following statement: "The facility...includes stormwater runoff from the parking lot area on the north side of the facility (Outfall 003) and stormwater runoff from the office area on the east side of the facility (Outfall 004)."

Please correct this statement. The statement should read, "The facility...includes stormwater runoff from the parking lot area on the north side of the facility (Outfall *004*) and stormwater runoff from the the office area on the *west* side of the facility (Outfall *003*)."

RESPONSE #8

This statement will be corrected as requested.