



ARKANSAS  
Department of Environmental Quality

Permit Tracking Number: ARG550398  
AFIN: 70-00473

**NOTICE OF COVERAGE (NOC)  
INDIVIDUAL TREATMENT FACILITIES GENERAL PERMIT, ARG550000**

Anthony Forest Products Company, LLC  
Attn: Phil Witter  
P.O. Box 724  
Strong, AR 71765

The Recertification Notice of Intent for continued coverage under the Individual Treatment Facilities Discharge General Permit (ARG550000) was received on May 21, 2019 and has been reviewed. Compliance with all conditions and limitations of the enclosed general permit is required. Please be advised that the permit contains monitoring and reporting requirements. All monitoring data must be submitted through NetDMR via the following link: <https://netdmr.epa.gov>. This NOC is issued in reliance upon the statements and representations made in the submittal and the Department has no responsibility for adequacy or proper functioning of the following facility:

Permit Tracking Number: **ARG550398**  
AFIN: **70-00473**  
Facility Address: Anthony Forest Products Company, LLC - Urbana Sawmill  
1236 Urbana Rd  
Urbana, AR 71768  
Facility County: Union County  
Treatment System: Norweco (Singular) 960  
Outfall 001 Coordinates: Latitude 33° 9' 34.06" N      Longitude 92° 26' 37.11" W  
Receiving Stream: Woodard Creek, thence to North Lapile Creek, thence to Lapile Creek, thence to the Ouachita River  
Conditional Requirements: No conditional requirements.

Renewal Date: July 1, 2019  
Expiration Date: June 30, 2024

Bryan Leamons, P.E.  
Senior Operations Manager  
Office of Water Quality

6/17/2019  
Issue Date

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

In accordance with the provisions of the Arkansas Water Pollution Control Act (Arkansas Code Annotated § 8-4-101 *et seq.*), and the Clean Water Act (33 U.S.C. § 1251 *et seq.*),

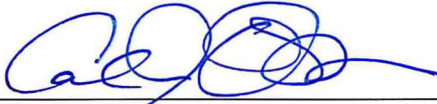
**Operators of Individual Treatment Facilities Generating Only Domestic Waste located within the State of Arkansas**

are authorized to construct, install, and discharge to all receiving waters, except those facilities and discharges which are excluded in Part 1.2.2 of this general permit, in accordance with effluent limitations, monitoring requirements, and other conditions set forth in this permit.

After properly filing a Notice of Intent (NOI), and other required documentation under Part 1.3, and proceeding through required public notification processes, facilities that are eligible for coverage under this general permit will receive a Notice of Coverage (NOC) with a tracking number starting with ARG55 and a copy of this general permit. The NOC includes ADEQ's determination that a facility is covered under this general permit and may specify applicable requirements outlined in this permit, such as modified sampling frequencies for certain parameters or the inclusion of monitoring for additional parameters to those requiring regular monitoring.

Effective Date: July 1, 2019

Expiration Date: June 30, 2024



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Caleb J. Osborne  
Associate Director, Office of Water Quality  
Arkansas Department of Environmental Quality

10.3.18

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Issue Date

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## **PART 1: COVERAGE UNDER THIS PERMIT**

**1.1. Permit Area.** The area covered by this permit includes all areas within the State of Arkansas.

### **1.2. Authorization**

#### **1.2.1 ELIGIBILITY**

**1.2.1.1** This general permit covers the construction and installation of individual treatment facilities provided that the system design has been approved by ADEQ and that the system has been approved by the Arkansas Department of Health (ADH). Each individual treatment facility shall be designed or equipped so that effluent discharged by the system will be in compliance with effluent limitations set forth in Part 2. ADEQ will maintain a list of evaluated and approved treatment system designs on the General Non-Stormwater Permits webpage:

[https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/p\\_list-of-acceptable-systems.aspx](https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/p_list-of-acceptable-systems.aspx)

**1.2.1.2** This general permit also covers discharges from individual treatment facilities that are constructed or installed as described above.

**1.2.1.3** Individual treatment facilities covered include only those facilities generating less than 1500 gallons per day of treated domestic waste.

**1.2.1.4** Facilities within the State of Arkansas discharging from an outfall as described in this permit must be authorized to discharge by either this general permit or an Individual NPDES Permit.

**1.2.1.5** Facilities must provide a licensed Class II wastewater operator responsible for the operation and maintenance of the system.

#### **1.2.2 EXCLUSIONS**

This general permit does not cover the following facilities or discharges:

**1.2.2.1** Systems with multiple discharges;

**1.2.2.2** Facilities requiring Financial Assurance in accordance with Arkansas Code Annotated 8-4-203(b) (homeowners are exempt from Financial Assurance requirements);

**1.2.2.3** Discharges to waterbodies listed on the most current 303(d) list as impaired by, or listed in a Total Maximum Daily Load (TMDL) Report for, pathogens, nutrients or low Dissolved Oxygen (DO);

**1.2.2.4** Direct discharges into Extraordinary Resource Waters (ERWs), Ecologically Sensitive Waterbodies (ESWs), and Natural and Scenic Waterways (NSWs) as designated in Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 2;

**1.2.2.5** Discharges that include non-domestic waste;

**1.2.2.6** Discharges that are a significant contributor of pollutants. In making this determination, the Director may consider the following factors:

**1.2.2.6.1** The location of the discharge with respect to Waters of the State;

**1.2.2.6.2** The size of the discharge;

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

**1.2.2.6.4** Other relevant factors.

An alternative permit, such as an Individual NPDES Permit, or other ADEQ approval is required for the preceding exclusions.

### **1.3. Notification Requirements**

**1.3.1** To obtain coverage under this general permit, operators of new or unpermitted individual treatment facilities located within the State of Arkansas must submit a complete and accurate application package to ADEQ at least thirty (30) days prior to the first proposed discharge. The application shall contain the following items:

**1.3.1.1** a Notice of Intent (NOI) containing, at a minimum, the following information;

**1.3.1.1.1** the legal name and legal address of the operator;

**1.3.1.1.2** the facility location (street address or legal description);

**1.3.1.1.3** name and telephone number of the facility contact;

**1.3.1.1.4** outfall number and location along with coordinates;

**1.3.1.1.5** name of receiving waters;

**1.3.1.1.6** actual or projected wastewater flow (gallons per day);

**1.3.1.1.7** type of treatment system;

**1.3.1.1.8** Class II wastewater operator name and license number;

**1.3.1.1.9** signature and certification in accordance with the provisions of Title 40 of the Code of Federal Regulations (40 CFR) Part 122.22, as adopted by reference in APC&EC Regulation No. 6;

**1.3.1.1.10** an NOI form can be obtained at the following link or by requesting an NOI from the NPDES Permit Section:

<https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/pdfs/arg550000/noi.pdf>

**1.3.1.2** written approval from the ADH (i.e. EHP-19 Form);

**1.3.1.3** a site map depicting the entrance to the facility, the location of the treatment system, and the location of the outfall;

- 1.3.1.4 a permit fee as stated in APC&EC Regulation No. 9 (per APC&EC Reg. 9.404(B), homeowners are exempt);
- 1.3.1.5 if the system is owned by a corporation, a Proof of Good Standing with the Arkansas Secretary of State and the Secretary of State of the permittee's state of origin, if not Arkansas; and
- 1.3.1.6 a Disclosure Statement (if applicable). A blank copy of the Disclosure Statement may be obtained at the following link (per APC&EC Reg. 8.204(C)(7)(a)(vi), homeowners are exempt):

[https://www.adeq.state.ar.us/ADEQ\\_Disclosure\\_Statement.pdf](https://www.adeq.state.ar.us/ADEQ_Disclosure_Statement.pdf).

**1.3.2** The application for coverage must be submitted by one of the following methods:

- 1.3.2.1 prior to December 21, 2020, applications for coverage can be mailed to the following address;

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

- 1.3.2.2 prior to December 21, 2020, applications for coverage can be submitted by email to [Water.Permit.Application@adeq.state.ar.us](mailto:Water.Permit.Application@adeq.state.ar.us); or

- 1.3.2.3 apply online at <https://eportal.adeq.state.ar.us>.

**1.3.3** No permit coverage will be issued (new, modification, or renewal) until all ADEQ fees have been paid.

**1.3.4** For facilities that are eligible for coverage under the general permit, ADEQ sends an NOC. The NOC includes ADEQ's determination that the facility is covered under the general permit. The NOC also includes the permit tracking number assigned to the facility, a description of the existing or proposed treatment system, the outfall coordinates, the issue date, and the expiration date. ADEQ may also specify requirements from Part 2 on the NOC, such as modified sampling frequencies for certain parameters or the applicability of conditional parameters.

**1.4. System Modification for an Existing Permittee**

If an existing permittee needs to modify, construct, or install a treatment system, then the permittee is required to submit the information identified in Part 1.3.1 to ADEQ thirty (30) days prior to the proposed activity. Any modification to the treatment system will be subject to the same public review as described in Part 1.5. Replacement of like-kind equipment does not constitute a modification.

**1.5. NOI Review and Public Notification Process**

All NOIs (new, modification, or renewal) for permit coverage under this general permit will be reviewed by ADEQ prior to undergoing the following public notification process:

Upon receipt of the NOI, ADEQ will review the submitted documents to ensure that all permit requirements are fulfilled. ADEQ may request additional information from the applicant, if necessary, to deem the NOI complete. If ADEQ makes a preliminary determination that the NOI is complete, the NOI will be made available for public review and comment on the ADEQ website for five (5) business days. ADEQ will review comments received during this period and, if necessary, require the applicant to revise the NOI. If determined appropriate by ADEQ, the operator will be issued an NOC.

Comments will only be considered if they regard a specific facility's NOI. Comments on the contents of this general permit will not be considered during the public comment period for a specific facility's NOI. Commenters will receive notification of ADEQ's decision regarding permit coverage.

## **1.6. Continuation of this Permit**

If this general permit is not renewed or replaced prior to the expiration date, it will be administratively continued in accordance with A.C.A. § 8-4-203(m) and remain in force and effect. If the facility was issued an NOC prior to the expiration date of this permit, the facility will automatically remain covered by this permit until the earliest of the following:

- 1.6.1** renewal or replacement of this permit, at which time the permittee must comply with the conditions of the new permit to maintain authorization to discharge;
- 1.6.2** submittal of a Notice of Termination (NOT) and ADEQ confirmation of termination;
- 1.6.3** issuance of an Individual NPDES Permit, or other general permit, for the facility's discharges;
- 1.6.4** a formal decision by the Director not to renew this general permit and a final decision on the issuance of an Individual NPDES Permit in accordance with A.C.A. § 8-4-203(m)(5)(D); or
- 1.6.5** ADEQ has informed the permittee that they are no longer covered under this permit.

## **1.7. Terminating Coverage**

- 1.7.1** A facility covered by this permit must submit an NOT within 30 days after one of the following conditions have been met:
  - 1.7.1.1** all discharges authorized by this permit are eliminated; or
  - 1.7.1.2** coverage under an Individual NPDES Permit, or alternative general permit, for all discharges authorized by this permit is obtained.
- 1.7.2** A facility covered by this general permit shall adhere to the requirements of this general permit until notified by ADEQ that the facility is no longer covered by this general permit regardless of the submission of an NOT.
- 1.7.3** An NOT form can be obtained by contacting the NPDES Permits Section of the Office of Water Quality to have one sent to the permittee or at the following link:

[https://www.adeg.state.ar.us/water/permits/npdes/nonstormwater/pdfs/arg\\_not.pdf](https://www.adeg.state.ar.us/water/permits/npdes/nonstormwater/pdfs/arg_not.pdf)



## **1.8. Requiring an Individual NPDES Permit**

**1.8.1** At the discretion of the Director, ADEQ may require any permittee covered under this general permit to apply for and obtain coverage under an Individual NPDES Permit for reasons that include, but are not limited to, the following:

**1.8.1.1** the discharger is not in compliance with the conditions of this general permit;

**1.8.1.2** conditions or standards have changed so that the discharger no longer qualifies for this general permit;

**1.8.1.3** ADEQ does not renew this general permit; or

**1.8.1.4** effluent limitation guidelines (ELGs) are promulgated, for point sources currently covered under this general permit, that are more stringent than the requirements of this general permit.

**1.8.2** The permittee must be notified in writing that an application for an Individual NPDES Permit is required. The permittee will remain covered under the general permit, including an administratively continued general permit (see Part 1.6), until an Individual NPDES Permit is issued, as long as the permittee submits a complete application for an Individual NPDES Permit, and any other required information, in a timely manner. When an Individual NPDES Permit is issued to a permittee for a discharge covered under this general permit, the permittee is required to submit an NOT. Coverage under the general permit will then be terminated no earlier than the effective date of the Individual NPDES Permit.

**1.8.3** Any discharger covered by this general permit shall have the option to seek and obtain coverage under an Individual NPDES Discharge General Permit in lieu of this general permit.

## **1.9. Permit Transfer**

Facilities that are authorized under this permit which undergo a change in ownership, facility name, or signatory authorization (e.g., a new cognizant official, responsible official, etc.) must submit a Permit Transfer Form to ADEQ. A Permit Transfer Form may be obtained at the following link:

<https://www.adeg.state.ar.us/water/permits/pdfs/water-permit-transfer-form.pdf>.

For an ownership change (i.e. permittee change), a Permit Transfer Form must be received by ADEQ a minimum of 30 days prior to the date of transfer to the new permittee. Until the Permit Transfer Form and a Disclosure Statement, if applicable to the new permittee, are submitted and accepted by ADEQ, the current permittee shall remain liable for permit compliance and all permit fees, even if the current permittee no longer owns the facility.

## **1.10. Approval for New Treatment Systems**

To obtain approval for an individual treatment system that is not on the current list of approved systems on ADEQ's web site (linked in Part 1.2.1.1 of this general permit), the following items must be submitted to ADEQ for review:

- 1.10.1** National Science Foundation (NSF) data;
- 1.10.2** plans, specifications, and design calculations stamped by a Professional Engineer (P.E.) registered in the State of Arkansas; and
- 1.10.3** ADH Approval (i.e. EHP-19 Form).

**PART 2: EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

OUTFALL 001 – The permittee is authorized to discharge from Outfall 001 – treated domestic wastewater. Such discharges shall be limited and monitored by the permittee as specified below:

| <u>Effluent Characteristics</u>               | <u>Discharge Limitations</u>         |                            | <u>Monitoring Requirements</u> |                       |
|---|--------------------------------------|----------------------------|--------------------------------|-----------------------|
|   | Concentration (mg/l, else specified) |                            | Frequency                      | Sample Type           |
|   | Monthly Avg.                         | Daily Max.                 |                                |                       |
| Flow (GPD) <sup>1</sup>                       | report                               | report                     | once/six months                | estimate <sup>2</sup> |
| Biochemical Oxygen Demand (BOD <sub>5</sub> ) | 10.0                                 | 15.0                       | once/six months                | grab                  |
| Total Suspended Solids (TSS)                  | 15.0                                 | 22.5                       | once/six months                | grab                  |
| Dissolved Oxygen (DO)                         | 6.0 (Inst. Min.)                     |                            | once/six months                | grab                  |
| Fecal Coliform Bacteria (FCB)                 | (colonies/100 ml)                    |                            |                                |                       |
|   | 200                                  | 400                        | once/six months                | grab                  |
| pH <sup>3</sup>                               | <u>Minimum</u><br>6.0 s.u.           | <u>Maximum</u><br>9.0 s.u. | once/six months                | grab                  |
| <b>If applicable:</b> <sup>4</sup>            |                                      |                            |                                |                       |
| Total Phosphorus (TP)                         | Report                               | Report                     | once/six months                | grab                  |
| Total Nitrogen (TN) <sup>5</sup>              | Report                               | Report                     | once/six months                | grab                  |

1. Flow must be reported in units of gallons per day (GPD).
2. Defined in Part 7 of this general permit.
3. pH shall be measured within fifteen (15) minutes of sampling.
4. If the facility discharges to a stream listed in the most recent 305(b) report as Category 3 due to insufficient data to complete the nutrient assessment, the permittee must monitor and report TP and TN.
5. Total Nitrogen is the sum of Total Kjeldahl Nitrogen and Nitrate + Nitrite Nitrogen.

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There shall be no discharge of distinctly visible solids, scum, or foam.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the outfall.

The requirement to monitor and report TP and TN will be designated on the facility's NOC.

## **PART 3: GENERAL CONDITIONS**

### **3.1. Duty to Comply**

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

### **3.2. Penalties for Violations of Permit Conditions**

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

### **3.3. Permit Actions**

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

### **3.4. Toxic Pollutants**

If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under APC&EC Reg. 2 (Arkansas Water Quality Standards), 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 standard or prohibition and the permittee so notified.

The permittee shall comply with effluent standards or prohibitions established under APC&EC Reg. 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.

### **3.5. Civil and Criminal Liability**

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

**3.6. Oil and Hazardous Substance Liability**

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

**3.7. 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.

**3.8. 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 injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

**3.9. Severability**

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

**3.10. Permit Fees**

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

**3.11. Applicable Federal, State, or Local Requirements**

Permittees are responsible for compliance with all applicable terms and conditions of this permit. Receipt of this permit does not relieve any permittee of the responsibility to comply with any other applicable Federal, State, or local laws or regulations.

**3.12. Re-opener Clause**

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

## **PART 4: OPERATION AND MAINTENANCE OF POLLUTION CONTROLS**

### **4.1. Proper Operation and Maintenance**

- 4.1.1** 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.
- 4.1.2** The permittee shall provide a licensed Class II wastewater operator qualified to carry out operation, maintenance, and testing of the system necessary to ensure compliance with the conditions of this permit.
- 4.1.3** The system must be checked at a minimum of four times a year using the maintenance form available on ADEQ's website, at the link below, by a licensed Class II wastewater operator.

Maintenance Form:

[https://www.adeg.state.ar.us/water/permits/npdes/nonstormwater/pdfs/arg550000/treatment\\_system\\_evaluation.pdf](https://www.adeg.state.ar.us/water/permits/npdes/nonstormwater/pdfs/arg550000/treatment_system_evaluation.pdf)

Records of these checks shall be maintained by the permittee and available to ADEQ upon request. At a minimum, the system check shall include the following items:

- 4.1.3.1** An assessment of the system components (including but not limited to electrical pumps, screens, weirs, chlorination, etc.);
- 4.1.3.2** An assessment of the discharge route;
- 4.1.3.3** An assessment of proper servicing of the grease interceptor, if equipped;
- 4.1.3.4** An assessment of proper working order of the aerator, if equipped; and
- 4.1.3.5** An assessment of the depth of the sludge within the aeration chamber (please note aeration system must be off during sludge depth assessment).

### **4.2. Need to Halt or Reduce not a Defense**

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

### 4.3. Duty to Mitigate

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

### 4.4. Bypass of Treatment Facilities

#### 4.4.1 Bypass not exceeding limitation

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

#### 4.4.2 Notice

**4.4.2.1** Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice at least ten days before the date of the bypass, if possible. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in Part 4.4.3.1.

**4.4.2.2** Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part 6.4.

#### 4.4.3 Prohibition of bypass

**4.4.3.1** Bypass is prohibited and the Director may take enforcement action against a permittee for bypass, unless:

**4.4.3.1.1** Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

**4.4.3.1.2** There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

**4.4.3.1.3** The permittee submitted notices as required by Part 4.4.2.

### 4.5. Upset Conditions

#### 4.5.1 Effect of an upset

An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations, if the requirements of Part 4.5.2 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is a final administrative action subject to judicial review.

**4.5.2** 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:

- 4.5.2.1 An upset occurred and that the permittee can identify the specific cause(s) of the upset;
- 4.5.2.2 The permitted facility was at the time being properly operated;
- 4.5.2.3 The permittee submitted notice of the upset as required by Part 6.4; and
- 4.5.2.4 The permittee complied with any remedial measures required by Part 4.3.

**4.5.3** Burden of proof

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

**4.6. Removed Substances**

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of waste waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering the waters of the State. Written approval must be obtained from ADEQ for land application only.

**4.7. Power Failure**

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



## **PART 5: MONITORING AND RECORDS**

### **5.1. Representative Sampling**

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period and shall be analyzed using test procedures approved under 40 CFR 136 or as specified in this permit. 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. The sampling can be performed by any qualified individual, not necessarily the Class II operator contracted by the permittee.

### **5.2. Monitoring Procedures**

Samples shall be taken at the discharge from the final treatment unit and prior to mixing with the receiving waters. Provisions must be made during the installation of the treatment unit for the taking of a proper sample. This permit has a minimum requirement that samples must be taken and analyzed only once per six months using test procedures approved under 40 CFR 136 or as specified in this permit. However, the permittee shall at all times operate and maintain the facilities used to achieve compliance with the conditions of this permit, including additional sampling and testing as necessary to assure that the permit limitations are not exceeded at any time.

### **5.3. Penalties for Tampering**

The Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-103(a)(2)(B), 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 felony and upon conviction thereof shall be subject to imprisonment for not more than five (5) years or a fine of not more than fifty thousand dollars (\$50,000) or by both such fine and imprisonment.

### **5.4. Reporting of Monitoring Results**

40 CFR 127.11(a)(1) and 40 CFR 127.16(a) require that monitoring reports be reported on a Discharge Monitoring Reports (DMR) and filed electronically. Signatory Authorities must initially request access for a NetDMR account. Once a NetDMR account is established, access to electronic filing should use the following link <https://netdmr.epa.gov>. Permittees who are unable to file electronically may request a waiver from the Director in accordance with 40 CFR 127.15, as detailed below. Monitoring results obtained during the previous monitoring period shall be summarized and reported on a DMR dated and submitted no later than the 31st day of the month, following the completed reporting period beginning on the effective date of the permit.

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

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

#### **5.5. Reporting of Operator**

The permittee shall provide, on the NOI, the licensed Class II wastewater operator that will be operating and maintaining the system. If the Class II licensed operator changes during the operation, the permittee must immediately provide ADEQ with the information on the new licensed Class II wastewater operator.

#### **5.6. Additional Monitoring by the Permittee**

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

#### **5.7. 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.

#### **5.8. Record Contents**

Records and monitoring information shall include:

- 5.8.1** The date, exact place, time and methods of sampling or measurements, and preservatives used, if any;
- 5.8.2** The individual(s) who performed the sampling or measurements;
- 5.8.3** The date(s) and time analyses were performed;
- 5.8.4** The individual(s) who performed the analyses;
- 5.8.5** The analytical techniques or methods used; and
- 5.8.6** The measurements and results of such analyses.

## **5.9. Inspection and Entry**

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

- 5.9.1** enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- 5.9.2** have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 5.9.3** inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- 5.9.4** sample, inspect, or monitor, at reasonable times, for the purposes of assuring permit compliance, or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

## **PART 6: REPORTING REQUIREMENTS**

### **6.1. 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.

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

### **6.2. Transfers**

As stated in Part 1.9 of this permit, facilities that are authorized under this permit, which undergo a change in ownership, facility name, or signatory authorization (i.e., a new cognizant official, responsible person, etc.) must submit a Permit Transfer Form to the Director. A Permit Transfer Form can be obtained from the General Permits Section of the Office of Water Quality at the following website:

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

For an ownership change (i.e. permittee change), the Permit Transfer Form must be received by ADEQ a minimum of 30 days prior to the date of transfer to the new permittee. Until the Disclosure Statement and Permit Transfer Form, if applicable to the new permittee, are submitted and accepted by ADEQ, the current permittee shall remain liable for permit compliance and all permit fees, even if the current permittee no longer owns the facility.

### **6.3. Monitoring Reports**

Monitoring results shall be completed and maintained at the facility at the intervals and on the Discharge Monitoring Report specified in Part 5.4. **Discharge Monitoring Reports must be completed even when no discharge occurs during the reporting period.**

### **6.4. Twenty-Four Hour Reporting**

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 supplemental written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; 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 steps taken or planned to reduce, eliminate, and prevent reoccurrences of the noncompliance. 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 Office of Water Quality of ADEQ.

The following shall be included as information which must be reported within 24 hours:

- 6.4.1 any unanticipated bypass which exceeds any effluent limitation in the permit;
- 6.4.2 any upset which exceeds any effluent limitation in the permit; and
- 6.4.3 any violation of a monthly average or daily maximum discharge limitation for the pollutants listed in Part 2 of the permit, including the lab results.

## 6.5. Other Reporting

The permittee shall report all instances of noncompliance not reported under Part 6.4 at the time monitoring reports are completed. The reports shall contain the information listed at Part 5.8.

## 6.6. 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 (Part 5.7). Information shall be submitted in the form, manner and time frame requested by the Director.

## 6.7. Duty to Reapply

Except as otherwise provided for in Part 1.6 of the permit, if a permittee wishes to continue an activity regulated by this general permit after the expiration date of this permit, the permittee must apply for and obtain coverage under a new permit.

## 6.8. Signatory Requirements

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

### 6.8.1 All permit applications shall be signed as follows:

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

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

6.8.1.1.2 The manager of one or more manufacturing, production, or 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.

**6.8.1.2** For a partnership or sole proprietorship: by a general partner or proprietor, respectively; or

**6.8.1.3** For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

**6.8.1.3.1** The chief executive officer of the agency; or

**6.8.1.3.2** A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

**6.8.2** All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

**6.8.2.1** The authorization is made in writing by a person described above;

**6.8.2.2** The authorization 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

**6.8.2.3** The written authorization is submitted to the Director.

**6.8.3 Certification.** Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

## **6.9. Availability of Reports**

Except for data determined to be confidential under 40 CFR Part 2 and APC&EC Reg. 6, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of ADEQ. 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.

#### **6.10. Penalties for Falsification of Reports**

The Arkansas Water and Air Pollution Control Act provides that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under this permit shall be subject to civil and/or criminal penalties specified in Section 6.2 under the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

## PART 7: 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:

- 7.1. **"Act"**: the Clean Water Act, 33.U.S.C.1251 et seq.
- 7.2. **"ADEQ"**: the Arkansas Department of Environmental Quality. ADEQ is the governing authority for the National Pollutant Discharge Elimination System program in the State of Arkansas.
- 7.3. **"Administrator"**: the Administrator of the U.S. Environmental Protection Agency.
- 7.4. **"Biochemical Oxygen Demand (BOD<sub>5</sub>)"**: the amount of oxygen required by bacteria during the decay of organic or nitrogenous material in sanitary sewage.
- 7.5. **"Bypass"**: the intentional diversion of waste streams from portion of a treatment facility.
- 7.6. **"Clean Water Act (CWA)"**: Federal Water Pollution Control Act (33 U.S.C. § 1251 Et Seq.) as in Effect January 4, 2011.
- 7.7. **"Code of Federal Regulations (CFR)"**: the codification of the general and permanent rules and regulations published in the Federal Register by the executive departments and agencies of the federal government of the United States. Title 40 of the CFR (40 CFR) refers to the Protection of the Environment.
- 7.8. **"Daily maximum"**: discharge limitation means the highest allowable "daily discharge" during the calendar month.
- 7.9. **"Direct Discharge"**: the discharge of wastewater directly into a waterbody. Overland flow is not considered a direct discharge. For this permit, specific direct discharge exclusions are provided in Sections 1.2.2.3.
- 7.10. **"Director"** means the Director of the Arkansas Department of Environmental Quality.
- 7.11. **"Dissolved Oxygen"**: the amount of free (not chemically combined) oxygen dissolved in water, wastewater, or other liquid, usually expressed in milligrams per liter, parts per million, or percent of saturation.
- 7.12. **"Domestic wastewater"**: wastewater consisting only of discharges from sanitary conveniences and plumbing fixtures such as toilets, urinals, lavatories, bathtubs and showers, water fountains, dishwashers, and washing machines.
- 7.13. **"Estimate"**: an approximate judgment or calculation, as of the amount of the discharge (flow). Flow shall be estimated each time effluent samples are taken. If a flow meter, flume, or weir isn't available, then there are several methods available to estimate flow rate that the permittee can do with commonly available tools, such as stopwatches, rulers, and buckets (Timed Volume).



- 7.14. **"Facility"**: a pollution source, or any public or private property or site and all contiguous land and structures, other appurtenances and improvements, where any activity is conducted which discharges or may result in the discharge of pollutants into water of the U.S.
- 7.15. **"Fecal coliform bacteria"**: a gram negative, no-spore forming, rod shaped bacteria found in the intestinal tract of warm-blooded animals.
- 7.16. **"Grab sample"**: an individual sample collected in less than 15 minutes.
- 7.17. **"GPD"**: gallons per day.
- 7.18. **"mg/l"**: milligrams per liter; it is essentially equivalent to parts per million in dilute aqueous solutions.
- 7.19. **"Monthly average"**: discharge limitation meaning the highest allowable average of "daily discharge" 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.
- 7.20. **"National Pollutant Discharge Elimination System (NPDES)"**: the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under section 307, 402, 318 and 405 of the Clean Water Act.
- 7.21. **"Operator"**: for the purpose of this permit, means any person (an individual, association, partnership, corporation, municipality, state or federal agency) who has the primary management and ultimate decision-making responsibility over the operation of a facility or activity. The operator is responsible for ensuring compliance with all applicable environmental regulations and conditions.
- 7.22. **"Process wastewater"**: wastewater containing waste from processes employed in industrial and commercial establishment. Examples include, but are not limited to, restaurants, cooling and heating water, process water, wash water, car washes, laundromats, etc.
- 7.23. **"Sanitary sewage"**: treated or untreated wastewater which contains human metabolic and domestic wastes only. Specifically excluded are industrial, manufacturing, and/or process wastes.
- 7.24. **"Standard Methods"**: Standard Methods for the Examination of Water and Wastewater, American Public Health Association, Washington, D.C.
- 7.25. **"Total Nitrogen (TN)"**: the sum of all nitrogen compounds in various forms including Total Kjeldahl Nitrogen and Nitrate + Nitrite Nitrogen. TN, along with TP, are used to measure the nutrient loading in water and are typically expressed as a concentration in terms of mg/l.
- 7.26. **"Total Phosphorus (TP)"**: the sum of all phosphorus compounds in various forms. TP, along with TN, are used to measure the nutrient loading in water and are typically expressed as a concentration in terms of mg/l.

**7.27. "Total Suspended Solids (TSS)":** the amount of solid material suspended in water, commonly expressed as a concentration, in terms of mg/l.