

**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 Ark. Code Ann. 8-4-101 et seq.), and the Clean Water Act (33 U.S.C. 1251 et seq.),

**Hydrostatic Testing Discharges Located within the State of Arkansas**

This general permit authorizes facilities to discharge hydrostatic testing wastewater to the Waters of the State, except facilities or discharges which are excluded in Part 1.3 of the 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) under Part 1.4, facilities that are eligible for coverage under this general permit will receive a Notice of Coverage (NOC) letter, with a tracking number starting with ARG67, and a copy of the permit for the facility. The NOC letter includes the Division's determination that a facility is covered under this general permit and may specify alternate requirements outlined in the permit, such as modified sampling frequencies for certain parameters or the inclusion of monitoring for parameters in addition to those requiring regular monitoring.

Facilities may also be granted automatic coverage under this permit under certain circumstances as detailed in Part 1.6.2 of this permit.

Effective Date: July 1, 2023

Expiration Date: June 30, 2028

12/28/2022

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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 Eligibility and Authorization**

##### **1.2.1 Activities Covered**

Facilities covered by this general permit include those facilities which engage in the hydrostatic testing of new pipelines or vessels, or those which have been used for the transport, transfer, or storage of potable water, ammonia, natural gas, crude oil, liquid or gaseous petroleum hydrocarbons, or diesel, unleaded gasoline, natural gasoline, fuel oil, kerosene, jet fuel, naphtha, raffinate, toluene, gasoline additives, or diesel additives which would adequately be detected by the effluent limitations in this permit and which discharge wastewater as a result of these hydrostatic tests. This includes, but is not limited to, pipelines, flowlines, and storage tanks.

**1.2.2** Applicants requesting coverage under this permit must submit a complete Notice of Intent (NOI) to DEQ and receive a Notice of Coverage (NOC) to discharge under this general permit, as stated in Part 1.4, unless automatic coverage is granted in accordance with Part 1.6.2.

**1.2.3** The hydrostatic testing of pipelines or vessels which have been used for the transport, transfer, or storage of materials other than those listed in Part 1.2.1 may be authorized on a case-by-case basis. Such discharges are not eligible for automatic coverage; approval can only be through an NOC issued by DEQ. Additional monitoring requirements may be applicable, or DEQ may require the applicant to obtain an individual permit instead of allowing coverage under this general permit.

#### **1.3 Exclusions**

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

**1.3.1** Any discharge of wastewater from sources other than hydrostatic testing.

**1.3.2** Any discharge of wastewater containing substances that cannot be addressed by or would not be adequately detected by the effluent limits in this permit.

**1.3.3** Any facility that discharges into a waterbody listed pursuant to Section 303(d) of the Clean Water Act where the pollutant of concern is present in the discharge and the requirements of the permit are inadequate to provide sufficient reduction of the listed pollutant.

**1.3.4** Any facility that discharges into Extraordinary Resource Waters (ERWs), Ecologically Sensitive Waters (ESWs), Natural and Scenic Waterways, losing streams, lakes, and reservoirs where

pollutants of concern are present in the discharge and the requirements of the permit are inadequate to provide sufficient reduction of the pollutants. Proposed new discharges to a losing stream segment as defined in APC&EC Rule 6.301(B) may require additional information to demonstrate that the pollutant limits and the requirements of the permit are adequate to protect underground drinking water resources and aquatic life.

- 1.3.5** Discharges from a facility into receiving waters for which there is an established Total Maximum Daily Load (TMDL) and Waste Load Allocation (WLA) for a pollutant that is limited in this permit, and the limit is not restrictive enough for the facility to meet the TMDL and WLA requirements.
- 1.3.6** Discharges that the Division has determined may adversely impact a Wellhead Protection Area or Source Water Assessment Area as designated by the Arkansas Department of Health.
- 1.3.7** Discharges that the Division has determined to be or which may reasonably be expected to be contributing to a violation of a water quality standard or is operating in violation of APC&EC Rule 2, as amended.
- 1.3.8** Facilities not in compliance with a previously issued individual permit, general permit, or in violation of state water quality rules.
- 1.3.9** Discharges from pipelines or vessels using compressor lubricants containing polychlorinated biphenyls (PCBs), unless the water has been isolated and tested to demonstrate a Total PCB concentration of 0.0004 µg/l or less, and the permittee has received authorization from DEQ to discharge the water. EPA Method 1668C may be used for this analysis. Other methods require approval from DEQ.
- 1.3.10** Discharges mixed with any other discharge (e.g., stormwater).
- 1.3.11** Any facility covered under a National Pollutant Discharge Elimination System (NPDES) individual permit or other NPDES general permits, and the issuance of this permit would violate the anti-backsliding requirements of 40 C.F.R. § 122.44(1).
- 1.3.12** Discharges of wastewater in order to clean the pipeline.

## **1.4 Notification**

- 1.4.1** Requests for Coverage shall be submitted as follows:

- 1.4.1.1** For existing discharges covered under the General Permit (ARG670000) that expires on June 30, 2023:

The permittee is required to submit a recertification Notice of Intent (NOI) and all necessary information (see Part 1.4.1.3) to be covered under this general permit no later than 30 days prior to the effective date of this general permit.

- 1.4.1.2** For new discharges:

A Notice of Intent (NOI) and all necessary information shall be submitted to the

Division at least 15 business days prior to the proposed discharge. Unless the applicant is notified otherwise of additional information required before discharging by the Director, authority to discharge under this general permit will become effective within 15 business days of a complete submission of the above notification, provided that the applicant meets the eligibility requirements in Part 1.2.1 of the permit. The permittee shall request a copy of this general permit from DEQ or obtain an electronic copy at

[https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/pdfs/arg670000/current\\_permit.pdf](https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/pdfs/arg670000/current_permit.pdf) .

- 1.4.1.3** Unless the conditions of 1.5 have been satisfied, Notices of Intent and other required documents must be submitted by electronic application using DEQ ePortal (or any successor system):

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

Use the form finder on ePortal to search for:

“ARG670000 Recertification Notice of Intent for Hydrostatic Testing” (existing dischargers seeking to recertify coverage) or;

“ARG (NPDES non-stormwater general permit) Notice of Intent” (new dischargers)

- 1.4.1.4** All notices of intent for coverage under this general permit must be signed and certified in accordance with Part 6.9 of the permit.

- 1.4.2** In order to discharge under this general permit, applicants must submit the following items to the Division:

- 1.4.2.1** A Notice of Intent (NOI);

- 1.4.2.2** For new dischargers or existing facilities with a change in outfall location, only: site map indicating the location of the outfall(s);

- 1.4.2.3** If the permittee is a corporation, then the legal permittee name must be listed as it is registered with the office of the Secretary of State of Arkansas. The legal permittee must be in Good Standing with the Secretary of State of Arkansas. Additionally, if the legal permittee’s state of incorporation is any state other than Arkansas, a Certificate of Good Standing from that state must also be documented with the NOI;

- 1.4.2.4** A Disclosure Statement as required by APC&EC Rule 8.204, if applicable; and

- 1.4.2.5** A permit fee as allowed by APC&EC Rule 9.404(C) (for new permittees only; current permittees will be billed an annual fee).

- 1.4.3** The NOI shall include the following minimum information:

- 1.4.3.1** The legal name and address of the permittee;

- 1.4.3.2 The site location (street address or legal description). For pipelines, this may be the project trailer or other local staging area;
  - 1.4.3.3 The name and telephone number of the site contact;
  - 1.4.3.4 The number and location of outfalls, including the latitude and longitude of each;
  - 1.4.3.5 The type of business, facility SIC code(s), and facility NAICS code(s);
  - 1.4.3.6 Discharge path and name of receiving water(s);
  - 1.4.3.7 Brief description of the activity resulting in the discharge(s) including the anticipated duration of the discharge(s), anticipated volume and rate of discharge(s), and the source of water which is to be discharged;
  - 1.4.3.8 The material from which the pipeline/vessel was constructed (e.g. concrete pipe, glass lined steel tank, etc.);
  - 1.4.3.9 Whether the pipeline or vessel has been previously used or is of virgin material;
  - 1.4.3.10 A description of the material previously contained or transported through the pipeline or vessel (for previously used pipelines/vessels only);
  - 1.4.3.11 A brief description and safety data sheets (SDSs) for any corrosion inhibitors to be used, including a description of any potentially toxic constituents.
- 1.4.4 No permit coverage will be issued (new, modification, or recertification) until all DEQ fees have been paid.
- 1.4.5 The Notice of Coverage (NOC) includes the Division's determination that a facility is covered under the general permit. The Division may specify alternate requirements outlined in the permit such as modified sampling frequencies for certain parameters or the inclusion of additional monitoring parameters. These alternate requirements will be listed in the NOC, as applicable. The NOC also includes the permit tracking number, outfall coordinates, issue date, and expiration date. Permit tracking numbers are identified as starting with "ARG67".
- 1.4.6 This general permit may provide either site specific or project specific authorization to discharge. Permittees who conduct hydrostatic testing at more than one location for a specific project may obtain project-wide coverage (i.e., more than one outfall) under this permit for discharges related to those testing activities provided the testing activities are all conducted within the same county. The NOI submitted for permit coverage must contain all of the discharge information (i.e., location, duration, volume, receiving stream, etc.) for each testing location. Please note that future additional outfalls not included in the original NOI must be included on a new NOI and obtain separate permit coverage. **Please be aware that the sampling required in Part 2.1 must be conducted during each discharge.**

## 1.5 Waivers from Electronic Reporting

- 1.5.1 Waivers from electronic reporting may be granted based on one of the following conditions:

- 1.5.1.1** The operational headquarters is physically located in a geographic area (i.e. zip code or census tract) that is identified as under-served for broadband internet access in the most recent National Broadband Map from the Federal Communications Commission (available online at <https://broadbandmap.fcc.gov/>);
  - 1.5.1.2** Available computer access or computer capability is limited; or
  - 1.5.1.3** The applicant is a religious community that chooses not to use certain modern technologies pursuant to 40 C.F.R. § 127.15(c)(1).
- 1.5.2** In order to apply for a waiver from electronic reporting, the applicant must submit the required information outlined in 40 C.F.R. § 127.15(b)(2):
- 1.5.2.1** Facility Name;
  - 1.5.2.2** NPDES permit number (if applicable);
  - 1.5.2.3** Facility address;
  - 1.5.2.4** Name, address, and contact information for the owner, applicant, or duly authorized facility representative;
  - 1.5.2.5** Brief written statement regarding the basis for claiming such a temporary waiver; and
  - 1.5.2.6** Any other information required by the authorized NPDES program.
- 1.5.3** If DEQ grants a waiver approval to use a paper form, and the applicant elects to use it, the applicant must use the approved form developed by DEQ.

## **1.6 NOI Review and Automatic Coverage**

All NOIs for permit coverage under this general permit will be reviewed by DEQ as follows:

- 1.6.1** Upon receipt of the Notice of Intent (NOI), DEQ will review the submitted documents to ensure that all permit requirements are fulfilled. DEQ may request additional information from the applicant if additional information is necessary to complete the NOI. DEQ will notify the Source Water Protection section of the Arkansas Department of Health (ADH) of the proposed discharge and allow five (5) business days for review by ADH staff. If determined appropriate by DEQ, the applicant will be granted coverage under this general permit upon written notification by DEQ.
- 1.6.2** For facilities meeting the eligibility requirements in Part 1.2.1 of this permit, unless the applicant is otherwise notified by the Director of additional information required before discharging, authority to discharge under this general permit will become effective 15 business days after submission of a complete NOI.

## **1.7 Requiring an Individual NPDES Permit**

- 1.7.1** At the discretion of the Director, the Division may require any permittee covered under this



general permit to apply for and obtain an individual NPDES permit for reasons that include but are not limited to the following:

- 1.7.1.1** The discharger is not in compliance with the conditions of the general permit;
- 1.7.1.2** Conditions or standards have changed so that the discharger no longer qualifies for a general permit;
- 1.7.1.3** The Division does not renew this general permit;
- 1.7.1.4** Effluent limitation guidelines (ELGs) are promulgated for point sources covered by the general permit and requirements of the general permit are inadequate to provide compliance with the ELG;
- 1.7.1.5** A Water Quality Management Plan (WQMP) containing requirements applicable to such point sources is approved and the requirements of the general permit are inadequate to provide compliance with these requirements;
- 1.7.1.6** The discharge(s) is a significant contributor of pollutants. In making this determination, the Director may consider the following factors:
  - 1.7.1.6.1** The location of the discharge with respect to Waters of the State;
  - 1.7.1.6.2** The size of the discharge;
  - 1.7.1.6.3** The quantity and nature of the pollutants discharged to Waters of the State; and
  - 1.7.1.6.4** Other relevant factors.
- 1.7.2** The permittee will be notified in writing that an application for an individual permit is required. When an individual NPDES discharge permit is issued to a permittee otherwise covered under this general permit, the permittee is required to submit a Notice of Termination (NOT). Coverage under the general permit will then be terminated no earlier than the effective date of the individual NPDES permit.

**Timeliness:** Should DEQ determine at any point that the permittee has not submitted or responded to the permitting process or requests for information in a timely manner, DEQ will provide a final notice in writing setting a reasonable time/period for the permittee to complete the necessary application(s) or supplementary material to complete processing. After that time DEQ may terminate the continued coverage and may terminate the review of any incomplete permit application in accordance with permitting procedures identified by APC&EC Rule 8.
- 1.7.3** Any permittee covered by this General Permit may request to be excluded from the coverage by applying for an individual NPDES permit.

## **1.8 Terminating Coverage**

- 1.8.1** A facility covered by this permit must submit a Notice of Termination (NOT) within thirty (30)

days after one of the following conditions has been met:

- 1.8.1.1** all discharges authorized by this permit are eliminated and the permittee does not intend to maintain permit coverage for potential future discharges at the permitted outfall(s); or
- 1.8.1.2** coverage under an Individual NPDES Permit, or alternative general permit, for all discharges authorized by this permit is obtained.
- 1.8.2** A facility covered by this general permit shall adhere to the requirements of this general permit until notified by DEQ that the facility is no longer covered by this general permit regardless of the submission of an NOT.
- 1.8.3** The NOT must be submitted by electronic application using DEQ ePortal (or any successor system):

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

Use the form finder on ePortal to search for the “ARG Notice of Termination for NPDES General Non-Stormwater Permits” form.

Applicants may apply for a waiver from electronic reporting if unable to use the ePortal system, as detailed in Part 1.5 of this permit.

- 1.8.4** The NOT must include the testing results for all of the required parameters specified in Part 2 of the permit, unless the permittee has previously submitted these results to DEQ. If the required testing was not done, the permittee shall submit a noncompliance report in accordance with Part 6.5 or 6.6 of the permit.

## PART 2

### EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The following effluent limitations are applicable for the discharge of hydrostatic testing wastewater:

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>		<u>Monitoring Requirements</u>	
	Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type <sup>1</sup>
	Daily Maximum			
For ALL Discharges Under This Permit				
Volume (gallons)	Report (gallons)		once per batch discharge	estimate
Duration (hours)	Report (hours)		once per batch discharge	record
Total Suspended Solids (TSS)	45		once per batch discharge	grab
Oil and Grease (O&G)	15		once per batch discharge	grab
Total Residual Chlorine (TRC) <sup>2</sup>	0.011 <sup>3</sup> (Inst. Max.)		once per batch discharge	grab
pH	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once per batch discharge	grab
For Discharges From Pipelines/Vessels Previously Used For Storage or Transport of Natural Gas and/or Petroleum Products ONLY				
Total Organic Carbon (TOC)	50		once per batch discharge	grab
Total BTEX <sup>4</sup>	100 (µg/l)		once per batch discharge	grab
Benzene	50 (µg/l)		once per batch discharge	grab
For Discharges from Pipelines/Vessels Previously Used For Storage or Transport of Ammonia ONLY				
Ammonia Nitrogen (NH <sub>3</sub> -N)	2.9		once per batch discharge	grab
For Discharges from Pipelines/Vessels Previously Used for Storage or Transport of Substances Other Than Potable Water, Ammonia, Natural Gas, or Petroleum Products				
Specified on NOC <sup>5</sup>	Specified on NOC <sup>5</sup>		Specified on NOC <sup>5</sup>	Specified on NOC <sup>5</sup>

<sup>1</sup> The grab sample shall be taken based on one of the following methods for filling and discharging the hydrostatic test water from the pipeline segment(s) and/or vessels being tested:

- (a) Using the First In, Last Out Method, the grab sample shall be taken at the end of each batch discharge.
- (b) Using the First In, First Out Method, the grab sample shall be taken at the beginning of each batch discharge.

<sup>2</sup> TRC must be measured using any approved test method established in 40 C.F.R. Part 136 capable of meeting a minimum quantification level (MQL) of 0.033 mg/l or lower. If TRC is not reportable at the required MQL (i.e., lab result is "ND"), report "0" on the Discharge Monitoring Report (DMR). Report the concentration if TRC is quantifiable and measured in the sample at or above this or an alternatively approved MQL. DEQ may waive the TRC testing requirement on a case-by-case basis if a non-chlorinated water source is used for the hydrostatic testing.

<sup>3</sup> The effluent limitation for TRC is the instantaneous maximum and cannot be averaged for reporting purposes. TRC shall be measured within fifteen minutes of sampling.

<sup>4</sup> BTEX shall be measured as the sum of benzene, toluene, ethylbenzene, and total xylene (including ortho-, meta-, and para-xylene) as quantified by EPA methods 601, 602, 624, or 1624.

<sup>5</sup> Determined on a case-by-case basis by DEQ and specified on the individual NOC for the facility.

Oil, grease, or petrochemical substances shall not be present in receiving waters, to the extent that they produce globules or other residue or any visible, colored film on the surface or coat the banks and/or bottoms of the waterbody or adversely affect any of the associated biota. There shall be no visible sheen as defined in Part 8 of this permit.

## **PART 3**

### **GENERAL CONDITIONS**

#### **3.1 Duty To Comply**

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

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

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

#### **3.3 Permit Actions**

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

#### **3.4 Toxic Pollutants**

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

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

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

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

### **3.6 Oil and Hazardous Substance Liability**

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

### **3.7 Property Rights**

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

### **3.8 Severability**

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

### **3.9 Permit Fees**

The permittee shall comply with all applicable permit requirements (i.e., including annual permit fees following the initial permit fee that will be invoiced every year the permit is active) for wastewater discharge permits as described in APC&EC Rule 9 (Rule for the Fee System for Environmental Permits). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to terminate this permit under the provisions of 40 C.F.R. §§ 122.64 and 124.5(d), as adopted in Rule 6 and the provisions of APC&EC Rule 8.

### **3.10 Applicable Federal, State or Local Requirements**

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

### **3.11 Re-opener Clause**

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

### **3.12 Continuance of the Expired General Permit**

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

coverage was granted prior to the expiration date, the permittee will automatically remain covered by the continued permit until the earliest of:

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

## **PART 4**

### **OPERATION AND MAINTENANCE OF POLLUTION CONTROLS**

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

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

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

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

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

#### **4.3 Duty to Mitigate**

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

#### **4.4 Bypass of Treatment Facilities**

##### **4.4.1 Bypass not exceeding limitation**

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 ensure 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, if possible at least ten days before the date of the bypass.

**4.4.2.2** Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part 6.5.

##### **4.4.3 Prohibition of bypass**

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

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

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

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

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

## **4.5 Upset Conditions**

### **4.5.1 Effect of an upset**

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

### **4.5.2 Conditions necessary for a demonstration of upset**

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

**4.5.2.1** An upset occurred and that the permittee can identify the specific cause(s) of the upset;

**4.5.2.2** The permitted facility was at the time being properly operated;

**4.5.2.3** The permittee submitted notice of the upset as required by Part 6.5; 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. A state land application permit is required for land application of the above wastes. The permittee must comply with all applicable State and Federal regulations and rules governing the disposal of solids, including but not limited to 40 C.F.R. § 503, 40 C.F.R. § 257, and 40 C.F.R. § 258.

#### **4.7 Power Failure**

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

## **PART 5**

### **MONITORING AND RECORDS**

#### **5.1 Representative Sampling**

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken 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 and the approval of the Director. Intermittent discharges shall be monitored.

#### **5.2 Flow Measurement**

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that 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  $\pm 10\%$  from true discharge rates throughout the range of expected discharge volumes.

#### **5.3 Monitoring Procedures**

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

#### **5.4 Penalties for Tampering**

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

#### **5.5 Monitoring and Reporting**

Each permittee shall be responsible for submitting monitoring information. Within thirty (30) days after completion of the hydrostatic test and cessation of discharge, the permittee shall submit a report summarizing the results of all discharge samples. The report shall contain, at a minimum, the date(s) and duration of discharge, source of test water, discharge point, water volumes used, control measures implemented, and a description and quantity of any corrosion inhibitors used. Reports shall be certified in accordance with Part 6.7.2. Reports may be submitted through the DEQ (or any successor system):

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

Use the form finder on ePortal to search for the “ARG670000 Hydrostatic Testing Discharge Report” form.

Permittees may apply for a waiver from electronic reporting if unable to use the ePortal system, as detailed in Part 1.5 of this permit.

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

## **5.8 Record Contents**

Records and monitoring information shall include:

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

## **5.9 Inspection and Entry**

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

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

## **PART 6**

### **REPORTING REQUIREMENTS**

#### **6.1 Planned Changes**

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

**6.1.1** The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 C.F.R. § 122.29(b).

**6.1.2** 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 C.F.R. § 122.42(a)(1).

#### **6.2 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.

#### **6.3 Transfers**

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

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

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

#### **6.4 Monitoring Reports**

Monitoring results shall be reported at the intervals and on the form specified in Part 5.5.

#### **6.5 Twenty-four Hour Reporting**

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

**6.5.1** The permittee shall report any noncompliance which may endanger health or the environment within 24 hours from the time the permittee becomes aware of the circumstances to the Enforcement Branch of the Office of Water Quality of DEQ. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain the following information:

**6.5.1.1** A description of the noncompliance and its cause;

**6.5.1.2** The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

**6.5.1.3** Steps taken or planned to reduce, eliminate, and prevent reoccurrences of the noncompliance.

**6.5.2** The following must be reported within 24 hours:

**6.5.2.1** Any unanticipated bypass which exceeds any effluent limitation in the permit;

**6.5.2.2** Any upset which exceeds any effluent limitation in the permit; or

**6.5.2.3** Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part 2 of the permit.

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

## **6.6 Other Noncompliance**

The permittee shall report all instances of noncompliance not reported under Part 6.5 at the time monitoring reports are submitted. The reports shall contain the information listed in Part 6.5.

## **6.7 Changes in Discharge of Toxic Substances for Industrial Discharges including Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers**

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

**6.7.1** That any activity has occurred or will occur which would result in the discharge, in a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 C.F.R. § 122.42(a)(1).

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

## **6.8 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.

## **6.9 Signatory Requirements**

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

follows:

**6.9.1** All permit applications shall be signed as follows:

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

**6.9.1.1.1** 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

**6.9.1.1.2** 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 ensure 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.

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

**6.9.1.3** 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:

**6.9.1.3.1** The chief executive officer of the agency, or

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

**6.9.2** 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:

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

**6.9.2.2** 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

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

**6.9.3** Changes to authorization. If an authorization under Part 6.9.2 is no longer accurate because a

different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part 6.9.2 of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

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

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure 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.”

**6.10 Availability of Reports**

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

**6.11 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 Part 3.2 under the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

**6.12 Other Information**

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

## **PART 7 OTHER CONDITIONS**

### **7.1 Hydrostatic Testing Requirements**

- 7.1.1** There shall be no discharge of any wastewater except those resulting from hydrostatic testing of pipelines or other fluid vessels.
- 7.1.2** The permittee shall take all necessary steps to prevent or minimize stream channel scouring or erosion of materials and soils into surface waters caused by the discharge.
- 7.1.3** There shall be no discharge of floating solids or visible foam other than trace amounts.
- 7.1.4** All waters shall be treated to remove suspended solids, turbidity and color to a level consistent with the receiving stream.
- 7.1.5** In the event of a pipe failure during testing, the permittee shall submit notice of the failure as required in Part 6.5. If a discharge has to occur from the failure location, the permittee must meet all of the applicable effluent limitations and monitoring requirements in Part 2 of the permit. The location of the failure point must be identified when submitting the DMRs.

### **7.2 Best Management Practices**

- 7.2.1** Spills shall be cleaned up expeditiously and not allowed to enter the waste treatment system (if applicable) or outfall(s).
- 7.2.2** Where activities ancillary to the primary business of the facility are performed on site, they shall be performed in a manner to prevent pollutants from entering the waste treatment system (if applicable) or outfall(s).



## PART 8 DEFINITIONS

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

- 8.1 “APC&EC”** means the Arkansas Pollution Control and Ecology Commission.
- 8.2 “Batch Discharge”** means the uninterrupted discharge of a pollutant over a period of time. The batch discharge is calculated from a single grab sample taken as follows:
  - 8.3.1 Using the First In, Last Out Method (i.e. the testing water is added to and removed from the same end of the pipeline segment or vessel), the grab sample shall be taken at the end of the batch discharge.
  - 8.3.2 Using the First In, First Out Method (i.e. the testing water is added at one end of the pipeline segment or vessel and discharged from a different end of the pipeline segment or vessel), the grab sample shall be taken at the beginning of the batch discharge.
- 8.3 “Bypass”** means the intentional diversion of waste streams from any portion of a treatment facility, as defined at 40 C.F.R. § 122.41(m)(1)(i).
- 8.4 “Daily Maximum”** discharge limitation means the highest allowable “batch discharge” during the calendar month.
- 8.5 “DEQ” or “Division”** means the Arkansas Department of Energy and Environment – Division of Environmental Quality.
- 8.6 “Director”** means the Director of the Arkansas Department of Energy and Environment – Division of Environmental Quality.
- 8.7 “Facility”** means any NPDES point source (including land or appurtenances thereto) that is subject to regulation under the NPDES program.
- 8.8 “Grab sample”** means an individual sample collected in less than 15 minutes in conjunction with an instantaneous flow measurement.
- 8.9 “National Pollutant Discharge Elimination System (NPDES)”** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the Clean Water Act.
- 8.10 “Permittee”** means any person (any state agency, municipality, governmental subdivision of the state or the United States, public or private corporation, individual, partnership, association, or other entity) who has the primary management and decision-making responsibility over a permitted operation, facility, or activity. The permittee is responsible for ensuring compliance with all applicable environmental regulations and conditions. The permittee is the entity named as such on an individual permit or the

entity covered by a general permit.

- 8.11 “Point Source”** means any discernible, confined, and discrete conveyance from which pollutants are or may be discharged.
- 8.12 “Severe property damage”** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in productions.
- 8.13 “Upset”** means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operations.
- 8.14 “Visible sheen”** means the presence of a film or sheen upon or a discoloration of the surface of the discharge. A sheen can also be from a thin glistening layer of oil on the surface of the discharge.