



ARKANSAS

ENERGY & ENVIRONMENT

December 18, 2022

Marco McClendon, Mayor
West Memphis Wastewater Treatment Facility
P.O. Box 1868
West Memphis, AR 72301

Re: NPDES Discharge Modification Permit Number AR0022039, AFIN 18-00879

Dear Mayor McClendon:

Enclosed are the public notice, draft NPDES discharge modification permit, and fact sheet, that the Arkansas Department of Energy and Environment – Division of Environmental Quality has prepared under the authority of the National Pollutant Discharge Elimination System (NPDES), the Arkansas Water and Air Pollution Control Act, and APC&EC Rule 8, *Administrative Procedures*. A copy of the final permit will be mailed to you when the Division has made a final permitting decision.

In accordance with APC&EC Rule 8.207, the enclosed public notice will be or has been published by DEQ in a newspaper of general circulation of your facility for one (1) day only. An invoice for the cost of publishing the public notice and proof of publication will be sent to you by the advertising newspaper. The permittee must send proof of publication and proof of payment to the address at the bottom of this letter as soon as possible but no later than thirty (30) days from the above date. Until this Division receives proof of publication of the public notice and payment of all permit and publication fees, no further action will be taken on the issuance of your NPDES discharge modification permit.

For a list of changes in the NPDES discharge modification permit, please see Section 5 of the enclosed discharge permit Fact Sheet. Comments must be received at DEQ prior to the close of the public comment period as described in the enclosed public notice. Once a final permit is issued by the Director and becomes effective, the permittee must comply with all terms and conditions of the permit, or be subject to enforcement actions for any instances of noncompliance during the duration of the permit, usually five (5) years. Consequently, it is imperative that you, as the applicant, thoroughly review the enclosed documentation for accuracy, applicability, and your ability to comply with all conditions therein.

Should you have any questions concerning any part of the draft NPDES discharge modification permit, please contact Shane Byrum at (501) 682-0618 or shane.byrum@adeq.state.ar.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alan J. York'.

Alan J. York
Associate Director, Office of Water Quality
Division of Environmental Quality
5301 Northshore Drive, North Little Rock, AR, 72118

AJY:sb

Enclosure

cc: Mayor McClendon, Responsible Official: dwallace@westmemphisar.gov
Todd Pedersen, Cognizant Official: tpedersen@westmemphisar.gov
Tim Verner, P.E., Consulting Engineer: tverner@fisherarnold.com

**PUBLIC NOTICE OF DRAFT DISCHARGE MODIFICATION PERMIT AND 208 PLAN
FOR PERMIT NUMBER AR0022039, AFIN 18-00879**

This is to give notice that the Arkansas Department of Energy and Environment – Division of Environmental Quality (DEQ), Office of Water Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317 at telephone number (501) 682-0656, proposes a draft NPDES individual discharge permit modification for which an application was received on January 10, 2022, with all additional information received by April 13, 2022, in accordance with Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 6.

Applicant: West Memphis Wastewater Treatment Facility, 502 South Loop, West Memphis, AR 72301; Latitude: 35° 07' 27" N; Longitude: 90° 10' 58" W in Crittenden County, Arkansas.

The discharge from this existing facility is made into the Mississippi River in Segment 6C of the Mississippi River Basin.

The proposed permit modification will include updating the permit limits and monitoring requirements to correspond to an increase in design flow from 6.3 MGD to 12 MGD based on a planned new treatment plant.

The 208 Plan, developed by the DEQ under provisions of Section 208 of the federal Clean Water Act, is a comprehensive program to work toward achieving federal water goals in Arkansas. The initial 208 Plan, adopted in 1979, provides for annual updates, but can be revised more often if necessary. Updates to the 208 Plan are proposed to revise the design flow of this facility from 6.3 to 12.0 MGD.

Citizens wishing to examine or obtain copies of the permit application, the draft permitting decision, the Fact Sheet, or the 208 Plan, may do so at the DEQ headquarters located at 5301 Northshore Drive, North Little Rock, AR 72118-5317. To request a copy of one or more of the documents, please call (501) 682-0647. For those with Internet access, a copy of the proposed draft permit as well as the publication date may be found on the DEQ's website at: https://www.adeq.state.ar.us/water/permits/drafts_pn.aspx.

Comments on draft discharge modification permit will be accepted in accordance with APC&EC Rule 8.208. DEQ's contact person for submitting written comments on the draft permit or 208 Plan, or requesting a public hearing on the draft permit or the proposed changes to the 208 Plan, is Shane Byrum, at the above address and telephone number or by email at Water-Draft-Permit-Comment@adeq.state.ar.us.

The period for submitting comments on the draft discharge modification permit and for requesting a public hearing shall begin on the date of publication of the public notice and end at 4:30 P.M. (Central Time) on the 30th day after the publication date. If the last day of the comment period is a Saturday, Sunday, or legal holiday, the public comment period shall expire on the next day that is not a Saturday, Sunday, or legal holiday. For information regarding the actual publication date along with the actual date and time the comment period will end, please contact Shane Byrum at the above address and telephone number or by email at Water-Draft-Permit-Comment@adeq.state.ar.us. Public notice, comments, and hearings will be conducted in accordance with APC&EC Rules 6.104(A)(5) [40 C.F.R. §§ 124.10 through 124.12 by reference] and 8.207 through 8.210 (Administrative Procedures). All persons, including the permittee, who wish to comment on DEQ's draft permitting decision must submit written comments to DEQ, along with their name and mailing address. A Public Hearing will be held when DEQ finds a significant degree of public interest. After the public comment period, DEQ will issue a final permitting decision. DEQ will notify the applicant, and each person who has submitted written comments or requested notice, of the final permitting decision. Any interested person who has submitted comments may appeal a final decision by DEQ in accordance with the APC&EC Rule 8.

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

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

West Memphis Wastewater Treatment Facility

is authorized to discharge treated municipal wastewater from a facility located at 502 South Loop, West Memphis, AR 72301 in Crittenden County.

Facility Coordinates: Latitude: 35° 07' 27.16" N; Longitude: 90° 10' 44.46" W

Receiving stream: Mississippi River in Segment 6C of the Mississippi River Basin.

The permitted outfall is located at the following coordinates:

Outfall 001: Latitude: 35° 07' 12" N; Longitude: 90° 10' 28" W

Discharge shall be in accordance with effluent limitations, monitoring requirements, and other conditions set forth in this permit. Per Part III.D.10, the permittee must re-apply 180 days prior to the expiration date below for permit coverage to continue beyond the expiration date.

Original Effective Date: November 1, 2018

Major Modification Effective Date:

Expiration Date: October 31, 2023

Alan J. York
Associate Director, Office of Water Quality
Arkansas Department of Energy and Environment
Division of Environmental Quality

Issue Date

PART I
PERMIT REQUIREMENTS

SECTION A.1. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS: OUTFALL 001 - treated municipal wastewater.

During the period beginning on the effective date and lasting until the date of expiration, the permittee is authorized to discharge from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below as well as Parts II and III. See Part IV for all definitions.

Tier I: Limits Effective Prior to Completion of Construction Activities Authorized by State Construction Permit AR0022039C

Design Flow: 6.3 MGD*

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>			<u>Monitoring Requirements</u>	
	Mass (lbs/day, else specified)	Concentration (mg/l, else specified)		Frequency	Sample Type
		Monthly Avg.	Monthly Avg.		
Flow	N/A	Report, MGD	Report, MGD (Daily Max.)	once/day	totalizing meter
Overflows	Monthly Total SSOs (occurrences/month)			see comments ¹	
Overflow Volume	Monthly Total Volume of SSOs (gallons/month)			see comments ¹	
Biochemical Oxygen Demand (BOD ₅)	1576.3	30.0	45.0	three/week	composite
Total Suspended Solids (TSS)	1576.3	30.0	45.0	three/week	composite
Dissolved Oxygen (DO)	N/A	2.0 (Inst. Min.)		three/week	grab
Fecal Coliform Bacteria (FCB)		(colonies/100ml)			
(May – September)	N/A	200	400	three/week	grab
(October – April)	N/A	1000	2000	three/week	grab
Total Phosphorus (TP)	N/A	Report	Report	once/year	grab
Nitrate + Nitrite Nitrogen (NO ₃ +NO ₂ -N)	N/A	Report	Report	once/year	grab
pH	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	three/week	grab
Acute WET Testing ²					
<u>Pimephales promelas (Acute)²</u> Pass/Fail Lethality (48-Hr NOEC) TEM6C Survival (48-Hr NOEC) TOM6C Coefficient of Variation (48-Hr NOEC) TQM6C Pass/Fail Retest 1 (48-Hr NOEC) 22418 Pass/Fail Retest 2 (48-Hr NOEC) 22419 Pass/Fail Retest 3 (48-Hr NOEC) 51444		Report (Pass=0/Fail=1) Report % Report %		once/quarter once/quarter once/quarter	composite composite composite
<u>Daphnia pulex (Acute)²</u> Pass/Fail Lethality (48-Hr NOEC) TEM3D Survival (48-Hr NOEC) TOM3D Coefficient of Variation (48-Hr NOEC) TQM3D Pass/Fail Retest 1 (48-Hr NOEC) 22415 Pass/Fail Retest 2 (48-Hr NOEC) 22416 Pass/Fail Retest 3 (48-Hr NOEC) 51443		Report (Pass=0/Fail=1) Report % Report %		once/quarter once/quarter once/quarter	composite composite composite
		Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report (Pass=0/Fail=1)		once/month ³ once/month ³ once/month ³	composite composite composite
		Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report (Pass=0/Fail=1)		once/month ³ once/month ³ once/month ³	composite composite composite

¹ See Part II.5 (SSO Condition). If there are no overflows during the entire month, report "zero" (0).

² See Part II.8 (WET Testing Condition).

³ **CONDITIONAL REPORTING:** Use only if conducting retests due to a test failure (demonstration of significant toxic effects at or below the critical dilution). If testing on a quarterly basis, the permittee may substitute one of the retests in lieu of one routine toxicity test. If retests are not required, Report NODI=9 (Conditional Monitoring - Not Required This Period) under retest parameters. (reported on a quarterly DMR)

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 IV of this permit.

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. Samples shall be taken after the final treatment unit and prior to entering the receiving stream.

SECTION A.2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS: OUTFALL 001 - treated municipal wastewater.

During the period beginning on the effective date and lasting until the date of expiration, the permittee is authorized to discharge from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below as well as Parts II and III. See Part IV for all definitions and calculations.

Tier II: Limits Effective After Completion of Construction Activities Authorized by State Construction Permit AR0022039C
Design Flow: 12 MGD*

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>			<u>Monitoring Requirements</u>	
	Mass (lbs/day, else specified)	Concentration (mg/l, else specified)		Frequency	Sample Type
		Monthly Avg.	Monthly Avg.		
Flow	N/A	Report, MGD	Report, MGD (Daily Max.)	once/day	totalizing meter
Overflows	Monthly Total SSOs (occurrences/month)			see comments ¹	
Overflow Volume	Monthly Total Volume of SSOs (gallons/month)			see comments ¹	
Biochemical Oxygen Demand (BOD ₅)	3002.4	30	45	once/day	composite
Total Suspended Solids (TSS)	3002.4	30.0	45.0	once/day	composite
Dissolved Oxygen (DO)	N/A	2.0 (Inst. Min.)		once/day	grab
Fecal Coliform Bacteria (FCB)		(colonies/100ml)			
(May – September)	N/A	200	400	once/day	grab
(October – April)	N/A	1000	2000	once/day	grab
Total Phosphorus (TP)	N/A	Report	Report	once/month	grab
Nitrate + Nitrite Nitrogen (NO ₃ +NO ₂ -N)	N/A	Report	Report	once/month	grab
pH	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/day	grab
Acute WET Testing ²					
<u>Pimephales promelas (Acute)²</u> Pass/Fail Lethality (48-Hr NOEC) TEM6C Survival (48-Hr NOEC) TOM6C Coefficient of Variation (48-Hr NOEC) TQM6C Pass/Fail Retest 1 (48-Hr NOEC) 22418 Pass/Fail Retest 2 (48-Hr NOEC) 22419 Pass/Fail Retest 3 (48-Hr NOEC) 51444		Report (Pass=0/Fail=1) Report % Report %	Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report (Pass=0/Fail=1)	once/quarter once/quarter once/quarter once/month ³ once/month ³ once/month ³	composite composite composite composite composite composite
<u>Daphnia pulex (Acute)²</u> Pass/Fail Lethality (48-Hr NOEC) TEM3D Survival (48-Hr NOEC) TOM3D Coefficient of Variation (48-Hr NOEC) TQM3D Pass/Fail Retest 1 (48-Hr NOEC) 22415 Pass/Fail Retest 2 (48-Hr NOEC) 22416 Pass/Fail Retest 3 (48-Hr NOEC) 51443		Report (Pass=0/Fail=1) Report % Report %	Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report (Pass=0/Fail=1)	once/quarter once/quarter once/quarter once/month ³ once/month ³ once/month ³	composite composite composite composite composite composite

¹ See Part II.5 (SSO Condition). If there are no overflows during the entire month, report "zero" (0).

² See Part II.8 (WET Testing Condition).

³ **CONDITIONAL REPORTING:** Use only if conducting retests due to a test failure (demonstration of significant toxic effects at or below the critical dilution). If testing on a quarterly basis, the permittee may substitute one of the retests in lieu of one routine toxicity test. If retests are not required, Report NODI=9 (Conditional Monitoring - Not Required This Period) under retest parameters. (reported on a quarterly DMR)

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 IV of this permit.

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. Samples shall be taken after the final treatment unit and prior to entering the receiving stream.

SECTION B. PERMIT COMPLIANCE SCHEDULE

The permittee shall achieve compliance with the permit requirements in accordance with the following schedule:

Pursuant to 40 C.F.R. § 122.44(j)(2)(ii), the permittee shall submit either of the following items within sixty (60) days of the original effective date of this permit:

- a. A **WRITTEN CERTIFICATION** that a technical evaluation has demonstrated that the existing technically based local limits (TBLLs) are based on current state water quality standards and are adequate to prevent pass through of pollutants, inhibition of or interference with the treatment facility, worker health and safety problems, and sludge contamination.
- b. A **WRITTEN NOTIFICATION** that a technical evaluation revising the current TBLLs will be submitted within twelve (12) months of the original effective date of this permit.

The submittals shall be signed and submitted to the attention of:

Arkansas Department of Environmental Quality
Office of Water Quality
Pretreatment Program
5301 Northshore Drive
North Little Rock, AR 72118-5317

PART II OTHER CONDITIONS

1. The operator of this wastewater treatment facility shall be licensed as Class IV by the State of Arkansas in accordance with APC&EC Rule 3.
2. For publicly owned treatment works, the 30-day average percent removal for Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS) shall not be less than 85 percent unless otherwise authorized by the permitting authority in accordance with 40 C.F.R. § 133.102, as adopted by reference in APC&EC Rule 6.
3. In accordance with 40 C.F.R. §§ 122.62 (a)(2) and 124.5, this permit may be reopened for modification or revocation and/or reissuance to require additional monitoring and/or effluent limitations when new information is received that actual or potential exceedance of State water quality criteria and/or narrative criteria are determined to be the result of the permittee's discharge(s) to a relevant water body or a Total Maximum Daily Load (TMDL) is established or revised for the water body that was not available at the time of the permit issuance that would have justified the application of different permit conditions at the time of permit issuance.
4. Other Specified Monitoring Requirements

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

- The monitoring and analytical instruments are consistent with accepted scientific practices.
- The requests shall be submitted in writing to the Permits Section of the Office of Water Quality of the DEQ for use of the alternate method or instrument.
- The method and/or instrument is in compliance with 40 C.F.R. Part 136 or approved in accordance with 40 C.F.R. § 136.5.
- All associated devices are installed, calibrated, and maintained to ensure the accuracy of the measurements and are consistent with the accepted capability of that type of device. The calibration and maintenance shall be performed as part of the permittee's laboratory Quality Control/Quality Assurance program.

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

5. Sanitary Sewer Overflow (SSO) Reporting Requirements:
 - A. A sanitary sewer overflow is any spill, release or diversion of wastewater from a sanitary sewer collection system including:
 1. Any overflow, whether it discharges to the waters of the state or not.

2. An overflow of wastewater, including a wastewater backup into a building (other than a backup caused solely by a blockage or other malfunction in a privately owned sewer or building lateral), even if that overflow does not reach waters of the state.

A. 24-Hour Reporting:

When an SSO is detected – no matter how small – it must be reported within 24 hours of its discovery to DEQ’s Water Quality Enforcement by using the online form in paragraph C below (the preferred method), by phone at (501) 682-0638, or by email at ssoadeq@adeq.state.ar.us.

This initial 24-hour report should include the following information:

1. Permit Number
2. Location of overflow (manhole number or street address)
3. The receiving water (if applicable)
4. Cause of overflow (if known)
5. Estimated volume of overflow so far
6. Total duration of the overflow

B. 5-Day Follow-Up Written Web Reporting:

A written report of overflows shall be provided to DEQ within 5 days of the 24-hour oral report. A follow-up written report (5-day report) can be filled-in and submitted on the DEQ Office of Water Quality/Enforcement Branch Web page at:

<https://www.adeq.state.ar.us/water/enforcement/sso/submit.aspx?type=s>

C. 24-Hour and 5-Day Reporting:

If the 24-hour report submitted includes all of the information requested in the 5-day report described in Paragraph C above, then a follow-up 5-day report is not required.

D. Reporting for All SSOs on DMR:

At the end of the month, total the daily occurrences and volumes from all locations on your system and report this number on the DMR. For counting occurrences, each location on the sanitary sewer system where there is an overflow, spill, release, or diversion of wastewater on a given day is counted as one occurrence. For example, if on a given day overflows occur from a manhole at one location and from a damaged pipe at another location then you should record two occurrences for that day.

6. Best Management Practices (BMPs), as defined in Part IV.7, must be implemented for the facility along with the collection system to prevent or reduce the pollution of waters of the State from stormwater runoff, spills or leaks, sludge or waste disposal, or drainage from raw

sewage. The permittee must amend the BMPs whenever there is a change in the facility or a change in the operation of the facility.

7. Contributing Industries and Pretreatment Requirements

A. The permittee shall operate an industrial pretreatment program in accordance with Section 402(b)(8) of the Clean Water Act (CWA), the General Pretreatment Regulations (40 C.F.R. Part 403) and the approved POTW pretreatment program submitted by the permittee. The pretreatment program was approved on April 5, 1986, modified on January 11, 1996 and once again modified and approved on January 16, 2013 to be compliant with the October 2005 Streamlining revisions to the Federal Pretreatment Regulations in 40 C.F.R. Part 403. The POTW pretreatment program is hereby incorporated by reference and shall be implemented in a manner consistent with the following requirements:

- (1) Industrial user information shall be updated at a frequency adequate to ensure that all IUs are properly characterized at all times;
- (2) The frequency and nature of industrial user compliance monitoring activities by the permittee shall be commensurate with the character, consistency and volume of waste. The permittee must inspect and sample the effluent from each Significant Industrial User in accordance with 40 C.F.R. § 403.8(f)(2)(v). This is in addition to any industrial self-monitoring activities;
- (3) The permittee shall enforce and obtain remedies for noncompliance by any industrial users with applicable pretreatment standards and requirements;
- (4) The permittee shall control through permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements. In the case of Industrial Users identified as significant under 40 C.F.R. § 403.3(v), this control shall be achieved through individual control mechanisms, in accordance with 40 C.F.R. § 403.8(f)(1)(iii). Control mechanisms must be enforceable and contain, at a minimum, the following conditions:
 - a. Statement of duration (in no case more than five years);
 - b. Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
 - c. Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards, categorical Pretreatment Standards, local limits, and State and local law;
 - d. Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored

sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in 40 C.F.R. Part 403, categorical Pretreatment Standards, local limits, and State and local law;

- e. Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond federal deadlines; and
 - f. Requirements to control slug discharges, if determined by the POTW to be necessary.
- (5) The permittee shall evaluate, whether each Significant Industrial User needs a plan or other action to control slug discharges, in accordance with 40 C.F.R. § 403.8(f)(2)(vi);
 - (6) The permittee shall provide adequate staff, equipment, and support capabilities to carry out all elements of the pretreatment program; and
 - (7) The approved program shall not be modified by the permittee without the prior approval of the DEQ.
- B. The permittee shall establish and enforce specific limits to implement the provisions of 40 C.F.R. §§ 403.5(a) and (b), as required by 40 C.F.R. § 403.5(c). POTWs may develop Best Management Practices (BMPs) to implement paragraphs 40 C.F.R. §§ 403.5(c)(1) and (c)(2). Such BMPs shall be considered local limits and Pretreatment Standards. Each POTW with an approved pretreatment program shall continue to develop these limits as necessary and effectively enforce such limits.

The permittee shall submit, within sixty (60) days of the effective date of this permit, (1) a **WRITTEN CERTIFICATION** that a technical evaluation has demonstrated that the existing technically based local limits (TBLLs) are based on current state water quality standards and are adequate to prevent pass through of pollutants, inhibition of or interference with the treatment facility, worker health and safety problems, and sludge contamination, or (2) a **WRITTEN NOTIFICATION** that a technical evaluation revising the current TBLLs will be submitted within 12 months of the effective date of this permit.

All specific prohibitions or limits developed under this requirement are deemed to be conditions of this permit. The specific prohibitions set out in 40 C.F.R. § 403.5(b) shall be enforced by the permittee unless modified under this provision.

- C. The permittee shall analyze the treatment facility influent and effluent for the presence of the toxic pollutants listed in 40 C.F.R. Part 122 Appendix D (NPDES Application Testing Requirements) Table II at least once per year and the toxic pollutants in Table III at least four (4) times per year (quarterly). If, based upon information available to the permittee, there is reason to suspect the presence of any toxic or hazardous pollutant listed in Table

V of 40 C.F.R. Part 122 Appendix D, or any other pollutant, known or suspected to adversely affect treatment plant operation, receiving water quality, or solids disposal procedures, analysis for those pollutants shall be performed at least four (4) times per year (quarterly) on both the influent and the effluent.

The influent and effluent samples collected shall be composite samples, as defined in Part IV.8 of the permit. In accordance with 40 C.F.R. § 122.21(j)(4)(viii), where composite samples are inappropriate due to sampling, holding time or analytical constraints, at least four (4) grab samples shall be taken at equal intervals over a representative 24-hour period. Sampling and analytical procedures shall be in accordance with guidelines established in 40 C.F.R. Part 136.

- D. The permittee shall prepare annually a list of Industrial Users which, during the preceding twelve months (the Pretreatment “Reporting Year”) were in significant noncompliance with applicable pretreatment requirements. For the purposes of this Part, significant noncompliance shall be determined based upon the more stringent of either criteria established at 40 C.F.R. § 403.8(f)(2)(viii) or criteria established in the approved POTW pretreatment program. This list is to be published annually during the month of April in the newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW.

In addition, by 4:30 P.M. Central Time (if electronically submitted) OR postmarked on or before the last business day in the month of April, the permittee shall submit an updated pretreatment program status report to the DEQ containing the following information:

- (1) An updated list of all significant industrial users. The list must identify:
 - a. Industrial Users classified as Non-Significant Categorical Industrial User (NSCIUs) or Middle Tier CIUs.
 - b. Industrial Users subject to categorical Pretreatment Standards that are subject to reduced monitoring and reporting requirements under 40 C.F.R. §§ 403.12(e)(2) and (3).
 - c. Industrial Users subject to the categorical Pretreatment Standards of the following Point Source Categories: Organic Chemicals, Plastics, and Synthetic Fibers [40 C.F.R. Part 414], Petroleum Refining [40 C.F.R. Part 419], and Pesticide Chemicals [40 C.F.R. Part 455] and for which the Control Authority has chosen to use the concentration-based standards rather than converting them to flow-based mass standards as allowed at 40 C.F.R. § 403.6(c)(6).
 - d. Categorical Industrial Users subject to concentration-based standards for which the Control Authority has chosen to convert the concentration-based standards to equivalent mass limits, as allowed at 40 C.F.R. § 403.6(c)(5).

- e. General Control Mechanisms used for similar groups of SIUs along with the substantially similar types of operations and the types of wastes that are the same, for each separate General Control Mechanism, as allowed at 40 C.F.R. § 403.8(f)(1)(iii).
- f. Best Management Practices or Pollution Prevention alternatives required by a categorical Pretreatment Standard or as a local limit requirement that are implemented and documentation to demonstrate compliance, as required at 40 C.F.R. §§ 403.12(b), (e) and (h).

(2) For each industrial user listed the following information shall be included:

- a. Standard Industrial Classification (SIC) code, North American Industry Classification System (NAICS) code and categorical determination;
- b. Control document status, i.e., whether the user has an effective control document and the date such document was last issued, reissued or modified. Additionally, indicate which industrial users were added to the system, or newly identified, within the previous 12 months;
- c. A summary of all monitoring activities performed within the previous 12 months. The following information shall be reported:
 - i. total number of inspections performed;
 - ii. total number of sampling visits made;
- d. Status of compliance with both effluent limitations and reporting requirements. Compliance status shall be defined as follows:
 - i. Compliant (C) - no violations during the previous 12 month period;
 - ii. Non-compliant (NC) - one or more violations during the previous 12 months but does not meet the criteria for significantly noncompliant industrial users;
 - iii. Significant Noncompliance (SNC) - in accordance with requirements described in Item D above; and
- e. For significantly noncompliant industrial users, indicate the nature of the violations, the type and number of actions taken (notice of violation, administrative order, criminal or civil suit, fines or penalties collected, *etc.*) and current compliance status. If ANY industrial user was on a schedule to attain compliance with effluent limits, indicate the date the schedule was issued and the date compliance is to be attained.

- (3) A list of all significant industrial users whose authorization to discharge was terminated or revoked during the preceding 12 month period and the reason for termination;
- (4) A report on any interference, pass through, upset or POTW permit violations known or suspected to be caused by industrial contributors and actions taken by the permittee in response;
- (5) The results of all influent and effluent analyses performed pursuant to Item C above;
- (6) An influent/effluent summary chart containing the monthly average water quality-based effluent concentration demonstrating compliance with permit limits or the water quality levels not to exceed as developed in the permittee's approved technically based local limits document;
- (7) The information requested may be submitted in tabular form as per the example tables provided for your convenience (See Attachments II, III and IV); and
- (8) A copy of the newspaper publication of the significantly noncompliant industrial users giving the name of the newspaper and the date published.

E. The permittee shall provide adequate notice of the following:

- (1) Any new introduction of pollutants into the treatment works from an indirect discharger that would be subject to Sections 301 and 306 of the CWA if it were directly discharging those pollutants; and
- (2) Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit.

Adequate notice shall include information on (i) the quality and quantity of effluent to be introduced into the treatment works, and (ii) any anticipated impact of the change on the quality or quantity of effluent to be discharged from the POTW.

8. Whole Effluent Toxicity Testing (48-Hour Acute NOEC Freshwater)

A. Scope and Methodology

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

Applicable to Final Outfall(s): 001

Reported on DMR as Final Outfall: Outfall 001

Critical Dilution (%):	1.0%
Effluent Dilution Series (%):	0.4%, 0.6%, 0.8%, 1.0%, and 1.3%
Testing Frequency:	once/quarter
Composite Sample Type:	Defined in Paragraph C.iv below
Test Species/Methods:	40 C.F.R. Part 136

Daphnia pulex acute static renewal 48-hour definitive toxicity test using EPA-821-R-02-012, or the latest update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

Pimephales promelas (Fathead minnow) acute static renewal 48-hour definitive toxicity test using EPA-821-R-02-012, or the latest update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

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

B. Persistent Lethality

The requirements of this subsection apply only when a toxicity test demonstrates significant lethal effects at or below the critical dilution. Significant lethal effects are herein defined as a statistically significant difference at the 95% confidence level between the survival of the appropriate test organism in a specified effluent dilution and the control (0% effluent). The purpose of retests is to determine the duration of a toxic event. A test that meets all test acceptability criteria and demonstrates significant toxic effects does not need additional confirmation.

Such testing cannot confirm or disprove a previous test result.

If a frequency reduction, as specified in Item F, has been granted and any subsequent valid test demonstrates significant lethal effects to a test species at or below the critical dilution, the frequency of testing for this species is automatically increased to once per quarter for the life of the permit.

i. Part I Testing Frequency Other Than Monthly

- a. The permittee shall conduct a total of three (3) retests for any species that demonstrates significant lethal effects at or below the critical dilution. The retests shall be conducted monthly during the next three consecutive months. If testing on a quarterly basis, the permittee may substitute one of the retests in lieu of one Scheduled toxicity test. A full report shall be prepared for each test required by this section in accordance with procedures outlined in Item D of this section and submitted with the period discharge monitoring report (DMR) to the permitting authority for review.
- b. If any of the retests demonstrates significant lethal effects at or below the critical dilution, the permittee shall initiate Toxicity Reduction Evaluation (TRE) requirements as specified in Item E of this section. The permittee shall notify DEQ in writing within 5 days of the failure of any retest, and the TRE initiation date will be the test completion date of the first failed retest. A TRE may be also be required due to a demonstration of intermittent lethal effects at or below the critical dilution, or for failure to perform the required retests.
- c. The provisions of Item B.i are suspended upon submittal of the TRE Action Plan.

C. Required Toxicity Testing Conditions

i. Test Acceptance

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

- a. Each toxicity test control (0% effluent) must have a survival equal to or greater than 90%.
- b. The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent) for: Daphnia pulex survival test; and Fathead minnow survival test.
- c. The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal effects are exhibited for: Daphnia pulex survival test; and Fathead minnow survival test.
- d. If a test passes, yet the percent coefficient of variation between replicates is greater than 40% in the control (0% effluent) and/or in the critical dilution for: the survival in the Daphnia pulex survival test or the survival endpoint of the Fathead minnow test, the test is determined to be invalid. A repeat test shall be conducted within the required reporting period of any test determined to be invalid.

- e. If a test fails, test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%.

ii. Statistical Interpretation

For the Daphnia pulex survival test and the Fathead minnow survival test, the statistical analyses used to determine if there is a statistically significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in EPA-821-R-02-012 or the most recent update thereof.

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

iii. Dilution Water

- a. Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but unaffected by the discharge. The permittee shall substitute synthetic dilution water of similar pH, hardness, and alkalinity to the closest downstream perennial water for;
 - A. toxicity tests conducted on effluent discharges to receiving water classified as intermittent streams; and
 - B. toxicity tests conducted on effluent discharges where no receiving water is available due to zero flow conditions.
- b. If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria of Item C.i), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:
 - A. a synthetic dilution water control which fulfills the test acceptance requirements of Item C.i was run concurrently with the receiving water control;
 - B. the test indicating receiving water toxicity has been carried out to completion (i.e., 48 hours);
 - C. the permittee includes all test results indicating receiving water toxicity with the full report and information required by Item D below; and
 - D. the synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or closest downstream perennial water not

adversely affected by the discharge, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water.

iv. Samples and Composites

- a. The permittee shall collect two flow-weighted composite samples from the outfall(s) listed at Item A.i above. Unless otherwise stated in this section, a composite sample for WET shall consist of a minimum of 12 subsamples gathered at equal time intervals during a 24-hour period.
- b. The permittee shall collect a second composite sample for use during the 24-hour renewal of each dilution concentration for both tests. The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 36 hours. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first composite sample. Samples shall be chilled to between 0 and 6 degrees Centigrade during collection, shipping, and/or storage.
- c. The permittee must collect both flow-weighted composite samples within the monitoring period. The second composite sample shall not be collected into the next monitoring period; such tests will be determined to be invalid. Monitoring period definitions are listed in Part IV.
- d. The permittee must collect the composite samples such that the effluent samples are representative of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on a regular or intermittent basis.
- e. If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum number of effluent portions and the sample holding time are waived during that sampling period. However, the permittee must have collected an effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item D of this section.

D. Reporting

- i. The permittee shall prepare a full report of the results of all tests conducted pursuant to this Part in accordance with the Report Preparation Section of EPA-821-R-02-012, for every valid or invalid toxicity test initiated, whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of PART III.C.7 of this permit. The permittee shall submit full reports. For any test or retest which fails, is considered invalid or which is terminated early for any reason, the full report must be submitted for agency review.

- ii. A valid test for each species must be reported on the DMR during each reporting period specified in PART I of this permit. The full report for all invalid tests, repeat tests (for invalid tests), and retests (for tests previously failed) performed during the reporting period must be attached to the DMR for Agency review.
- iii. The permittee shall report the following results of each valid toxicity test and retest on the subsequent DMR for that reporting period in accordance with PART III.D.4 of this permit. Only results of valid tests are to be reported on the DMR.
 - a. Pimephales promelas (Fathead minnow)
 - A. If the No Observed Effect Concentration (NOEC) for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TEM6C.
 - B. Report the NOEC value for survival, Parameter No. TOM6C.
 - C. Report the highest (critical dilution or control) Coefficient of Variation, Parameter No. TQM6C.
 - D. If conducting retests due to a test failure (demonstration of significant toxic effects at or below the critical dilution):
 - (1) Consecutive Monthly Retest 1: If the NOEC for P. promelas is less than the critical dilution, enter a '1'; otherwise, enter a '0' under Parameter No. 22418 (reported on quarterly DMR);
 - (2) Consecutive Monthly Retest 2: If the NOEC for P. promelas is less than the critical dilution, enter a '1'; otherwise, enter a '0' under Parameter No. 22419 (reported on quarterly DMR);
 - (3) Consecutive Monthly Retest 3: If the NOEC for P. promelas is less than the critical dilution, enter a '1'; otherwise, enter a '0' under Parameter No. 51444 (reported on quarterly DMR);
 - (4) If testing on a quarterly basis, the permittee may substitute one of the retests in lieu of one routine toxicity test;
 - (5) If retests are not required, Report NODI=9 (Conditional Monitoring - Not Required This Period) under Parameter Nos. 22418, 22419, 51444 (reported on quarterly DMR)
 - b. Daphnia pulex
 - A. If the NOEC for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TEM3D
 - B. Report the NOEC value for survival, Parameter No. TOM3D.

- C. Report the highest (critical dilution or control) Coefficient of Variation, Parameter No. TQM3D.
- D. If conducting retests due to a test failure (demonstration of significant toxic effects at or below the critical dilution):
- (1) Consecutive Monthly Retest 1: If the NOEC for D. pulex is less than the critical dilution, enter a '1'; otherwise, enter a '0' under Parameter No. 22415 (reported on quarterly DMR);
 - (2) Consecutive Monthly Retest 2: If the NOEC for D. pulex is less than the critical dilution, enter a '1'; otherwise, enter a '0' under Parameter No. 22416 (reported on quarterly DMR);
 - (3) Consecutive Monthly Retest 3: If the NOEC for D. pulex is less than the critical dilution, enter a '1'; otherwise, enter a '0' under Parameter No. 51443 (reported on quarterly DMR);
 - (4) If testing on a quarterly basis, the permittee may substitute one of the retests in lieu of one routine toxicity test;
 - (5) If retests are not required, Report NODI=9 (Conditional Monitoring - Not Required This Period) under Parameter Nos. 22415, 22416, and 51443 (reported on quarterly DMR)

c. DMR parameters

Report the following parameters on the DMR:

Scheduled DMR: TEM6C, TOM6C, TQM6C, 22418, 22419, 51444, TEM3D, TOM3D, TQM3D, 22415, 22416, and 51443.

E. Toxicity Reduction Evaluation (TRE)

- i. Within ninety (90) days of confirming lethality in the retests, the permittee shall submit a Toxicity Reduction Evaluation (TRE) Action Plan and Schedule for conducting a TRE. The TRE Action Plan shall specify the approach and methodology to be used in performing the TRE. A Toxicity Reduction Evaluation is an investigation intended to determine those actions necessary to achieve compliance with water quality-based effluent limits by reducing an effluent's toxicity to an acceptable level. A TRE is defined as a step-wise process which combines toxicity testing and analyses of the physical and chemical characteristics of a toxic effluent to identify the constituents causing effluent toxicity and/or treatment methods which will reduce the effluent toxicity. The TRE Action Plan shall lead to the successful elimination of effluent toxicity at the critical dilution and include the following:

- a. **Specific Activities.** The plan shall detail the specific approach the permittee intends to utilize in conducting the TRE. The approach may include toxicity characterizations, identifications and confirmation activities, source evaluation, treatability studies, or alternative approaches. When the permittee conducts Toxicity Characterization Procedures the permittee shall perform multiple characterizations and follow the procedures specified in the documents "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA-600/6-91/003) or alternate procedures. When the permittee conducts Toxicity Identification Evaluations and Confirmations, the permittee shall perform multiple identifications and follow the methods specified in the documents "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081), as appropriate.

The documents referenced above may be obtained through the National Technical Information Service (NTIS) by phone at (703) 487-4650, or by writing:

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

- b. **Sampling Plan** (e.g., locations, methods, holding times, chain of custody, preservation, etc.). The effluent sample volume collected for all tests shall be adequate to perform the toxicity test, toxicity characterization, identification and confirmation procedures, and conduct chemical specific analyses when a probable toxicant has been identified;
- c. Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity. Where lethality was demonstrated within 24 hours of test initiation, each composite sample shall be analyzed independently. Otherwise the permittee may substitute a composite sample, comprised of equal portions of the individual composite samples, for the chemical specific analysis;
- d. **Quality Assurance Plan** (e.g., QA/QC implementation, corrective actions, etc.); and
- e. **Project Organization** (e.g., project staff, project manager, consulting services, etc.).

- ii. The permittee shall initiate the TRE Action Plan within thirty (30) days of plan and schedule submittal. The permittee shall assume all risks for failure to achieve the required toxicity reduction.
- iii. The permittee shall submit a quarterly TRE Activities Report, with the Discharge Monitoring Report in the months of January, April, July and October, containing information on toxicity reduction evaluation activities including:
 - a. any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;
 - b. any studies/evaluations and results on the treatability of the facility's effluent toxicity; and
 - c. any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant lethality at the critical dilution.
- iv. The permittee shall submit a Final Report on Toxicity Reduction Evaluation Activities no later than twenty-eight (28) months from confirming lethality in the retests, which provides information pertaining to the specific control mechanism selected that will, when implemented, result in reduction of effluent toxicity to no significant lethality at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism.
- v. Quarterly testing during the TRE is a minimum monitoring requirement. EPA recommends that permittees required to perform a TRE not rely on quarterly testing alone to ensure success in the TRE, and that additional screening tests be performed to capture toxic samples for identification of toxicants. Failure to identify the specific chemical compound causing toxicity test failure will normally result in a permit limit for whole effluent toxicity limits per federal regulations at 40 C.F.R. § 122.44(d)(1)(v).

F. Monitoring Frequency Reduction

- i. The permittee may apply for a testing frequency reduction upon the successful completion of the first four consecutive quarters (in accordance with Item A.i.) of the current permit term of testing for one or both test species, with no lethal effects demonstrated at or below the critical dilution. If granted, the monitoring frequency for that test species may be reduced to not less than once per year for the less sensitive species (usually the Fathead minnow) and not less than twice per year for the more sensitive test species (usually the Daphnia pulex).
- ii. CERTIFICATION - The permittee must certify in writing that no test failures have occurred and that all tests meet all test acceptability criteria in item C.i. above. In addition the permittee must provide a list with each test performed including test initiation date, species, NOECs for lethal effects and the maximum coefficient of

- variation for the controls. Upon review and acceptance of this information the agency will issue a letter of confirmation of the monitoring frequency reduction. A copy of the letter will be forwarded to the agency's Permit Compliance System section to update the permit reporting requirements.
- iii. SURVIVAL FAILURES - Monthly retesting is not required if the permittee is performing a TRE.
 - iv. Any monitoring frequency reduction granted applies only until the expiration date of this permit, at which time the monitoring frequency for both test species reverts to once per quarter until the permit is re-issued.

9. Transition Period

The permittee is modifying the existing wastewater treatment facility. The modifications include replacement of the existing four (4) clarifiers with three (3) new clarifiers, replacement of the existing UV disinfection system with a new UV disinfection system capable of handling higher peak flows, installation of a new grit chamber, and installation of new aeration equipment for the existing oxidation ditches. The design flow at Outfall 001 will be increasing from 6.3 MGD to 12 MGD when the modified system is constructed and operating.

- A. Beginning on the effective date of the permit, the permittee must submit a Discharge Monitoring Report (DMR) for each permitted design flow (i.e. Tier I = 6.3 MGD and Tier II = 12 MGD) on a monthly basis. The DMR for Tier II can be marked and submitted as NODI=9 (Conditional Monitoring – Not Required This Period) until such time as the new treatment system is operational. The permittee must continue to submit two (2) monthly DMRs until the notification required in the following Item B of this condition is received.
- B. The permittee must notify DEQ within 30 days of when the treatment facility has been modified and is in operation. The permittee shall follow Tier II requirements after notification until the end of the permit term.
- C. The notification for this condition shall either be mailed to:

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

or submitted electronically via email to: water-permit-application@adeq.state.ar.us

PART III STANDARD CONDITIONS

SECTION A – GENERAL CONDITIONS

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the federal Clean Water Act and the Arkansas Water and Air Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; and/or for denial of a permit renewal application. **Any values reported in the required Discharge Monitoring Report (DMR) which are in excess of an effluent limitation specified in Part I shall constitute evidence of violation of such effluent limitation and of this permit.**

2. Penalties for Violations of Permit Conditions

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

3. Permit Actions

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

- A. Violation of any terms or conditions of this permit.
- B. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts.
- C. A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- D. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.
- E. Failure of the permittee to comply with the provisions of APC&EC Rule 9 (Permit fees) as required by Part III.A.11 herein.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

4. **Toxic Pollutants**

Notwithstanding Part III.A.3, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under APC&EC Rule 2, as amended, or Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitations on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standards or prohibition and the permittee so notified.

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

5. **Civil and Criminal Liability**

Except as provided in permit conditions for “Bypass of Treatment Facilities” (Part III.B.4), and “Upset” (Part III.B.5), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of this permit or applicable state and federal statutes or regulations which defeats the regulatory purposes of the permit may subject the permittee to criminal enforcement pursuant to the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.).

6. **Oil and Hazardous Substance Liability**

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

7. **State Laws**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Clean Water Act.

8. **Property Rights**

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

9. Severability

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

10. 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 operator of the responsibility to comply with any other applicable federal requirements such as endangered species, state or local statute, ordinance or regulation.

11. Permit Fees

The permittee shall comply with all applicable permit fee 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 APC&EC Rule 6 and the provisions of APC&EC Rule 8.

SECTION B – OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

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

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

2. Need to Halt or Reduce not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control

production or discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power for the treatment facility is reduced, is lost, or alternate power supply fails.

3. **Duty to Mitigate**

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

4. **Bypass of Treatment Facilities**

“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).

A. Bypass not exceeding limitation

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III.B.4.B and 4.C.

B. Notice

1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
2. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III.D.6 (24-hour notice).

C. Prohibition of bypass

1. Bypass is prohibited and the Director may take enforcement action against a permittee for bypass, unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal or preventive maintenance.
 - (c) The permittee submitted notices as required by Part III.B.4.B.
2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Part III.B.4.C(1).

5. Upset Conditions

- A. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Part III.B.5.B of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- B. Conditions necessary for demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
1. An upset occurred and that the permittee can identify the specific cause(s) of the upset.
 2. The permitted facility was at the time being properly operated.
 3. The permittee submitted notice of the upset as required by Part III.D.6.
 4. The permittee complied with any remedial measures required by Part III.B.3.
- C. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. Removed Substances

- A. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the State. The Permittee must comply with all applicable state and Federal regulations governing the disposal of sludge, including but not limited to 40 C.F.R. Parts 257, 258, and 503.
- B. Any changes to the permittee's disposal practices described in the Fact Sheet, as derived from the permit application, will require at least 180 days prior notice to the Director to allow time for additional permitting. Please note that the 180 day notification requirement may be waived if additional permitting is not required for the change.

7. Power Failure

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

SECTION C – MONITORING AND RECORDS

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified,

before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Director. Intermittent discharge shall be monitored.

2. **Flow Measurement**

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

Calculated Flow Measurement

For calculated flow measurements that are performed in accordance with either the permit requirements or a Department approved method (i.e., as allowed under Part II.3), the +/- 10% accuracy requirement described above is waived. This waiver is only applicable when the method used for calculation of the flow has been reviewed and approved by the Department.

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

4. **Penalties for Tampering**

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

5. **Reporting of Monitoring Results**

40 C.F.R. § 127.11 (a)(1) and 40 C.F.R. § 127.16 (a) require that monitoring reports must 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://cdx.epa.gov>. Permittees who are unable to file electronically may request a waiver from the Director in accordance with 40 C.F.R. § 127.15. Monitoring results obtained during the previous monitoring period shall be summarized and reported on a DMR dated and submitted no later than the 25th day of the month, following the completed reporting period beginning on the effective date of the permit.

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 DMR. Such increased frequency shall also be indicated on the DMR.

7. **Retention of Records**

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

8. **Record Contents**

Records and monitoring information shall include:

- A. The date, exact place, time and methods of sampling or measurements, and preservatives used, if any.
- B. The individual(s) who performed the sampling or measurements.
- C. The date(s) and time analyses were performed.
- D. The individual(s) who performed the analyses.
- E. The analytical techniques or methods used.
- F. The measurements and results of such analyses.

9. **Inspection and Entry**

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

- A. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit.
- B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit.
- C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit.

- D. Sample, inspect, or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

SECTION D – REPORTING REQUIREMENTS

1. Planned Changes

The Permittee shall give notice 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 [40 C.F.R. § 122.41(l)]. Notice is required only when:

- A. The alteration or addition to a permitted facility may meet one of the criteria for new sources at 40 C.F.R. § 122.29(b).
- B. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants subject to effluent limitations in the permit, or to the notification requirements under 40 C.F.R. § 122.42(b).

2. Anticipated Noncompliance

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

3. Transfers

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

4. Monitoring Reports

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

5. Compliance Schedule

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

6. **Twenty-four Hour Report**

- A. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain the following information:
1. A description of the noncompliance and its cause.
 2. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue.
 3. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- B. The following shall be included as information which must be reported within 24 hours:
1. Any unanticipated bypass which exceeds any effluent limitation in the permit.
 2. Any upset which exceeds any effluent limitation in the permit.
 3. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part I of the permit to be reported within 24 hours to the Enforcement Section of the Office of Water Quality of the DEQ.
- C. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours to the Enforcement Section of the Office of Water Quality of the DEQ.

7. **Other Noncompliance**

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

8. **Changes in Discharge of Toxic Substances for Industrial Dischargers**

The Director shall be notified as soon as the permittee knows or has reason to believe:

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

9. **Duty to Provide Information**

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

10. **Duty to Reapply**

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

11. **Signatory Requirements**

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

A. All **permit applications** shall be signed as follows:

1. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - (a) 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.
 - (b) The manager of one or more manufacturing, production, or operation facilities, provided: the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. For a partnership or sole proprietorship: by a general partner or proprietor, respectively.

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:

(a) The chief executive officer of the agency.

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

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

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

2. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

3. The written authorization is submitted to the Director.

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

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

12. **Availability of Reports**

Except for data determined to be confidential under 40 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.

13. **Penalties for Falsification of Reports**

The Arkansas Air and Water Pollution Control Act provides that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this permit shall be subject

to civil penalties specified in Part III.A.2 and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.).

14. **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.

DRAFT

PART IV 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:

1. **“7-Day Average”** Also known as “average weekly” means the highest allowable average of “daily discharges” over a calendar week, calculated as the sum of all “daily discharges” measured during a calendar week divided by the number of “daily discharges” measured during that week. The 7-Day Average for Fecal Coliform Bacteria (FCB) or E-Coli is the geometric mean of the “daily discharges” of all effluent samples collected during a calendar week in colonies per 100 ml.
2. **“Act”** means the Clean Water Act, Public Law 95-217 (33.U.S.C. 1251 et seq.) as amended.
3. **“Administrator”** means the Administrator of the U.S. Environmental Protection Agency.
4. **“APC&EC”** means the Arkansas Pollution Control and Ecology Commission.
5. **“Applicable effluent standards and limitations”** means all State and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.
6. **“Applicable water quality standards”** means all water quality standards to which a discharge is subject under the federal Clean Water Act and which has been (a) approved or permitted to remain in effect by the Administrator following submission to the Administrator pursuant to Section 303(a) of the Act, or (b) promulgated by the Director pursuant to Section 303(b) or 303(c) of the Act, and standards promulgated under (APC&EC) Rule 2, as amended.
7. **“Best Management Practices (BMPs)”** are activities, practices, maintenance procedures, and other management practices designed to prevent or reduce the pollution of waters of the State. BMPs also include treatment technologies, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw sewage. BMPs may include structural devices or nonstructural practices.
8. **“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).
9. **“Composite sample”** is a mixture of grab samples collected at the same sampling point at different times, formed either by continuous sampling or by mixing a minimum of 4 effluent portions collected at equal time intervals (but not closer than one hour apart) during operational hours, within the 24-hour period, and combined proportional to flow or a sample collected at more frequent intervals proportional to flow over the 24-hour period.
10. **“Daily Discharge”** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.
 - A. **Mass Calculations:** For pollutants with limitations expressed in terms of mass, the “daily discharge” is calculated as the total mass of pollutant discharged over the sampling day.
 - B. **Concentration Calculations:** For pollutants with limitations expressed in other units of measurement, the “daily discharge” is calculated as the average measurement of the pollutant over the day.
11. **“Daily Maximum”** discharge limitation means the highest allowable “daily discharge” during the calendar month.

12. **“Division”** means the Division of Environmental Quality (**DEQ**).
13. **“Director”** means the Director of the Arkansas Department of Environmental Quality.
14. **“Dissolved oxygen limit”** shall be defined as follows:
 - A. When limited in the permit as a minimum monthly average, shall mean the lowest acceptable monthly average value, determined by averaging all samples taken during the calendar month.
 - B. When limited in the permit as an instantaneous minimum value, shall mean that no value measured during the reporting period may fall below the stated value.
15. **“E-Coli”** a sample consists of one effluent grab portion collected during a 24-hour period at peak loads. For E-Coli, report the Daily Maximum as the highest “daily discharge” during the calendar month, and the Monthly Average as the geometric mean of all “daily discharges” within a calendar month, in colonies per 100 ml.
16. **“Fecal Coliform Bacteria (FCB)”** a sample consists of one effluent grab portion collected during a 24-hour period at peak loads. For FCB, report the Daily Maximum as the highest “daily discharge” during the calendar month, and the Monthly Average as the geometric mean of all “daily discharges” within a calendar month, in colonies per 100 ml.
17. **“Grab sample”** means an individual sample collected in less than 15 minutes in conjunction with an instantaneous flow measurement.
18. **“Industrial User”** means a nondomestic discharger, as identified in 40 C.F.R. Part 403, introducing pollutants to a POTW.
19. **“Instantaneous flow measurement”** means the flow measured during the minimum time required for the flow-measuring device or method to produce a result in that instance. To the extent practical, instantaneous flow measurements coincide with the collection of any grab samples required for the same sampling period so that together the samples and flow are representative of the discharge during that sampling period.
20. **“Instantaneous Maximum”** when limited in the permit as an instantaneous maximum value, shall mean that no value measured during the reporting period may fall above the stated value.
21. **“Instantaneous Minimum”** an instantaneous minimum value, shall mean that no value measured during the reporting period may fall below the stated value.
22. **“Monthly Average”** means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month. For Fecal Coliform Bacteria (FCB) or E-Coli, report the Monthly Average as the geometric mean of all “daily discharges” within a calendar month.
23. **“Monitoring and Reporting”**

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

 - A. **MONTHLY:**

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

B. BI-MONTHLY:

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

C. QUARTERLY:

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

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

D. SEMI-ANNUAL:

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

E. ANNUAL or YEARLY:

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

24. **“National Pollutant Discharge Elimination System”** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318, and 405 of the Clean Water Act.
25. **“POTW”** means Publicly Owned Treatment Works;
26. **“Reduction of CBOD₅/BOD₅ and TSS in mg/l Formula”**
[(Influent – Effluent) / Influent] x 100
27. **“Severe property damage”** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in products.
28. **“Sewage sludge”** means the solids, residues, and precipitate separated from or created in sewage by the unit processes at a POTW. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and stormwater runoff that are discharged to or otherwise enter a POTW.
29. **“Treatment works”** means any devices and systems used in storage, treatment, recycling, and reclamation of municipal sewage and industrial wastes, of a liquid nature to implement section 201 of the Act, or necessary to recycle reuse water at the most economic cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities, and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

30. Units of Measure:

“**MGD**” shall mean million gallons per day.

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

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

“**cfs**” shall mean cubic feet per second.

“**ppm**” shall mean parts per million.

“**s.u.**” shall mean standard units.

31. “**Upset**” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. Any upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless of improper operations.
32. “**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.
33. “**Weekday**” means Monday – Friday.

Modified Fact Sheet

This is a modified permit and only the modified portions of the permit can be reopened for comment. All changes to the Fact Sheet based upon the permit modification application are italicized.

This Fact Sheet is for information and justification of the permit limits only. Please note that it is not enforceable. This permitting decision is for the renewal of discharge Permit Number AR0022039 with *Arkansas Department of Energy and Environment – Division of Environmental Quality (DEQ)* Facility Identification Number (AFIN) 18-00879 to discharge to Waters of the State.

1. PERMITTING AUTHORITY

The issuing office is:

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

2. APPLICANT

The applicant's mailing address is:

*West Memphis Wastewater Treatment Facility
P.O. Box 1868
West Memphis, AR 72301*

The facility address is:

*West Memphis Wastewater Treatment Facility
502 South Loop
West Memphis, AR 72301*

3. PREPARED BY

The permit was prepared by:

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4. PERMIT ACTIVITY

Previous Permit Effective Date: August 1, 2013
Previous Permit Expiration Date: July 31, 2018

The permittee submitted a state construction permit and permit modification application on August 2, 2021, with all additional information received by February 15, 2022. The following modifications are occurring to the facility's treatment system: replacement of the existing four (4) clarifiers with three (3) new clarifiers, replacement of the existing UV disinfection system with a new UV disinfection system capable of handling higher peak flows, installation of a new grit chamber, and installation of new aeration equipment for the existing oxidation ditches. The design flow at Outfall 001 will be increasing from 6.3 MGD to 12 MGD when the modified system is constructed. The construction activities will be authorized by the construction permit with permit number AR0022039C once issued. The modified discharge permit will be effective for the remainder of the 5-year term in accordance with regulations promulgated at 40 C.F.R. § 122.46(a).

In accordance with 40 C.F.R. § 122.62, only the conditions that are the subject of the modification are reopened.

DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

APC&EC - Arkansas Pollution Control and Ecology Commission
BAT - best available technology economically achievable
BCT - best conventional pollutant control technology
BMP - best management practice
BOD₅ - five-day biochemical oxygen demand
BPJ - best professional judgment
BPT - best practicable control technology currently available
CBOD₅ - carbonaceous biochemical oxygen demand
CD - critical dilution
C.F.R. - Code of Federal Regulations
cfs - cubic feet per second
COD - chemical oxygen demand
COE - United States Corp of Engineers
CPP - continuing planning process
CWA - Clean Water Act
DMR - discharge monitoring report
DO - dissolved oxygen
ELG - effluent limitation guidelines
EPA - United States Environmental Protection Agency
ESA - Endangered Species Act
FCB - fecal coliform bacteria
gpm - gallons per minute

MGD - million gallons per day
MQL - minimum quantification level
NAICS - North American Industry Classification System
NH₃-N - ammonia nitrogen
NO₃ + NO₂-N - nitrate + nitrite nitrogen
NPDES - National Pollutant Discharge Elimination System
O&G - oil and grease
Rule 2 - APC&EC Rule 2
Rule 6 - APC&EC Rule 6
Rule 8 - APC&EC Rule 8
Rule 9 - APC&EC Rule 9
RP - reasonable potential
SIC - standard industrial classification
SSO - sanitary sewer overflow
TDS - total dissolved solids
TMDL - total maximum daily load
TP - total phosphorus
TRC - total residual chlorine
TSS - total suspended solids
UAA - use attainability analysis
USF&WS - United States Fish and Wildlife Service
USGS - United States Geological Survey
WET - Whole Effluent Toxicity
WQMP - Water Quality Management Plan
WQS - Water Quality Standards (APC&EC Rule 2)
WWTP - wastewater treatment plant

Compliance and Enforcement History:

The compliance and enforcement history for this facility can be reviewed by using the following web link:

https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0022039_Enforcement%20Review_20220418.pdf

5. SIGNIFICANT CHANGES FROM THE PREVIOUSLY ISSUED PERMIT

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

This is a modified permit. Only the modified portions of the permit are open for comments pursuant to 40 C.F.R. § 122.62:

- 1. The facility's mailing address was removed from the cover page.*
- 2. The outfall coordinates were updated based on the permit modification application.*

3. *Part I.A was revised to include tiered limits; Part I.A.1 (Tier I limits and monitoring requirements) was added for the facility's existing treatment system and design flow of 6.3 MGD with no changes as part of this permit modification; Part I.A.2 (Tier II limits and monitoring requirements) was added for the facility's post-construction treatment system and increased design flow of 12 MGD.*
4. *The new Tier II limits in Part I.A.2 include the following updates from the previous permit and Tier I limits:*
 - a. *All existing mass limits were recalculated for the Tier II design flow of 12 MGD; see Section 12.C.1 of this Fact Sheet for more information.*
 - b. *The concentration limits for BOD₅ were rounded to whole numbers based on current Office of Water Quality rounding procedures.*
 - c. *Tier II monitoring frequency for BOD₅, TSS, DO, FCB, and pH changed from three/week to once/day.*
 - d. *Tier II mass limits for BOD₅ and TSS were revised to correlate to increased design flow.*
 - e. *Tier II monitoring frequency for TP and NO₃+NO₂-N changed from once/year to once/month.*
5. *Part II.9, a condition regarding the facility's transition to the modified treatment system, was added.*
6. *WET testing parameter codes required to be reported on DMRs were added to the permit in Part II.8.D.iii.c.*

The significant changes below were opened for public comment with the renewal permit effective November 1, 2018 and are, therefore, not subject to public comment with this modification.

1. The DO Monthly Average Minimum measurement has been changed to Instantaneous Minimum. See Section 12.A of this Fact Sheet for further information.
2. The FCB limits for the month of April were increased based on APC&EC Rule 2.507. See Section 12.A of this Fact Sheet for further information.
3. The sampling frequency for TP and NO₃+NO₂-N was reduced to once/year. See Section 15 of this Fact Sheet for further information.
4. Part III.C.5 of the permit now requires that DMRs be submitted electronically via NetDMR.

6. RECEIVING STREAM SEGMENT AND DISCHARGE LOCATION

The outfall is located at the following coordinates based on the previous permit, plotted in Google Earth using WGS84:

Latitude: 35° 07' 12" N; Longitude: 90° 10' 28" W

The receiving waters named:

Mississippi River in Segment 6C of the Mississippi River Basin. The receiving stream with *Assessment Unit (AU) AR_08010100_003* is a Water of the State classified for

primary and secondary contact recreation, raw water source for domestic (public and private), industrial, and agricultural water supplies; propagation of desirable species of fish and other aquatic life; and other compatible uses.

7. 303(d) LIST, TOTAL MAXIMUM DAILY LOADS, ENDANGERED SPECIES, AND ANTI-DEGRADATION CONSIDERATIONS

A. 303(d) List

The receiving stream is not listed in the 303(d) list.

B. Applicable Total Maximum Daily Loads (TMDLs)

There are no TMDLs applicable to this facility.

C. Endangered Species

No comments on the application were received from the USF&WS. The draft permit and Fact Sheet were sent to the USF&WS for their review.

The Arkansas Natural Heritage Commission (ANHC) noted that the following species of conservation concern is known to occur in the Mississippi River at or within five miles downstream of the outfall:

Sternula antiillarum athalassos, Interior Least Tern-federal concern (endangered)

The limits in the permit are designed to protect all beneficial uses of the receiving waters, including propagation of desirable species of fish and other aquatic life, which includes, either directly or indirectly, the above species of concern. Therefore, *DEQ* has determined that the final permit limits will serve to help protect the species of concern identified above.

D. Anti-Degradation

The limitations and requirements set forth in this permit for discharge into waters of the State are consistent with the Anti-degradation Policy and all other applicable water quality standards found in APC&EC Rule 2.

8. OUTFALL, TREATMENT PROCESS DESCRIPTION, AND FACILITY CONSTRUCTION

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

A. Design Flow:

- a. Tier I: 6.3 MGD
- b. Tier II: 12 MGD

B. Type of Treatment:

- a. *Tier I: equalization basin, two (2) mechanical bar screens, three (3) oxidation ditches, four (4) final clarifiers, UV disinfection, and sludge belt presses*
- b. *Tier II: equalization basin, two (2) mechanical bar screens, grit chamber, three (3) oxidation ditches with new aeration equipment, three (3) final clarifiers, UV disinfection, and sludge belt presses*

C. Discharge Description: treated municipal wastewater

D. Facility Status: This facility is classified as a major municipal since the design flow of the facility listed above is greater than 1.0 MGD.

E. Facility Construction: This permit does not authorize or approve the construction or modification of any part of the treatment system or facilities. Approval for such construction must be by permit issued under Rule 6.202.

9. **ACTIVITY**

Under the Standard Industrial Classification (SIC) code of 4952 or North American Industry Classification System (NAICS) code of 221320, the applicant's activities are the operation of a sewage treatment plant.

10. **INDUSTRIAL WASTEWATER CONTRIBUTIONS**

This facility receives process wastewater from significant industrial users, as defined in 40 C.F.R. § 403.3(v). Based on the facility's effluent compliance history and the type of industrial contributions, standard Pretreatment Program implementation conditions are deemed appropriate at this time.

11. **SEWAGE SLUDGE PRACTICES**

Sludge is dewatered via a filter press and hauled off site to an approved landfill. Any change to the sludge disposal method shall be in accordance with Part III.B.6.

12. **DEVELOPMENT AND BASIS FOR PERMIT CONDITIONS**

The *Division* of Environmental Quality issued a renewal permit for the discharge described in the application. Permit requirements are based on federal regulations (40 C.F.R. Parts 122, 124, and Subchapter N), the National Pretreatment Regulation in 40 C.F.R. Part 403 and regulations promulgated pursuant to the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. 8-4-101 et seq.). All of the information contained in the application, including all of the submitted effluent testing data, was reviewed to determine the need for effluent limits and other permit requirements.

The following is an explanation of the derivation of the conditions of the permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons suggesting the decisions as required under 40 C.F.R. § 124.7.

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

Following regulations promulgated at 40 C.F.R. § 122.44, the permit limits are based on either technology-based effluent limits pursuant to 40 C.F.R. § 122.44 (a) or on State water quality standards and requirements pursuant to 40 C.F.R. § 122.44 (d), whichever are more stringent as follows:

No changes were made to the existing limits (Tier I) as part of this modification.

<i>Tier I</i>								
Parameter	Water Quality-Based		Technology-Based/BPJ		Previous Permit		Permit Limit	
	Monthly Avg. mg/l	7-Day Avg. mg/l	Monthly Avg. mg/l	7-Day Avg. mg/l	Monthly Avg. mg/l	7-Day Avg. mg/l	Monthly Avg. mg/l	7-Day Avg. mg/l
BOD ₅	30*	N/A	30	45	30	45	30	45
TSS	N/A	N/A	30.0	45.0	30	45	30.0	45.0
DO	2.0 (Inst. Min.)		N/A		2.0 (Monthly Avg. Min.)		2.0 (Inst. Min.)	
FCB (col/100 ml)								
(April)	1000	2000	N/A	N/A	200	400	1000	2000
(May – September)	200	400	N/A	N/A	200	400	200	400
(October – March)	1000	2000	N/A	N/A	1000	2000	1000	2000
TP	N/A	N/A	Report	Report	Report	Report	Report	Report
NO ₃ +NO ₂ -N	N/A	N/A	Report	Report	Report	Report	Report	Report
pH	6.0-9.0 s.u.		6.0-9.0 s.u.		6.0-9.0 s.u.		6.0-9.0 s.u.	

* The technology based effluent limit for BOD₅ was modeled to ensure compliance with WQS.

<i>Tier 2</i>								
Parameter	Water Quality-Based		Technology-Based/BPJ		Previous Permit		Permit Limit	
	Monthly Avg. mg/l	7-Day Avg. mg/l	Monthly Avg. mg/l	7-Day Avg. mg/l	Monthly Avg. mg/l	7-Day Avg. mg/l	Monthly Avg. mg/l	7-Day Avg. mg/l
BOD ₅	30*	N/A	30	45	30	45	30	45
TSS	N/A	N/A	30.0	45.0	30	45	30.0	45.0
DO	2.0 (Inst. Min.)		N/A		2.0 (Monthly Avg. Min.)		2.0 (Inst. Min.)	

Tier 2								
Parameter	Water Quality-Based		Technology-Based/BPJ		Previous Permit		Permit Limit	
	Monthly Avg. mg/l	7-Day Avg. mg/l	Monthly Avg. mg/l	7-Day Avg. mg/l	Monthly Avg. mg/l	7-Day Avg. mg/l	Monthly Avg. mg/l	7-Day Avg. mg/l
FCB (col/100 ml)								
(April)	1000	2000	N/A	N/A	200	400	1000	2000
(May – September)	200	400	N/A	N/A	200	400	200	400
(October – March)	1000	2000	N/A	N/A	1000	2000	1000	2000
TP	N/A	N/A	Report	Report	Report	Report	Report	Report
NO ₃ +NO ₂ -N	N/A	N/A	Report	Report	Report	Report	Report	Report
pH	6.0-9.0 s.u.		6.0-9.0 s.u.		6.0-9.0 s.u.		6.0-9.0 s.u.	

A. Justification for Limitations and Conditions of the Permit

Parameter	Water Quality or Technology	Justification
BOD ₅	Technology	40 C.F.R. § 133.102(a), 40 C.F.R. § 122.44(l), and previous permit
TSS	Technology	40 C.F.R. § 133.102(b), 40 C.F.R. § 122.44(l), and previous permit
DO	Water Quality	Rule 2.505, <i>Water Quality Model dated May 25, 2022</i> , CPP, and CWA § 402(o)
FCB	Water Quality	Rule 2.507, CWA § 303(d)(4)(B), and previous permit
TP	Technology	CPP (Appendix D – NPDES Permit Implementation), 40 C.F.R. § 122.44(l), and previous permit
NO ₃ +NO ₂ -N	Technology	CPP (Appendix D – NPDES Permit Implementation), 40 C.F.R. § 122.44(l), and previous permit
pH	Water Quality	Rule 2.504, CWA § 402(o), and previous permit

DO

The previous permit included the effluent limitation for DO expressed as Monthly Average Minimum. This limit is now expressed as Instantaneous Minimum since the Arkansas Water Quality Standards for DO do not allow averaging. A schedule of compliance has not been included since the DMR data demonstrates that the facility should have no problem meeting the change in measurement for the DO limit.

FCB

APC&EC Rule 2.507 defines the primary contact season as May 1 to September 30 (i.e. May – September) and the secondary contact season as October 1 to April 30 (i.e. October – April). The previous permit divided the primary and secondary contact season limits into April – September and October – March. Therefore, the April FCB limits are being raised from 200 and 400 col/100 mL to 1000 and 2000 col/100 mL based on the reinterpretation of APC&EC Rule 2.507 in accordance with CWA § 303(d)(4)(b).

B. Anti-backsliding

The permit is consistent with the requirements to meet Anti-backsliding provisions of the Clean Water Act (CWA), Section 402(o) [40 C.F.R. § 122.44(1)]. The final effluent limitations for reissuance permits must be as stringent as those in the previous permit, unless the less stringent limitations can be justified using exceptions listed in CWA 402(o)(2), CWA 303(d)(4), or 40 C.F.R. § 122.44 (1)(2)(i).

This permit meets or exceeds the requirements of the previous permit, with the exception of revised limitations identified for Fecal Coliform Bacteria. This revision is allowed in accordance with CWA 303(d)(4)(B) based on the seasonal limits defined in APC&EC Rule 2.507.

C. Limits Calculations

1. Mass limits:

In accordance with 40 C.F.R. § 122.45(f)(1), all pollutants limited in permits shall have limitations expressed in terms of mass if feasible. 40 C.F.R. § 122.45(f)(2) allows for pollutants which are limited in terms of mass to also be limited in terms of other units of measurement.

The calculation of the mass loadings uses a design flow of 6.3 MGD for Tier I and 12 MGD for Tier II, and the following equation:

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

2. 7-Day Average Limits:

The 7-day average limits for BOD₅ and TSS are based on 40 C.F.R. § 133.102(a)(2) and 40 C.F.R. § 133.102(b)(2), respectively.

The 7-Day average limits for FCB are based on Rule 2.507.

D. 208 Plan (Water Quality Management Plan)

The 208 Plan, developed by the *DEQ* under provisions of Section 208 of the federal Clean Water Act, is a comprehensive program to work toward achieving federal water goals in Arkansas. The initial 208 Plan, adopted in 1979, provides for annual updates, but can be revised more often if necessary. *The 208 Plan is being updated to revise the facility design flow from 6.3 MGD to 12 MGD.*

E. Priority Pollutant Scan (PPS)¹

DEQ has reviewed and evaluated the effluent in accordance with the potential toxicity of each analyzed pollutant using the procedures outlined in the Continuing Planning Process (CPP).

The concentration of each pollutant after mixing with the receiving stream was compared to the applicable water quality standards as established in the Arkansas Water Quality Standards (AWQS), Rule 2.508, and criteria obtained from the "Quality Criteria for Water, 1986 (Gold Book)".

Under Federal Regulation 40 C.F.R. § 122.44(d), as adopted by Rule 6, if a discharge poses the reasonable potential to cause or contribute to an exceedance above a water quality standard, the permit must contain an effluent limitation for that pollutant. Effluent limitations for the toxicants listed below have been derived in a manner consistent with the Technical Support Document (TSD) for Water Quality-based Toxics Control (EPA, March 1991), the CPP, and 40 C.F.R. § 122.45(c).

The following items were used in calculations:

Parameter	Value	Source
Discharge Flow = Q	6.3 MGD = 9.75 cfs	Application
critical flow, 7Q10	119,000 cfs	Source K in Section 19 of this Fact Sheet
LTA Background Flow	357,000 cfs	7Q10 x 3*
TSS	8 mg/l	CPP, Attachment V
Hardness as CaCo3	81 mg/l	CPP, Attachment VI
Mixing Zone (MZ) Flow (Chronic)	0.25 x 7Q10	Rule 2.508 and CPP-Appendix D
Zone of Initial Dilution (ZID) Flow (Acute)	0.06 x 7Q10	Rule 2.508 and CPP-Appendix D

* Based on EPA's "Technical Support Document for Water Quality-based Toxics Control" dated March 1991 (pg. 88).

¹ The evaluation performed in this section was based on the facility's design flow at the time of the previous permit renewal process, 6.3 MGD. An updated evaluation using the new design flow will be performed during the next permit renewal reflecting the modified treatment plant's operation.

The following pollutants were reported above detection levels:

Pollutant	Concentration Reported, µg/l	MQL, µg/l
Arsenic, Total Recoverable	1.65	0.5
Chromium, Total Recoverable	1.28	1.0
Copper, Total Recoverable	5.30	0.5
Lead, Total Recoverable	0.664	0.5
Mercury, Total Recoverable	1.19 ng/l	0.5 ng/l
Nickel, Total Recoverable	2.62	0.5
Zinc, Total Recoverable	62.2	5

* The reported values in the table above were averaged from 24 data points.

Instream Waste Concentrations (IWCs) were calculated in the manner described in Appendix D of the CPP and compared to the applicable Criteria. The following tables summarize the results of the analysis. The complete evaluation can be viewed on the Department's website at the following address:

https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0022039_PPS%20Spreadsheets_20180213.pdf

1. Aquatic Toxicity Evaluation

a. Acute Criteria Evaluation

Pollutant	Concentration Reported (C _e) ¹ µg/l	Instream Waste Concentration (IWC)	Criteria ²	Reasonable Potential (Yes/No)
		Acute, µg/l	Acute, µg/l	
Chromium (Tri), Total Recoverable	1.28	0.0	2256.37	No
Copper, Total Recoverable	7.85	7.85	38.87	No
Lead, Total Recoverable	0.664	1.00	269.04	No
Mercury, Total Recoverable	0.00119	0.0	6.46	No
Nickel, Total Recoverable	2.62	1.91	2603.30	No
Zinc, Total Recoverable	62.2	13.67	319.04	No

¹ The geometric mean of the dataset.

² Criteria are from Rule 2.508 unless otherwise specified.

b. Chronic Criteria Evaluation

Pollutant	Concentration Reported (C _e) ¹ µg/l	Instream Waste Concentration (IWC)	Criteria ²	Reasonable Potential (Yes/No)
		Chronic, µg/l	Chronic, µg/l	
Chromium (Tri), Total Recoverable	1.28	0.0	731.94	No
Copper, Total Recoverable	7.85	7.85	26.41	No
Lead, Total Recoverable	0.664	1.00	10.48	No
Mercury, Total Recoverable	0.00119	0.0	0.012	No
Nickel, Total Recoverable	2.62	1.91	289.12	No
Zinc, Total Recoverable	62.2	13.62	291.33	No

¹ The geometric mean of the dataset.

² Criteria are from Rule 2.508 unless otherwise specified.

2. Human Health (Bioaccumulation) Evaluation

Pollutant	Concentration Reported (C _e) ¹ µg/l	Instream Waste Concentration (IWC)	Criteria ²	Reasonable Potential (Yes/No)
Arsenic, Total Recoverable	1.65	1.22	1.4	No

¹ The geometric mean of the dataset.

³ Adapted from "National Recommended Water Quality Criteria: 2002 – Human Health Criteria Calculation Matrix", EPA. The respective WQC from the noted reference are Consumption of Organism Only values. The values from the reference are for a lifetime risk factor of 10⁻⁶. These values have been multiplied by 10 to correspond to human health criteria lifetime risk factor of 10⁻⁵ as stated in Rule 2.508.

DEQ has determined from the submitted information that the discharge does not pose the reasonable potential to cause or contribute to an exceedance above a listed criteria.

13. WHOLE EFFLUENT TOXICITY

Section 101(a)(3) of the Clean Water Act states that ".....it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited." In addition, DEQ is required under 40 C.F.R. § 122.44(d)(1), adopted by reference in Rule 6, to include conditions as necessary to achieve water quality standards as established under Section 303 of the Clean Water Act. Arkansas has established a narrative criteria which states "toxic materials shall

not be present in receiving waters in such quantities as to be toxic to human, animal, plant or aquatic life or to interfere with the normal propagation, growth and survival of aquatic biota."

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

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

TOXICITY TESTS	FREQUENCY
48 hour Acute WET	Once/quarter

Requirements for measurement frequency are based on the CPP.

Since the 7Q10 is greater than 100 cfs and the dilution ratio is greater than 100:1, acute WET testing requirements will be included in the permit.

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

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

$$Q_d = \text{Design Flow} = 12 \text{ MGD} = 18.57 \text{ cfs}$$

$$7Q10 = 119,000 \text{ cfs}$$

$$Q_b = \text{Background flow} = 0.25 \times 0.1 \times 7Q10 = 2975 \text{ cfs}$$

$$CD = ((18.57) / (18.57 + 2975)) = 0.00620 \text{ or } 0.620 \%$$

Based on the engineering judgement of the permit writer, the critical dilution will be set at 1.0%, continued from the previous permit. As justified in the previous permit, Attachment I of the CPP does not address critical dilutions below 1.0%. *The higher design flow of 12 MGD still results in a calculated critical dilution of less than 1.0% based on the large size of receiving stream (Mississippi River). Therefore, a critical dilution of 1.0% will continue to be used in this modified permit.*

Toxicity tests shall be performed in accordance with protocols described in "Methods for Measuring the Acute Toxicity of Effluent to Freshwater and Marine Organisms", EPA/600/4-90/027. A minimum of five effluent dilutions in addition to an appropriate control (0%) are to be used in the toxicity tests. These additional effluent concentrations are 0.4%, 0.6%, 0.8%, 1.0%, and 1.3% (See the CPP). The low-flow effluent concentration (critical dilution) is defined as 1.0% effluent. The requirement for acute WET tests is based on the magnitude of the facility's discharge with respect to receiving stream flow. The

stipulated test species Daphnia pulex and the Fathead minnow (Pimephales promelas) are representative of organisms indigenous to the geographic area of the facility; the use of these is consistent with the requirements of the State water quality standards. The WET testing frequency has been established to provide data representative of the toxic potential of the facility's discharge, in accordance with the regulations promulgated at 40 C.F.R. § 122.48.

Results of all dilutions as well as the associated chemical monitoring of pH, temperature, hardness, dissolved oxygen, conductivity, and alkalinity shall be reported according to EPA-821-R-02-012, October 2002 and shall be submitted as an attachment to the Discharge Monitoring Report (DMR).

This permit may be reopened to require further WET testing studies, Toxicity Reduction Evaluation (TRE) and/or effluent limits if WET testing data submitted to the Department shows toxicity in the permittee's discharge. Modification or revocation of this permit is subject to the provisions of 40 C.F.R. § 122.62, as adopted by reference in APC&EC Rule 6. Increased or intensified toxicity testing may also be required in accordance with Section 308 of the Clean Water Act and Section 8-4-201 of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

Administrative Records

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

Permit Number:	AR0022039	AFIN:	18-00879	Outfall Number:	001
Date of Review:	2/28/2022	Reviewer:	T.Cochran		
Facility Name:	West Memphis WWTF				
Previous Dilution series:	0.4, 0.6, 0.8, 1, 1.3	Proposed Dilution Series:	0.4, 0.6, 0.8, 1, 1.3		
Previous Critical Dilution:	1	Proposed Critical Dilution:	1		
Previous TRE activities:	None				
Frequency recommendation by species					
<i>Pimephales promelas</i> (Fathead minnow):	once/quarter				
<i>Daphnia pulex</i> (water flea):	once/quarter				
TEST DATA SUMMARY					
	Vertebrate (<i>Pimephales promelas</i>)		Invertebrate (<i>Daphnia pulex</i>)		
TEST DATE	Lethal		Lethal		
	NOEC		NOEC		
3/31/2022	1.3		1.3		
12/31/2021	1.3		1.3		
9/30/2021	1.3		1.3		
6/30/2021	1.3		1.3		
3/31/2021	1.3		1.3		
12/31/2020	1.3		1.3		
9/30/2020	1.3		1.3		
6/30/2020	1.3		1.3		
3/31/2020	1.3		1.3		
12/31/2019	1.3		1.3		
9/30/2019	1.3		1.3		
6/30/2019	1.3		1.3		
3/31/2019	1.3		1.3		
12/31/2018	1.3		1.3		
9/30/2018	1.3		1.3		
6/30/2018	1.3		1.3		
6/30/2017	1.3		1.3		
Failures are noted in BOLD					
REASONABLE POTENTIAL CALCULATIONS					
	Vertebrate Lethal		Invertebrate Lethal		
Min NOEC Observed	1.3		1.3		
TU at Min Observed	76.92		76.92		
Count	16		16		
Failure Count	0		0		
Mean	76.923		76.923		
Std. Dev.	0.000		0.000		
CV	0		0		
RPMF	0		0		
Reasonable Potential	0.000		0.000		
100/Critical dilution	100.000		100.000		
Does Reasonable Potential Exist	No		No		
PERMIT ACTION					
<i>P. promelas</i> acute - Monitoring					
<i>D. pulex</i> acute - Monitoring					
Additional requirements (including WET Limits) rationale/comments concerning permitting:					

14. STORMWATER REQUIREMENTS

The federal regulations at 40 C.F.R. § 122.26(b)(14)(ix) require major municipal dischargers to have NPDES permit coverage for stormwater discharges from the facility. These requirements include the development and implementation of a Stormwater Pollution Prevention Plan (SWPPP) to control the quality of stormwater discharges from the facility. In lieu of the development of a SWPPP, the facility may obtain a “No Exposure” Exclusion in

accordance with 40 C.F.R. § 122.26(g) if several conditions can be certified. The facility's stormwater discharges are currently covered under the Industrial Stormwater Discharge General Permit (ARR000000) with NPDES Tracking number ARR00C405.

15. SAMPLE TYPE AND FREQUENCY

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity [40 C.F.R. § 122.48(b)] and to ensure compliance with permit limitations [40 C.F.R. § 122.44(i)(1)].

Requirements for sample type and sampling frequency were based on the previous discharge permit with the exception of TP and NO₃+NO₂-N. The sampling frequencies for TP and NO₃+NO₂-N have been reduced to once/year based on the fulfillment of the requirement to collect nutrient data in the last permit cycle.

Tier I				
Parameter	Previous Permit		Final Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
Flow	once/day	totalizing meter	once/day	totalizing meter
BOD ₅	three/week	composite	three/week	composite
TSS	three/week	composite	three/week	composite
DO	three/week	grab	three/week	grab
FCB	three/week	grab	three/week	grab
TP	once/year	grab	once/year	grab
NO ₃ +NO ₂ -N	once/year	grab	once/year	grab
pH	three/week	grab	three/week	grab
Tier II				
Parameter	Previous Permit		Final Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
Flow	n/a	n/a	once/day	totalizing meter
BOD ₅	n/a	n/a	once/day	composite
TSS	n/a	n/a	once/day	composite
DO	n/a	n/a	once/day	grab
FCB	n/a	n/a	once/day	grab
TP	n/a	n/a	once/month	grab
NO ₃ +NO ₂ -N	n/a	n/a	once/month	grab
pH	n/a	n/a	once/day	grab

16. PERMIT COMPLIANCE SCHEDULE

A Schedule of Compliance has been included in this permit for the submittal of required Pretreatment documentation. Compliance with all permit requirements is required in accordance with the schedule provided in Part IB of the permit.

17. MONITORING AND REPORTING

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

18. SOURCES

The following sources were used to draft the permit:

- A. Renewal Application No. AR0022039 received December 11, 2017.
- B. Arkansas Water Quality Management Plan (WQMP).
- C. APC&EC Rule 2.
- D. APC&EC Rule 3.
- E. APC&EC Rule 6 which incorporates by reference certain federal regulations included in Title 40 of the Code of Federal Regulations at Rule 6.104.
- F. 40 C.F.R. Parts 122, 125, 133, and 403.
- G. Discharge permit file AR0022039.
- H. Discharge Monitoring Reports (DMRs).
- I. “2018 Integrated Water Quality Monitoring and Assessment Report”, *DEQ*.
- J. “2018 List of Impaired Waterbodies (303(d) List)”, *DEQ, May 2020*.
- K. “Identification and Classification of Perennial Streams of Arkansas”, Arkansas Geological Commission, Water-Resources Investigations Report 83-4063.
- L. Continuing Planning Process (CPP).
- M. Technical Support Document For Water Quality-based Toxic Control.
- N. [Compliance Review Memo from D. Miller to A. Kreps dated February 13, 2018.](#)
- O. [Priority Pollutant Scan \(PPS\) Spreadsheet dated February 13, 2018.](#)
- P. [Site visit dated February 27, 2018.](#)
- Q. [CAO LIS 20-134 executed March 5, 2020.](#)
- R. [Individual Permit Modification and State Construction Permit Application received January 10, 2022, with additional information received by April 13, 2022.](#)
- S. [AR0022039C State Construction Permit Information.](#)
- T. [Planning Review dated February 28, 2022.](#)
- U. [Enforcement Review dated April 18, 2022.](#)
- V. [AR0022039C Technical Review dated April 18, 2022.](#)
- W. [Water Quality Model dated May 25, 2022.](#)
- X. [Operator License Class worksheet dated May 25, 2022.](#)
- Y. *Memo dated April 14, 2022 containing recommended monitoring frequencies.*

19. PUBLIC NOTICE

The public notice of the draft *modification* permit *will be* published for public comment. The last day of the comment period *will be thirty (30) days after the publication date.*

During the *initial draft permit* public comment period *ending on October 15, 2018*, ADEQ received comments from one commenter, Arkansas Natural Heritage Commission (ANHC). A response to comments is included with the final permit decision documents.

A copy of the permit and public notice *will be sent* via email to the Corps of Engineers, the Regional Director of the U.S. Fish and Wildlife Service, the Arkansas Natural Heritage Commission, the EPA, and the Arkansas Department of Health.

20. PERMIT FEE

In accordance with Rule 9.403(B), the annual fee for the permit is calculated from the *new* Design Flow (Q, in MGD) as follows:

$$\text{Fee} = \$5,000 + (900 \times (Q - 1)) = \$5,000 + (900 \times (12 - 1)) = \$14,900$$

21. POINT OF CONTACT

For additional information, contact:

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