



ARKANSAS

ENERGY & ENVIRONMENT

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (9489 0090 0027 6060 6418 21)

Honorable Brenda Weldon, Mayor
City of Malvern Wastewater Treatment Plant
506 Overman
Malvern, AR 72104

February 27, 2021

RE: Discharge Permit Number AR0034126, AFIN 30-00040

Dear Mayor Weldon:

Enclosed are the public notice, a copy of the draft permit, and Fact Sheet, which the Arkansas Department of Energy and Environment – Division of Environmental Quality (DEQ) has prepared and mailed to you on the above date under the authority of the National Pollutant Discharge Elimination System (NPDES) and the Arkansas Water and Air Pollution Control Act. A copy of the final permit will be mailed to you when the Division has made a final permitting decision.

In accordance with 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 30 days from the above date. Until this Division receives proof of publication of the public notice and payment of all permit fees, no further action will be taken on the issuance of your discharge permit.

For a list of changes, please see Section 5 of the enclosed 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 permit, please contact Terry Liu, P.E. at (501) 682-0653.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Robert E. Blanz'.

Robert E. Blanz, Ph.D., P.E.
Associate Director
Office of Water Quality, Division of Environmental Quality
5301 Northshore Drive, North Little Rock, AR, 72118

REB:tl

Enclosure

PUBLIC NOTICE OF DRAFT DISCHARGE PERMIT
PERMIT NUMBER AR0034126, AFIN 30-00040

In accordance with Ark. Code Ann. § 8-4-203(e), the Arkansas Department of Energy and Environment – Division of Environmental Quality (DEQ), Office of Water Quality, gives the following notice:

The City of Malvern - Malvern Wastewater Treatment Plant operates a facility located as follows: 3672 Grigsby Ford Road, Malvern, AR 72104 in Hot Spring County. The facility is currently permitted to discharge treated municipal wastewater into Ouachita River in Segment 2F of the Ouachita River Basin. The City of Malvern - Malvern Wastewater Treatment Plant submitted an application on March 4, 2020, with all additional information received by March 10, 2020, for the renewal of NPDES Permit No. AR0034126. The application has been reviewed by the DEQ's Office of Water Quality and has received tentative approval subject to the terms of this notice.

Citizens wishing to examine or obtain copies of the permit application, the draft permitting decision, or the Fact Sheet 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) 682-0622. 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 the draft renewal will be accepted in accordance with Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 8.208. DEQ's contact person for submitting written comments on the draft permit or requesting a public hearing on the draft permit is Terry Liu, P.E. 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 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 Terry Liu, P.E. 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 Rule 6.104(A)(5) [40 CFR Parts 124.10 through 124.12 by reference] and Rules 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 No. 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.),

City of Malvern
Malvern Wastewater Treatment Plant

is authorized to discharge treated municipal wastewater from a facility located as follows: 3672 Grigsby Ford Road, Malvern, AR 72104 in Hot Spring County. From Walco Road, turn right onto Grigsby Ford Road. Pass the brick manufacturing facility and continue for approximately 0.6 miles then turn right onto the gravel road marked with red and blue strips. Continue 0.2 miles and turn right on gravel drive to the facility.

Facility Coordinates: Latitude: 34° 21' 06.52" N; Longitude: 92° 50' 45.00" W

Receiving stream: Ouachita River in Segment 2F of the Ouachita River Basin.

The permitted outfall is located at the following coordinates:

Outfall 001: Latitude: 34° 21' 38.6" N; Longitude: 92° 51' 42.4" 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.

Effective Date:
Expiration Date:

Robert E. Blanz, Ph.D., P.E.
Associate Director, Office of Water Quality
Arkansas Department of Energy and Environment
Division of Environmental Quality

Issue Date

PART I
PERMIT REQUIREMENTS

SECTION A1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 001 - treated municipal wastewater.

Beginning on the effective date of the permit and lasting until the date of expiration or completion of construction of the new facility in accordance with AR0034126C, 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 – Design flow = 3.05 MGD*

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>			<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)	Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
		Monthly Avg.	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	
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	635.9	25	38	three/week	composite
Total Suspended Solids (TSS)	2,289.3	90.0	135	three/week	composite
Ammonia Nitrogen (NH ₃ -N)	254.4	10.0	15.0	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 Residual Chlorine (TRC) ²	N/A	0.16 mg/l (Inst. Max.)		three/week	grab ³
pH	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	three/week	grab
Chronic WET Testing ⁴	N/A	Report		once/quarter	composite
<u>Pimephales promelas (Chronic)⁴</u> Pass/Fail Lethality (7-day NOEC) TLP6C Pass/Fail Growth (7-day NOEC)TGP6C Survival (7-day NOEC) TOP6C Coefficient of Variation (Growth) TQP6C Growth (7-day NOEC) TPP6C Pass/Fail Retest 1 (7-day NOEC) 22418 Pass/Fail Retest 2 (7-day NOEC) 22419 Pass/Fail Retest 3 (7-day NOEC) 51444		<u>7-Day Average</u> Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report % Report % Report % Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report (Pass=0/Fail=1)		once/quarter once/quarter once/quarter once/quarter once/quarter once/month ⁵ once/month ⁵ once/month ⁵	composite composite composite composite composite composite composite composite
<u>Ceriodaphnia dubia (Chronic)⁴</u> Pass/Fail Lethality (7-day NOEC) TLP3B Pass/Fail production (7-day NOEC)TGP3B Survival (7-day NOEC) TOP3B Coefficient of Variation (Reproduction) TQP3B Reproduction (7-day NOEC) TPP3B Pass/Fail Retest 1 (7-day NOEC) 22415 Pass/Fail Retest 2 (7-day NOEC) 22416 Pass/Fail Retest 3 (7-day NOEC) 51443		<u>7-Day Average</u> Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report % Report % Report % Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report (Pass=0/Fail=1)		once/quarter once/quarter once/quarter once/quarter once/quarter once/month ⁵ once/month ⁵ once/month ⁵	composite composite composite composite composite composite composite composite

* See Transition Condition in Part II.9 of this permit.

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

2. TRC must be measured using any approved test method established in 40 CFR 136 capable of meeting a detection level of 0.033 mg/l or lower. If TRC is not detected at the required detection level (i.e., lab result is "ND"), report "0" on the Discharge Monitoring Report (DMR). Report the concentration if TRC is detected and measured in the sample.
 3. The effluent limitation for TRC is the instantaneous maximum and cannot be averaged for reporting purposes. TRC shall be measured within fifteen (15) minutes of sampling.
 4. See Condition No. 10 of Part II. (WET Testing Condition)
 5. **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). This condition applies to *P. promelas* and *C. dubia*.
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There shall be no discharge of distinctly visible solids, scum, or foam of a persistent nature, nor shall there be any formation of slime, bottom deposits, or sludge banks. There shall be no visible sheen 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 final treatment and before the receiving stream.

DRAFT

SECTION A2. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 001 - treated municipal wastewater.

Beginning on the date of completion of construction of the new facility in accordance with AR0034126C 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 II – Design flow = 5.908 MGD*

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>			<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)	Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Monthly Avg.	7-Day 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	
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	1,231.8	25	38	three/week	composite
Total Suspended Solids (TSS)	4,434.5	90.0	135	three/week	composite
Ammonia Nitrogen (NH ₃ -N)	492.7	10.0	15.0	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 Residual Chlorine (TRC) ²	N/A	0.09 mg/l (Inst. Max.)		three/week	grab ³
Total Phosphorus (TP)	Report	Report	Report	once/month	grab
Nitrate + Nitrite Nitrogen (NO ₃ + NO ₂ -N)	Report	Report	Report	once/month	grab
pH	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	three/week	grab
Chronic WET Testing ⁴	N/A	Report		once/quarter	composite
<u>Pimephales promelas (Chronic)⁴</u> Pass/Fail Lethality (7-day NOEC) TLP6C Pass/Fail Growth (7-day NOEC) TGP6C Survival (7-day NOEC) TOP6C Coefficient of Variation (Growth) TQP6C Growth (7-day NOEC) TPP6C Pass/Fail Retest 1 (7-day NOEC) 22418 Pass/Fail Retest 2 (7-day NOEC) 22419 Pass/Fail Retest 3 (7-day NOEC) 51444		<u>7-Day Average</u> Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report % Report % Report % Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report (Pass=0/Fail=1)		once/quarter once/quarter once/quarter once/quarter once/quarter once/month ⁵ once/month ⁵ once/month ⁵	composite composite composite composite composite composite composite composite
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* See Transition Condition in Part II.9 of this permit.

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

2. TRC must be measured using any approved test method established in 40 CFR 136 capable of meeting a detection level of 0.033 mg/l or lower. If TRC is not detected at the required detection level (i.e., lab result is "ND"), report "0" on the Discharge Monitoring Report (DMR). Report the concentration if TRC is detected and measured in the sample.
 3. The effluent limitation for TRC is the instantaneous maximum and cannot be averaged for reporting purposes. TRC shall be measured within fifteen (15) minutes of sampling.
 4. See Condition No. 10 of Part II. (WET Testing Condition)
 5. **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). This condition applies to *P. promelas* and *C. dubia*.
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There shall be no discharge of distinctly visible solids, scum, or foam of a persistent nature, nor shall there be any formation of slime, bottom deposits, or sludge banks. There shall be no visible sheen 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 final treatment and before the receiving stream.

SECTION B. PERMIT COMPLIANCE SCHEDULE

None

PART II OTHER CONDITIONS

1. The operator of this wastewater treatment facility shall be licensed as at least Class III by the State of Arkansas in accordance with APC&EC Rule No. 3.
2. For publicly owned treatment works, the 30-day average percent removal for Carbonaceous Biochemical Oxygen Demand (CBOD₅) shall not be less than 85 percent unless otherwise authorized by the permitting authority in accordance with 40 CFR Part 133.102(a). The 30-day average percent removal for Total Suspended Solids (TSS) shall not be less than 65 percent unless otherwise authorized by the permitting authority in accordance with 40 CFR Part 133.103(c) and 40 CFR Part 133.105(b).
3. In accordance with 40 CFR Parts 122.62(a)(2) and 124.5, this permit may be reopened for modification or revocation and/or reissuance to require additional monitoring and/or effluent limitations when new information is received that actual or potential exceedance of State water quality criteria and/or narrative criteria are determined to be the result of the permittee's discharge(s) to a relevant water body or a Total Maximum Daily Load (TMDL) is established or revised for the water body that was not available at the time of the permit issuance that would have justified the application of different permit conditions at the time of permit issuance.
4. Other Specified Monitoring Requirements

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

- The monitoring and analytical instruments are consistent with accepted scientific practices.
- The requests shall be submitted in writing to the Permits Branch 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 CFR Part 136 or approved in accordance with 40 CFR Part 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 Assurance/Quality Control (QA/QC) 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.

B. 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

C. 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>

D. 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.

E. 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 following pollutants may not be introduced into the treatment facility:

- (1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works (POTW), including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (°F) or 60 degrees Centigrade (°C) using the test methods specified in 40 CFR 261.21;
- (2) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0 s.u., unless the works is specifically designed to accommodate such discharges;
- (3) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, resulting in Interference* or Pass Through**;
- (4) Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause Pass Through or Interference with the POTW;
- (5) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40 °C (104 °F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits;
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and
- (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

B. The permittee shall require any indirect discharger to the treatment works to comply with the reporting requirements of Sections 204(b), 307, and 308 of the Clean Water Act (CWA), including any requirements established under 40 CFR Part 403.

C. The permittee shall provide adequate notice to the Division of the following:

- (1) Any new introduction of pollutants into the treatment works from an indirect discharger which would be subject to Sections 301 or 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.

Any 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.

- * According to 40 CFR 403.3(k), the term *Interference* means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the CWA, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

- ** According to 40 CFR 403.3(p), the term *Pass Through* means a Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

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

Pollutant	MQL (mg/l)
TRC	0.033

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

$$\text{MQL} = 3.3 \times \text{MDL}$$

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

9. Transition Period

The City of Malvern is modifying the existing wastewater treatment plant to include the following: a new influent junction box, aeration system improvements, construction of a new effluent flume, disinfection system improvements, piping modifications, and construction of a new outfall to the Ouachita River. The design flow at outfall 001 will be increasing from 3.05 MGD to 5.908 MGD when the new 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 = 3.05 MGD and Tier II = 5.908 MGD) on a monthly basis. The DMR for Tier II can be marked and submitted as “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 report required in Item B of this condition is received.
- B. The permittee must notify the DEQ within 30 days of when the new wastewater treatment system has been installed and is operating. The permittee shall follow Tier II requirements after notification until the end of the permit term.

10. WHOLE EFFLUENT TOXICITY TESTING (7-DAY CHRONIC NOEC FRESHWATER)

1. SCOPE AND METHODOLOGY

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

APPLICABLE TO FINAL OUTFALL(S):	001
REPORTED ON DMR AS FINAL OUTFALL:	001
CRITICAL DILUTION (%):	12
EFFLUENT DILUTION SERIES (%):	5, 7, 9, 12, and 16
TESTING FREQUENCY:	once/quarter
COMPOSITE SAMPLE TYPE:	Defined in paragraph C.iv.a
TEST SPECIES/METHODS:	40 CFR Part 136

Ceriodaphnia dubia chronic static renewal survival and reproduction test, Method 1002.0, EPA-821-R-02-013, or the most recent update thereof. This test should be terminated when 60% of the surviving females in the control produce three broods or at the end of eight days, whichever comes first.

Pimephales promelas (Fathead minnow) chronic static renewal 7-day larval survival and growth test, Method 1000.0, EPA-821-R-02-013, or the most recent update

thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

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

2. PERSISTENT LETHAL and/or SUB-LETHAL EFFECTS

The requirements of this subsection apply only when a toxicity test demonstrates significant lethal and/or sub-lethal effects at or below the critical dilution. The purpose of additional tests (also referred to as 'retests' or confirmation tests) 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 6, has been granted and any subsequent valid test demonstrates significant lethal or sub-lethal effects to a test species at or below the critical dilution, the frequency of testing for that species is automatically increased to once per quarter for the life of the permit. In addition:

- a. Part I Testing Frequency Other Than Monthly
 - i. The permittee shall conduct a total of three (3) additional tests for any species that demonstrates significant toxic effects at or below the critical dilution. The additional tests shall be conducted monthly during the next three consecutive months. If testing on a quarterly basis, the permittee may substitute one of the additional tests in lieu of one routine toxicity test. A full report shall be prepared for each test required by this section in accordance with procedures outlined in Item 4 of this section and submitted with the period discharge monitoring report (DMR) to the permitting authority for review.
 - ii. IF LETHAL EFFECTS HAVE BEEN DEMONSTRATED If any of the additional tests demonstrates significant lethal effects at or below the critical dilution, the permittee shall initiate Toxicity Reduction Evaluation (TRE) requirements as specified in Item 5 of this section. The permittee shall notify 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 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. A TRE required based on lethal effects should consider any sub-lethal effects as well.

- iii. IF SUB-LETHAL EFFECTS ONLY HAVE BEEN DEMONSTRATED If any two of the three additional tests demonstrates significant sub-lethal effects at or below the critical dilution, the permittee shall initiate the Sub-Lethal Toxicity Reduction Evaluation (TRE_{SL}) requirements as specified in Item 5 of this section. The permittee shall notify DEQ in writing within 5 days of the failure of any retest, and the Sub-Lethal Effects TRE initiation date will be the test completion date of the first failed retest. A TRE may also be required for failure to perform the required retests.
- iv. The provisions of Item 2.a.i. are suspended upon submittal of the TRE Action Plan.

3. REQUIRED TOXICITY TESTING CONDITIONS

a. Test Acceptance

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

- i. The toxicity test control (0% effluent) must have survival equal to or greater than 80%.
- ii. The mean number of Ceriodaphnia dubia neonates produced per surviving female in the control (0% effluent) must be 15 or more.
- iii. 60% of the surviving control females must produce three broods. The mean dry weight of surviving Fathead minnow larvae at the end of the 7 days in the control (0% effluent) must be 0.25 mg per larva or greater.
- iv. The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent) for: the young of surviving females in the Ceriodaphnia dubia reproduction test; the growth and survival endpoints of the Fathead minnow test.
- v. The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal or sub-lethal effects are exhibited for: the young of surviving females in the Ceriodaphnia dubia reproduction test; the growth and survival endpoints of the Fathead minnow test.
- vi. 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 young of surviving females in the Ceriodaphnia dubia reproduction test; the

growth and survival endpoints 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.

- vii. 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%.
- viii. A Percent Minimum Significant Difference (PMSD) range of 13 - 47 for *Ceriodaphnia dubia* reproduction;
- ix. A PMSD range of 12 - 30 for Fathead minnow growth.

b. Statistical Interpretation

- i. For the *Ceriodaphnia dubia* survival test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be Fisher's Exact Test as described in EPA/821/R-02-013 or the most recent update thereof.
- ii. For the *Ceriodaphnia dubia* reproduction test and the Fathead minnow larval survival and growth test, the statistical analyses used to determine if there is a 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-02-013 or the most recent update thereof.
- iii. If the conditions of Test Acceptability are met in Item 3.a above and the percent survival of the test organism is equal to or greater than 80% in the critical dilution concentration and all lower dilution concentrations, the test shall be considered to be a passing test, and the permittee shall report a survival NOEC of not less than the critical dilution for the DMR reporting requirements found in Item 4 below.

c. Dilution Water

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

synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:

- (A) a synthetic dilution water control which fulfills the test acceptance requirements of Item 3.a was run concurrently with the receiving water control;
- (B) the test indicating receiving water toxicity has been carried out to completion (i.e., 7 days);
- (C) the permittee includes all test results indicating receiving water toxicity with the full report and information required by Item 4 below; and
- (D) the synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or closest downstream perennial water not adversely affected by the discharge, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water.

d. Samples and Composites

- i. The permittee shall collect a minimum of three flow-weighted composite samples from the outfall(s) listed at Item 1.a 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.
- ii. The permittee shall collect second and third composite samples for use during 24-hour renewals of each dilution concentration for each test. The permittee must collect the composite samples such that the effluent samples, on use, are representative of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on a regular or intermittent basis.
- iii. The permittee must collect all three flow-weighted composite samples within the monitoring period. Second and/or third composite samples 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.
- iv. The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 72 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.
- v. 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. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item 4 of this section.

- vi. MULTIPLE OUTFALLS: If the provisions of this section are applicable to multiple outfalls, the permittee shall combine the composite effluent samples in proportion to the average flow from the outfalls listed in item 1.a. above for the day the sample was collected. The permittee shall perform the toxicity test on the flow-weighted composite of the outfall samples.
- vii. If chlorination is part of the treatment process, the permittee shall not allow the sample to be dechlorinated at the laboratory. At the time of sample collection the permittee shall measure the TRC of the effluent. The measured concentration of TRC for each sample shall be included in the lab report submitted by the permittee.

4. REPORTING

- a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this section in accordance with the Report Preparation Section of EPA/821/R-02-013, or the most current publication, 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 which fails, is considered invalid or which is terminated early for any reason, the full report must be submitted for agency review.
- b. A valid test for each species must be reported on the DMR during each reporting period specified in PART I of this permit unless the permittee is performing a TRE which may increase the frequency of testing and reporting. Only ONE set of WET test data for each species is to be recorded on the DMR for each reporting period. The data submitted should reflect the LOWEST lethal and sub-lethal effects results for each species during the reporting period. The full reports for all valid tests, 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.
- c. The permittee shall submit the results of each valid toxicity test on the subsequent monthly DMR for that reporting period in accordance with PART III.D.4 of this permit, as follows below. Submit retest information clearly marked as such with the following month's DMR. Only results of valid tests are to be reported on the DMR.
 - i. Pimephales promelas (Fathead minnow)

(A) If the No Observed Effect Concentration (NOEC) for survival is less than the

critical dilution, enter a '1'; otherwise, enter a '0' for Parameter No. TLP6C

- (B) Report the NOEC value for survival, Parameter No. TOP6C
- (C) Report the NOEC value for growth, Parameter No. TPP6C
- (D) If the NOEC for growth is less than the critical dilution, enter a '1'; otherwise, enter a '0' for Parameter No. TGP6C
- (E) Report the highest (critical dilution or control) Coefficient of Variation for growth, Parameter No. TQP6C
- (F) If conducting retests due to a test failure (demonstration of significant toxic effects at or below the critical dilution):
 - (i) Consecutive Monthly Retest 1: If the NOEC (lowest lethal or sub-lethal) for *P. promelas* is less than the critical dilution, enter a '1'; otherwise, enter a '0' under Parameter No. 22418 (reported on quarterly DMR);
 - (ii) Consecutive Monthly Retest 2: If the NOEC (lowest lethal or sub-lethal) for *P. promelas* is less than the critical dilution, enter a '1'; otherwise, enter a '0' under Parameter No. 22419 (reported on quarterly DMR);
 - (iii) Consecutive Monthly Retest 3: If the NOEC (lowest lethal or sub-lethal) for *P. promelas* is less than the critical dilution, enter a '1'; otherwise, enter a '0' under Parameter No. 51444 (reported on quarterly DMR);
 - (iv) If testing on a quarterly basis, the permittee may substitute one of the retests in lieu of one scheduled toxicity test;
 - (v) If retests are not required, Report NODI=9 (Conditional Monitoring - Not Required This Period) under Parameter Nos. 22418, 22419, 51444 (reported on quarterly DMR)

ii. Ceriodaphnia dubia

- (A) If the NOEC for survival is less than the critical dilution, enter a '1'; otherwise, enter a '0' for Parameter No. TLP3B
- (B) Report the NOEC value for survival, Parameter No. TOP3B
- (C) Report the NOEC value for reproduction, Parameter No. TPP3B
- (D) If the NOEC for reproduction is less than the critical dilution, enter a '1'; otherwise, enter a '0' for Parameter No. TGP3B
- (E) Report the higher (critical dilution or control) Coefficient of Variation for

reproduction, Parameter No. TQP3B

- (F) If conducting retests due to a test failure (demonstration of significant toxic effects at or below the critical dilution):
- (i) Consecutive Monthly Retest 1: If the NOEC (lowest lethal or sub-lethal) for *C. dubia* is less than the critical dilution, enter a '1'; otherwise, enter a '0' under Parameter No. 22415 (reported on quarterly DMR);
 - (ii) Consecutive Monthly Retest 2: If the NOEC (lowest lethal or sub-lethal) for *C. dubia* is less than the critical dilution, enter a '1'; otherwise, enter a '0' under Parameter No. 22416 (reported on quarterly DMR);
 - (iii) Consecutive Monthly Retest 3: If the NOEC (lowest lethal or sub-lethal) for *C. dubia* is less than the critical dilution, enter a '1'; otherwise, enter a '0' under Parameter No. 51443 (reported on quarterly DMR);
 - (iv) If testing on a quarterly basis, the permittee may substitute one of the retests in lieu of one scheduled toxicity test;
 - (v) 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)

5. TOXICITY REDUCTION EVALUATIONS (TREs)

TREs for lethal and sub-lethal effects are performed in a very similar manner. EPA Region 6 is currently addressing TREs as follows: a sub-lethal TRE (TRE_{SL}) is triggered based on three sub-lethal test failures while a lethal effects TRE (TRE_L) is triggered based on only two test failures for lethality. In addition, EPA Region 6 will consider the magnitude of toxicity and use flexibility when considering a TRE_{SL} where there are no effects at effluent dilutions of 75% or lower.

- a. Within ninety (90) days of confirming persistent toxicity, 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 goal of the TRE is to maximally reduce the toxic effects of effluent at the critical dilution and includes the following:
 - i. Specific Activities. The plan shall detail the specific approach the permittee intends to utilize in conducting the TRE. The approach may include toxicity

characterizations, identifications and confirmation activities, source evaluation, treatability studies, or alternative approaches. When the permittee conducts Toxicity Characterization Procedures the permittee shall perform multiple characterizations and follow the procedures specified in the documents 'Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures' (EPA-600/6-91/003) and 'Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I' (EPA-600/6-91/005F), 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

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

Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity. Where lethality was demonstrated within 48 hours of test initiation, each composite sample shall be analyzed independently. Otherwise the permittee may substitute a composite sample, comprised of equal portions of the individual composite samples, for the chemical specific analysis;
 - iii. Quality Assurance Plan (e.g., QA/QC implementation, corrective actions, etc.); and
 - iv. Project Organization (e.g., project staff, project manager, consulting services, etc.).
- b. The permittee shall initiate the TRE Action Plan within thirty (30) days of plan and schedule submittal. The permittee shall assume all risks for failure to achieve the required toxicity reduction.

- c. The permittee shall submit a quarterly TRE Activities Report, with the Discharge Monitoring Report in the months of January, April, July and October, containing information on toxicity reduction evaluation activities including:

any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity; any studies/evaluations and results on the treatability of the facility's effluent toxicity; and any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant toxicity at the critical dilution.

- d. The permittee shall submit a Final Report on Toxicity Reduction Evaluation Activities no later than twenty-eight (28) months from confirming toxicity 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 toxicity at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism.
- e. Quarterly testing during the TRE is a minimum monitoring requirement. EPA recommends that permittees required to perform a TRE not rely on quarterly testing alone to ensure success in the TRE, and that additional screening tests be performed to capture toxic samples for identification of toxicants. Failure to identify the specific chemical compound causing toxicity test failure will normally result in a permit limit for whole effluent toxicity limits per federal regulations at 40 CFR 122.44(d)(1)(v).

6. MONITORING FREQUENCY REDUCTION

- a. The permittee may apply for a testing frequency reduction upon the successful completion of the first four consecutive quarters or first twelve consecutive months (in accordance with Item 1.a.) after the expiration date of the previous permit, for one or both test species, provided that all of the following conditions are met:
- i. The permittee tested quarterly upon the expiration date of that permit, and
 - ii. The issuance of the renewed permit was not delayed by any fault of the permittee, and
 - iii. No lethal or sub-lethal effects are demonstrated at or below the critical dilution for the first four consecutive quarters of testing after the expiration date of the previous permit.

If any of the above conditions are not met, the permittee may apply for a testing frequency reduction upon the successful completion of the first four consecutive quarters of testing (in accordance with Item 1.a.) after the renewal permit is issued. Success completion of testing for one or both test species, with no lethal or sub-lethal effects demonstrated at or below the critical dilution is required. 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 Ceriodaphnia dubia).

- b. CERTIFICATION - The permittee must certify in writing that no test failures have occurred and that all tests meet all test acceptability criteria in item 3.a. above. In addition the permittee must provide a list with each test performed including test initiation date, species, NOECs for lethal and sub-lethal effects and the maximum coefficient of variation for the controls. Upon review and acceptance of this information the 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.
- c. SUB-LETHAL OR SURVIVAL FAILURES - If any test fails the survival or sub-lethal endpoint at any time during the life of this permit, three consecutive monthly retests are required and the monitoring frequency for the affected test species may be increased to once per quarter until the permit is re-issued. Monthly retesting is not required if the permittee is performing a TRE.

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.

11. Monitoring Frequency Reduction

With the exception of whole effluent toxicity testing (WET) requirements, the permittee may request a one-time monitoring frequency reduction for pollutants listed in Part I, Section A, *Effluent Limitations and Monitoring Requirements*. Any request for a monitoring frequency reduction must be submitted in writing to DEQ, and signed by the Responsible Official, in accordance with Part III.D.11.A of the permit.

The following requirements must be met before a review of the monitoring frequency reduction request will be performed:

- i. Compliance with the permit limits for at least the last two (2) years for the pollutants for which a request has been made for a monitoring frequency reduction;
- ii. No operational or design changes have been made to the facility for at least the last two (2) years (or during period of review, if greater than two (2) years), and are not anticipated for the remaining term of this permit.

If the above conditions are met, a detailed review of the DMR data will be performed for the pollutants for which a monitoring frequency reduction has been requested. Compliance with the limits does not guarantee a monitoring frequency reduction will be granted. Data must show that the average concentration of the pollutants in the discharge are less than 75% of the permit limits for a monitoring frequency reduction to be granted.

If a monitoring frequency reduction is granted, the frequency can be reduced by no more than half the rate of the corresponding frequency listed in Part I, Section A, *Effluent Limitations and Monitoring Frequencies*. For example, a monitoring frequency of 4 per month will not

be reduced to less than 2 per month. Additionally, the frequency will be no less frequent than monthly.

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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 No. 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 No. 2, as amended, or Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitations on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standards or prohibition and the permittee so notified.

The permittee shall comply with effluent standards, narrative criteria, or prohibitions established under APC&EC Rule No. 2, as amended, or Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. **Civil and Criminal Liability**

Except as provided in permit conditions 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 No. 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 CFR Parts 122.64 and 124.5(d), as adopted in APC&EC Rule No. 6 and the provisions of APC&EC Rule No. 8.

SECTION B – OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. **Proper Operation and Maintenance**

- A. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- B. The permittee shall provide an adequate operating staff which is duly qualified to carryout operation, maintenance, and testing functions required to 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 CFR Part 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 CFR Part 503, 40 CFR Part 257, and 40 CFR Part 258.
- 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 Division approved method (i.e., as allowed in the *Other Specified Monitoring Requirements* condition under Part II), 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 Division.

3. **Monitoring Procedures**

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals frequent enough to 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 CFR Part 127.11(a)(1) and 40 CFR Part 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 CFR Part 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 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated on the DMR.

7. **Retention of Records**

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

8. **Record Contents**

Records and monitoring information shall include:

- A. The date, exact place, time and methods of sampling or measurements, and preservatives used, if any.
- B. The 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 CFR Part 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 CFR Part 122.29(b).
- B. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants subject to effluent limitations in the permit, or to the notification requirements under 40 CFR Part 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

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

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

becomes aware of the circumstances. The written submission shall contain the following information:

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 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.

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

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

9. **Duty to Provide Information**

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

10. Duty to Reapply

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

11. Signatory Requirements

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

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

1. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - (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 CFR Part 2 and APC&EC Rule No. 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 Regulations, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.

13. **Penalties for Falsification of Reports**

The Arkansas Air and Water Pollution Control Act provides that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this permit shall be subject to civil penalties specified in Part III.A.2 and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (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.

PART IV DEFINITIONS

All definitions contained in Section 502 of the Clean Water Act and 40 CFR Part 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 No. 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 CFR Part 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. **“CV”** means coefficient of variation.
11. **“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.
12. **“Daily Maximum”** discharge limitation means the highest allowable “daily discharge” during the calendar month.

13. **“Director”** means the Director of the Division 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. **“Division”** means the Division of Environmental Quality (**DEQ**).
16. **“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.
17. **“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.
18. **“Grab sample”** means an individual sample collected in less than 15 minutes in conjunction with an instantaneous flow measurement.
19. **“Industrial User”** means a nondomestic discharger, as identified in 40 CFR Part 403, introducing pollutants to a publicly owned treatment works (POTW).
20. **“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.
21. **“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.
22. **“Instantaneous Minimum”** an instantaneous minimum value, shall mean that no value measured during the reporting period may fall below the stated value.
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. **“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.
25. **“National Pollutant Discharge Elimination System (NPDES)”** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318, and 405 of the Clean Water Act.
26. **“NOEC”** means No Observed Effect Concentration.
27. **“PMSD”** means Percent Minimum Significant Difference.
28. **“POTW”** means Publicly Owned Treatment Works;
29. **“Reduction of CBOD₅/BOD₅ and TSS in mg/l Formula”**
$$[(\text{Influent} - \text{Effluent}) / \text{Influent}] \times 100$$
30. **“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.
31. **“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.
32. **“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.
33. **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.

34. “**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 or improper operations.
35. “**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.
36. “**Weekday**” means Monday – Friday.

DRAFT

Fact Sheet

This Fact Sheet is for information and justification of the permit requirements only. Please note that it is not enforceable. This draft permitting decision is for the renewal of discharge Permit Number AR0034126 with Arkansas Department of Energy and Environment – Division of Environmental Quality (DEQ) Facility Identification Number (AFIN) 30-00040 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:

City of Malvern - Malvern Wastewater Treatment Plant
506 Overman
Malvern, AR 72104

The facility address is:

City of Malvern - Malvern Wastewater Treatment Plant
3672 Grigsby Ford Road
Malvern, AR 72104

3. PREPARED BY

The permit was prepared by:

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4. PERMIT ACTIVITY

Previous Permit Effective Date: November 1, 2015
Previous Permit Modification Date: February 1, 2020
Previous Permit Expiration Date: October 31, 2020

The permittee submitted a permit renewal application on March 4, 2020, with all additional information received by March 10, 2020. It is proposed that the current discharge permit be

reissued for a 5-year term in accordance with regulations promulgated at 40 CFR Part 122.46(a).

The permittee submitted a permit modification application and state construction permit application on July 18, 2019 to improve the existing Malvern Wastewater Treatment Facility with new design flow rate of 5.908 MGD. The improvements will include construction of a new influent junction box, aeration system improvements, construction of a new effluent flume, disinfection system improvements, piping modifications, and construction of a new outfall to the Ouachita River. The state construction permit AR0034126C was approved and became effective on November 1, 2019.

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

CFR - 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 No. 2

Rule 6 - APC&EC Rule No. 6

Rule 8 - APC&EC Rule No. 8

Rule 9 - APC&EC Rule No. 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
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:

http://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0034126_Combpliance%20Review_20200317.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:

1. The mailing address was removed from cover page.
2. The FCB limits for the month of April have been changed. See Item No. 12.A of this Fact Sheet for additional information.
3. The concentration limits for CBOD₅, TSS, and TRC limits, and all mass limitations have been updated due to a change in rounding procedures.
4. A class III wastewater operator license is required for this facility in Part II.1 based on Rule 3.502. No schedule of compliance is included because the facility operator has a Class III license.
5. The requirements to monitor the influent CBOD₅ and TSS have been removed from Part II.2 of the permit.
6. The Sanitary Sewer Overflows (SSOs) Reporting requirements have been revised in Part II.5.
7. The TRC minimum quantification level condition is included in Part II.8.
8. The monitoring frequency reduction condition is included in Part II.11.
9. The sludge disposal condition is revised in Part III.B.6 of the permit.
10. 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 renewal application and verified with Google Earth using WGS84:

Latitude: 34° 21' 38.6" N; Longitude: 92° 51' 42.4" W

The receiving waters named:

Ouachita River in Segment 2F of the Ouachita River Basin. The receiving stream with USGS Hydrologic Unit Code (H.U.C.) of 08040102 and reach #007 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 on the 2018 303(d) list. Therefore, no permit action is required.

B. Applicable Total Maximum Daily Loads (TMDLs)

There are no applicable TMDL reports for this facility.

C. Endangered Species

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

The issue raised by the Arkansas Department of Parks, Heritage, and Tourism has the identification of the following species of Conservation concern in the Ouachita River in the previous permit. These species will likely be present within five miles downstream of the Outfall:

Alosa alabamae, Alabama shad-state concern
Anguilla rostrata, American eel-state concern
Lampsilis abrupta, pink mucket-federal concern (endangered)
Lampsilis powellii, Arkansas fatmucket-federal concern (threatened)
Lasmigona costata, flutedshell-state concern
Ligumia recta, black sandshell-state concern
Obovaria arkansasensis, Ouachita creekshell-state concern
Percina brucethompsoni, Ouachita darter-state concern
Percina uranidea, stargazing darter-state concern
Pleurobema rubrum, pyramid pigtoe-state concern
Pleurobema sintoxia, Round Pigtoe-state concern
Toxolasma parvum, Lilliput-state concern

The limits in the permit are designated to protect all beneficial uses of the receiving waters, including propagation of desirable species of fish and other aquatic life, which includes the above species of concern. Therefore, DEQ has determined that the draft 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 No. 2.

8. OUTFALL, TREATMENT PROCESS DESCRIPTION, AND FACILITY CONSTRUCTION

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

A. Design Flow:

Current Design Flow: Tier I – 3.05 MGD

New Design Flow: Tier II – 5.908 MGD

B. Type of Treatment:

Current Treatment: three cell aerated lagoon system operated in series, followed by a polishing lagoon, post aeration, chlorination and dechlorination

New Treatment: Two partial mix aerated lagoons system operated in series (seven cells), followed by chlorination and dechlorination

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

Currently, it does not appear the permittee receives process wastewater from any significant industrial users as defined by 40 CFR §403.3(v). In accordance with 40 CFR §403.5(a)(1) and (b), General and Specific Pretreatment Prohibitions and reporting requirements are deemed appropriate at this time.

11. SEWAGE SLUDGE PRACTICES

Sludge generated at this facility accumulates in lagoons on-site. The permittee must periodically remove the accumulated sludge to maintain proper operation. Based on the state construction permit application on July 29, 2019, there is approximately six (6) feet of sludge depth in one small corner by the influent header and then the sludge tapers from six (6) feet to 1.5 feet in nearby area. The permittee planned to remove the sludge in the construction project. Any change to the sludge disposal method shall be in accordance with Part III.B.6 of the permit.

12. DEVELOPMENT AND BASIS FOR PERMIT CONDITIONS

The Division of Environmental Quality has determined to issue a draft permit for the discharge described in the application. Permit requirements are based on federal regulations (40 CFR Parts 122, 124, and Subchapter N), the National Pretreatment Regulation in 40 CFR 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 draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons suggesting the decisions as required under 40 CFR Part 124.7.

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

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

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
CBOD ₅	>25*	N/A	25	40	25.0	37.5	25	38
TSS	N/A	N/A	90	135	90.0	135.0	90.0	135
NH ₃ -N	10.0	15.0	N/A	N/A	10.0	15.0	10.0	15.0
DO	2.0 (Inst. Min.)		N/A		2.0 (Inst. Min.)		2.0 (Inst. Min.)	

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
TRC								
Tier I (3.05 mgd)	0.16 (Inst. Max.)		N/A		0.161 (Inst. Max.)		0.16 (Inst. Max.)	
Tier II (5.908 mgd)	0.09 (Inst. Max.)		N/A		0.092 (Inst. Max.)		0.09 (Inst. Max.)	
TP Tier II (5.908 mgd)	N/A	N/A	Report	Report	Report	Report	Report	Report
NO ₃ + NO ₂ -N Tier II (5.908 mgd)	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 standards were modeled to demonstrate compliance with the Dissolved Oxygen Water Quality Standard.

A. Justification for Limitations and Conditions of the permit:

Parameter	Water Quality or Technology	Justification
CBOD ₅	Technology	Modeling Analysis dated August 26, 2019, 40 CFR 133.102(a)(4), 40 CFR 122.44 (l), and Previous Permit
TSS	Technology	40 CFR 133.103 (c), EPA Letter, 40 CFR 122.44(l), and Previous Permit
NH ₃ -N	Water Quality	Rule 2.512, Modeling Analysis and Ammonia Calculations dated August 26, 2019, CWA 402(o), and Previous Permit
DO	Water Quality	Rule 2.505, Modeling Analysis dated August 26, 2019, CWA 402(o), and Previous Permit
FCB	Water Quality	Rule 2.507, CWA 402(o), and Previous Permit
TRC	Water Quality	Rule 2.409, CWA 402(o), and Previous Permit
TP	Technology	CPP and Previous Permit
NO ₃ +NO ₂ -N	Technology	CPP and Previous Permit
pH	Water Quality	Rule 2.504, CWA 402(o), and Previous Permit

FCB

The final effluent limitations for Fecal Coliform Bacteria for the month of April in the previous permit were not consistent with Rule No. 2. These limitations have not been continued. The Fecal Coliform Bacteria limitations are updated based on Rule 2.507.

B. Anti-backsliding

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

The permit meets or exceeds the requirements of the previous permit, with the exception of revised limitations identified for Fecal Coliform Bacteria in the month of April. 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 CFR Part 122.45(f)(1), all pollutants limited in permits shall have limitations expressed in terms of mass if feasible. 40 CFR Part 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 loadings (lbs per day) uses the design flow of 3.05 MGD for Tier I and 5.908 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 $\text{NH}_3\text{-N}$ and CBOD_5 are based on Section 5.4.2 of the Technical Support Document for Water Quality-based Toxics Control:

$$\text{7-day average limits} = \text{monthly average limits} \times 1.5$$

The 7-day average limit for TSS is based on the requirements of 40 CFR 133.105.

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. No changes to the 208 Plan are occurring with this permit renewal.

E. **Priority Pollutant Scan (PPS)**

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 No. 2 (Rule 2.508) and criteria obtained from the “Quality Criteria for Water, 1986 (Gold Book).”

Under Federal Regulation 40 CFR Part 122.44(d), as adopted by Rule No. 6, if a discharge poses the reasonable potential to cause or contribute to an exceedance above a water quality standard, the permit must contain an effluent limitation for that pollutant. Effluent limitations for the toxicants listed 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 CFR Part 122.45(c).

The following items were used in calculations:

Parameter	Value	Source
Discharge Flow = Q	5.908 MGD = 9.14 cfs	Application
critical flow, 7Q10	271 cfs	USGS data from 07359002
LTA Background Flow	813 cfs	CPP, Appendix D
TSS	5.5 mg/l	CPP, Attachment V
Hardness as CaCO ₃	28.0 mg/l	CPP, Attachment VI
pH	7.2 s.u.	LTA calculated from Data Collected OUA0006-DEQ
C _b , Upstream Concentration	μg/l	source
Cadmium	0.377	Field Data OUA0006
Copper	0.995	
Nickel	1.23	
Zinc	2.90	
Q _b background flow, Mixing zone flow for chronic toxicity	67.8 cfs	Rule 2.508 and CPP-Appendix D
Q _b background flow, ZID flow for acute toxicity	16.3 cfs	Rule 2.508 and CPP-Appendix D

The following pollutants were reported above detection levels:

Pollutant	Concentration Reported, µg/l	MQL, µg/l
Total Arsenic	1.1	0.5
Total Cadmium	0.7	0.5
Total Copper	4.5	0.5
Total Nickel	1.9	0.5
Total Zinc	34	20.0

*Concentrations reported are based on the geometric mean of three samples.

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 Division's website at the following address:

http://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0034126_PPS_20200316.pdf

1. Aquatic Toxicity Evaluation

a. Acute Criteria Evaluation

Pollutant	Concentration Reported (C_e) µg/l	$C_e \times 2.13^1$	Instream Waste Concentration (IWC)	Criteria ²	Reasonable Potential (Yes/No)
			Acute, µg/l	Acute, µg/l	
Total Cadmium	0.7	1.49	0.78	3.91	No
Total Copper	4.5	9.59	4.09	13.44	No
Total Nickel	1.9	4.05	2.24	973.88	No
Total Zinc	34	72.4	27.92	120.05	No

¹ Statistical ratio used to estimate the 95th percentile using a single effluent concentration or the geometric mean of a dataset.

² Criteria are from Rule 2.508 unless otherwise specified.

b. Chronic Criteria Evaluation

Pollutant	Concentration Reported (C_e) µg/l	$C_e \times 2.13^1$	Instream Waste Concentration (IWC)	Criteria ²	Reasonable Potential (Yes/No)
			Chronic, µg/l	Chronic, µg/l	
Total Cadmium	0.7	1.49	0.51	1.69	No
Total Copper	4.5	9.59	2.02	10.02	No
Total Nickel	1.9	4.05	1.56	108.16	No
Total Zinc	34	72.4	11.16	109.63	No

¹ Statistical ratio used to estimate the 95th percentile using a single effluent concentration or the geometric mean of a dataset.

² Criteria are from Rule 2.508 unless otherwise specified.

2. Human Health (Bioaccumulation) Evaluation

Pollutant	Concentration Reported (C_e) $\mu\text{g/l}$	$C_e \times 2.13^1$	Instream Waste Concentration (IWC)	Criteria ²	Reasonable Potential (Yes/No)
Total Arsenic	1.1	2.34	0.03	1.4	No
Total Cadmium	0.7	1.49	0.39	5	No
Total Copper	4.5	9.59	1.09	13,000	No
Total Nickel	1.9	4.05	1.26	46,000	No
Total Zinc	34	72.4	3.67	260,000	No

¹ Statistical ratio used to estimate the 95th percentile using a single effluent concentration or the geometric mean of a dataset.

² 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 CFR Part 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, and EPA Region 6 Post-Third Round Whole Effluent Toxicity Testing Frequencies, revised March 13, 2000. 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

Chronic WET

FREQUENCY

Once/quarter

Requirements for measurement frequency are based on the CPP.

Since the 7Q10 is greater than 100 cfs (ft³/sec) and the dilution ratio is less than 100:1, chronic WET testing requirements will be included in the permit.

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

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

$$Q_d = \text{Design flow} = 5.908 \text{ MGD} = 9.14 \text{ cfs}$$

$$7Q10 = 271 \text{ cfs}$$

$$Q_b = \text{Background flow} = (0.25) \times 7Q10 = 67.75 \text{ cfs}$$

$$\text{CD} = (9.14) / (9.14 + 67.75) \times 100 = 12\%$$

Toxicity tests shall be performed in accordance with protocols described in "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms", EPA/600/4-91/002, July 1994. 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 **5%, 7%, 9%, 12%, and 16%** (See the CPP). The low-flow effluent concentration (critical dilution) is defined as **12%** effluent. The requirement for chronic WET tests is based on the magnitude of the facility's discharge with respect to receiving stream flow. The stipulated test species, *Ceriodaphnia dubia* 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 CFR Part 122.48.

Results of all dilutions as well as the associated chemical monitoring of pH, temperature, hardness, dissolved oxygen conductivity, and alkalinity shall be reported according to EPA-821-R-02-013, 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 Division shows toxicity in the permittee's discharge. Modification or revocation of this permit is subject to the provisions of 40 CFR 122.62, as adopted by reference in APC&EC Rule No. 6. Increased or intensified toxicity testing may also be required in accordance with Section 308 of the Clean Water Act and Section 8-4-201 of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

Administrative Records

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

Permit Number:	AR0034126	AFIN:	30-00040	Outfall Number:	001
Date of Review:	3/24/2020	Reviewer:	M. Barnett		
Facility Name:	City of Malvern - Malvern Wastewater Treatment Plant				
Previous Dilution series:	5%, 7%, 9%, 12%, 16%	Proposed Dilution Series:	5%, 7%, 9%, 12%, 16%		
Previous Critical Dilution:	12%	Proposed Critical Dilution:	12%		
Previous TRE activities:	none				
Frequency recommendation by species					
<i>Pimephales promelas</i> (Fathead minnow):	once per quarter				
<i>Ceriodaphnia dubia</i> (water flea):	once per quarter				
TEST DATA SUMMARY					
TEST DATE	Vertebrate (<i>Pimephales promelas</i>)		Invertebrate (<i>Ceriodaphnia dubia</i>)		
	Lethal NOEC	Sub-Lethal NOEC	Lethal NOEC	Sub-Lethal NOEC	
6/30/2015	8.5	8.5	8.5	8.5	8.5
9/30/2015	8.5	8.5	8.5	8.5	8.5
12/31/2015	8.5	8.5	8.5	8.5	8.5
6/30/2016	8.5	8.5	8.5	8.5	8.5
12/31/2016	8.5	8.5	8.5	8.5	8.5
6/30/2017	8.5	8.5	8.5	8.5	8.5
12/31/2017	8.5	8.5	8.5	8.5	8.5
12/31/2018	8.5	8.5	8.5	8.5	8.5
6/30/2019	6.5	8.5	8.5	8.5	8.5
12/31/2019	8.5	8.5	8.5	8.5	8.5
REASONABLE POTENTIAL CALCULATIONS					
	Vertebrate Lethal	Vertebrate Sub-lethal	Invertebrate Lethal	Invertebrate Sub-Lethal	
Min NOEC Observed	6.5	8.5	8.5	8.5	
TU at Min Observed	15.38	11.76	11.76	11.76	
Count	10	10	10	10	
Failure Count	0	0	0	0	
Mean	12.127	11.765	11.765	11.765	
Std. Dev.	1.145	0.000	0.000	0.000	
CV	0.1	0	0	0	
RPMF	1.1	0	0	0	
Reasonable Potential	2.031	0.000	0.000	0.000	
100/Critical dilution	8.333	8.333	8.333	8.333	
Does Reasonable Potential Exist	No	No	No	No	
PERMIT ACTION					
<i>P. promelas</i> Chronic - monitoring					
<i>C. dubia</i> Chronic - monitoring					

14. STORMWATER REQUIREMENTS

The federal regulations at 40 CFR Part 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 CFR Part 122.26(g) if several conditions can be certified. This facility was issued a “No Exposure” Exclusion under NPDES Tracking number ARR000091.

15. SAMPLE TYPE AND FREQUENCY

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

Requirements for sample type and sampling frequency have been based on the previous discharge permit.

Parameter	Previous Permit		Draft Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
Flow	once/day	totalizing meter	once/day	totalizing meter
CBOD ₅	three/week	composite	three/week	composite
TSS	three/week	composite	three/week	composite
NH ₃ -N	three/week	composite	three/week	composite
DO	three/week	grab	three/week	grab
FCB	three/week	grab	three/week	grab
TRC	three/week	grab	three/week	grab
TP				
Tier I	N/A	N/A	N/A	N/A
Tier II	once/month	grab	once/month	grab
NO ₃ + NO ₂ - N				
Tier I	N/A	N/A	N/A	N/A
Tier II	once/month	grab	once/month	grab
pH	three/week	grab	three/week	grab

16. PERMIT COMPLIANCE SCHEDULE

A Schedule of Compliance has not been included in this permit. Compliance with all permit requirements is required on the effective date 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. [Application No. AR0034126 received March 4, 2020, with all additional information received by March 10, 2020.](#)

- B. [Permit Modification Application No. AR0034126 and state construction permit application No. AR0034126C received on July 18, 2019, with additional information received July 29, 2019.](#)
- C. Arkansas Water Quality Management Plan (WQMP).
- D. APC&EC Rule No. 2.
- E. APC&EC Rule No. 3.
- F. APC&EC Rule No. 6, which incorporates by reference certain federal regulations included in Title 40 of the Code of Federal Regulations at Rule 6.104.
- G. 40 CFR Parts 122, 125, 133, and 403.
- H. Discharge permit file AR0034126.
- I. Discharge Monitoring Reports (DMRs).
- J. "2018 Integrated Water Quality Monitoring and Assessment Report," DEQ.
- K. "2018 List of Impaired Waterbodies (303(d) List)," DEQ, May 2020.
- L. "Low-Flow Characteristics and Regionalization of Low-Flow Characteristics for Selected Streams in Arkansas," U.S. Dept. of the Interior, U.S. Geological Survey, Scientific Investigations Report 2008-5065.
- M. Continuing Planning Process (CPP).
- N. Technical Support Document for Water Quality-based Toxic Control.
- O. [Inspection Report dated June 29, 2018.](#)
- P. [Classification of Municipal Wastewater Treatment Plants dated March 16, 2020.](#)
- Q. [Compliance Review Memo from Gavin Gray to Terry Liu dated March 17, 2020.](#)
- R. [Water Quality Model dated August 26, 2019.](#)
- S. EPA Comment to Preliminary Draft Permit Letter, dated February 1, 2021, from Maria L. Martinez of EPA to Bryan Leamons of DEQ.

19. PUBLIC NOTICE

The public notice describes the procedures for the formulation of final determinations and shall provide for a public comment period of 30 days. During this period, any interested persons may submit written comments on the permit and may request a public hearing to clarify issues involved in the permitting decision. A request for a public hearing shall be in writing and shall state the nature of the issue(s) proposed to be raised in the hearing.

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 Department of Arkansas Heritage, the EPA, and the Arkansas Department of Health.

20. PERMIT FEE

In accordance with Rule No. 9.403(B), the annual fee for the permit is calculated from the Design Flow (Q, in MGD) as follows:

$$\text{Fee} = \$5,000 + (900 \times (Q-1)) = \$5,000 + (900 \times (5.908-1)) = \$9,417$$

21. POINT OF CONTACT

For additional information, contact:

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Division of Environmental Quality
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DRAFT