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Permit number: AR0039268

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

In accordance with the provisions of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended, Ark. Code Ann. 8-4-101 et seq.), and the Clean Water Act (33 U.S.C. 1251 et seq.),

Tyson Foods, Inc.-Clarksville
P. O. Box 469
Clarksville, AR 72830

is authorized to discharge from a facility located at

1307 South Crawford, approximately 1.5 miles northeast of the Spadra Feed Mill, in Section 8, Township 9 North, Range 23 West in Johnson County, Arkansas.

Latitude: 35° 26' 40"; Longitude: 93° 29' 12"

to receiving waters named:

Blue Creek, thence to Spadra Creek, thence to the Arkansas River in Segment 3H of the Arkansas River Basin.

The outfall is located at the following coordinates:

Outfall 001: Latitude: 35° 26' 37"; Longitude: 93° 29' 00"

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

This permit shall become effective on

This permit and the authorization to discharge shall expire at midnight,

Signed this day of

Martin Maner, P.E.
Chief, Water Division
Arkansas Department of Environmental Quality

PART I PERMIT REQUIREMENTS

SECTION A. INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 001-treated industrial wastewater

During the period beginning on effective date and lasting for one year from the effective date, the permittee is authorized to discharge from outfall serial number 001. Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max		
Flow ¹	N/A	N/A	Report	Report	Once/day	Totalizing meter
Carbonaceous Biochemical Oxygen Demand (CBOD5)	123	185	10	15	Twice/month ⁴	6-hr composite
Total Suspended Solids (TSS)	185	284	15	23	Once/week	6-hr composite
Ammonia Nitrogen (NH3-N)						
(May-Oct)	62	99	5	8	Once/week	6-hr composite
(Nov-April)	82	136	6	11	Once/week	6-hr composite
Dissolved Oxygen ²	N/A	N/A	5.0 (Min.)		Twice/month ⁴	Grab
Fecal Coliform Bacteria (FCB)			(colonies/100ml)			
	N/A	N/A	400(Inst. Max)		Twice/month ⁴	Grab
Oil and Grease (O & G)	123	185	10	15	Twice/month ⁴	Grab
Total Nitrogen	1,347	1,926	106	151	Once/month	Grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	Twice/month ⁴	Grab
Chronic Biomonitoring ³	N/A	N/A	N/A	N/A	Once/quarter	24-hr composite
<u>Pimephales promelas (Chronic)</u> ³ Pass/Fail Lethality (7-day NOEC) TLP6C Pass/Fail Growth (7-day NOEC)TGP6C Survival (7-day NOEC) TOP6C Coefficient of Variation TQP6C Growth (7-day NOEC) TPP6C			<u>7-Day Average</u> Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report % Report % Report %		Once/quarter Once/quarter Once/quarter Once/quarter Once/quarter	24-hr composite 24-hr composite 24-hr composite 24-hr composite 24-hr composite
<u>Ceriodaphnia dubia (Chronic)</u> ³ Pass/Fail Lethality (7-day NOEC) TLP3B Pass/Fail Growth (7-day NOEC)TGP3B Survival (7-day NOEC) TOP3B Coefficient of Variation TQP3B Growth (7-day NOEC) TPP3B			<u>7-Day Average</u> Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report % Report % Report %		Once/quarter Once/quarter Once/quarter Once/quarter Once/quarter	24-hr composite 24-hr composite 24-hr composite 24-hr composite 24-hr composite

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- 1 Report monthly average and daily maximum as MGD.
 - 2 See Part IV, Item 27.
 - 3 See Condition No. 3 of Part III (Biomonitoring Requirements).
 - 4 Twice/month = Once/2 weeks
-

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. No visible sheen (Sheen means an iridescent appearance on the surface of the water).

Samples taken in compliance with the monitoring requirements specified above for all parameters, except flow shall be taken at the discharge from the final treatment unit (cascade post aeration). Flow shall be measured after the chlorine contact chamber and prior to post aeration.

**PART I
PERMIT REQUIREMENTS**

SECTION A. FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 001-treated industrial wastewater

During the period beginning one year from the effective date and lasting until date of expiration, the permittee is authorized to discharge from outfall serial number 001. Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max		
Flow ¹	N/A	N/A	Report	Report	Once/day	Instantaneous
Carbonaceous Biochemical Oxygen Demand (CBOD5)	123	185	10	15	Twice/month ⁴	6-hr composite
Total Suspended Solids (TSS)	185	284	15	23	Once/week	6-hr composite
Ammonia Nitrogen (NH3-N)						
(April)	Report	69	Report	5.6	Once/week	6-hr composite
(May-Oct)	62	69	5	5.6	Once/week	6-hr composite
(Nov-March)	82	136	6	11	Once/week	6-hr composite
Dissolved Oxygen ²	N/A	N/A	5.0 (Min.)		Twice/month ⁴	Grab
Fecal Coliform Bacteria (FCB)			(colonies/100ml)			
	N/A	N/A	400(Inst. Max)		Twice/month ⁴	Grab
Oil and Grease (O & G)	123	185	10	15	Twice/month ⁴	Grab
Total Nitrogen	1,347	1,926	106	151	Once/month	Grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	Twice/month ⁴	Grab
Chronic Biomonitoring ³	N/A	N/A	N/A	N/A	Once/quarter	24-hr composite
<u>Pimephales promelas (Chronic)³</u> Pass/Fail Lethality (7-day NOEC) TLP6C Pass/Fail Growth (7-day NOEC)TGP6C Survival (7-day NOEC) TOP6C Coefficient of Variation TQP6C Growth (7-day NOEC) TPP6C			<u>7-Day Average</u> Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report % Report % Report %		Once/quarter Once/quarter Once/quarter Once/quarter Once/quarter	24-hr composite 24-hr composite 24-hr composite 24-hr composite 24-hr composite
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- 1 Report monthly average and daily maximum as MGD.
 - 2 See Part IV, Item 27.
 - 3 See Condition No. 3 of Part III (Biomonitoring Requirements).
 - 4 Twice/month = Once/2 weeks
-

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. No visible sheen (Sheen means an iridescent appearance on the surface of the water).

Samples taken in compliance with the monitoring requirements specified above for all parameters, except flow shall be taken at the discharge from the final treatment unit(cascade post aeration). Flow shall be measured after the chlorine contact chamber and prior to post aeration.

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SECTION B. SCHEDULE OF COMPLIANCE

The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedule:

Compliance with the interim effluents limitations for Ammonia Nitrogen is required on the effective date of the permit.

Compliance with the final effluent limitations for Ammonia Nitrogen is required one year from the effective date of the permit.

PART II 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; or for denial of a permit renewal application. **Any values reported in the required Discharge Monitoring Report 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 ten thousand dollars (\$10,000) or by both such fine and imprisonment for each day of such violation. Any person who violates any provision of a permit issued under the Act may also be subject to civil penalty in such amount as the court shall find appropriate, not to exceed ten thousand dollars (\$10,000) for each day of such violation. The fact that any such violation may constitute a misdemeanor shall not be a bar to the maintenance of such civil action.

3. Permit Actions

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

- a. Violation of any terms or conditions of this permit; or
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge; or
- d. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.
- e. Failure of the permittee to comply with the provisions of APCEC Regulation No. 9 (Permit fees) as required by condition II A.10 herein.

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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 II. A.3., if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Regulation No. 2, as amended, (regulation establishing water quality standards for surface waters of the State of Arkansas) or Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitations on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standards or prohibition and the permittee so notified.

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

5. Civil and Criminal Liability

Except as provided in permit conditions on “Bypassing” (Part II.B.4.a.), and “Upsets” (Part II.B.5.b), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of this permit or applicable state and federal statutes or regulations which defeats the regulatory purposes of the permit may be subject the permittee to criminal enforcement pursuant to the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

6. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject 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

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

9. Severability

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

10. Permit Fees

The permittee shall comply with all applicable permit fee requirements for wastewater discharge permits as described in APCEC Regulation No. 9 (Regulation for the Fee System for Environmental Permits). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to terminate this permit under the provisions of 40 CFR 122.64 and 124.5 (d), as adopted in APCEC Regulation No. 6 and the provisions of APCEC Regulation No. 8.

SECTION B – OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

- a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- b. The permittee shall provide an adequate operating staff which is duly qualified to carryout operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

2. Need to Halt or Reduce not a Defense

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

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3. Duty to Mitigate

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

4. Bypass of Treatment Facilities

a. **Bypass not exceeding limitation.**

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

b. **Notice**

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

c. **Prohibition of bypass**

- (1) Bypass is prohibited and the Director may take enforcement action against a permittee for bypass, unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal or preventive maintenance; and
 - (c) The permittee submitted notices as required by Part II.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 II.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 base permit effluent limitations if the requirements of Part II.B.5.b of this section are met. No determination made during administrative review of claims that

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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 II.D.6.: and
 - (4) The permittee complied with any remedial measures required by Part II.B.3.
- c. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. Removed Substances

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

7. Power Failure

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

SECTION C: MONITORING AND RECORDS

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Director. Intermittent discharges shall be monitored.

2. Flow Measurement

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to insure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to insure the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than +/-

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10% from true discharge rates throughout the range of expected discharge volumes and shall be installed at the monitoring point of the discharge.

3. **Monitoring Procedures**

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals frequent enough to insure accuracy of measurements and shall insure that both calibration and maintenance activities will be conducted. An adequate analytical quality control program, including the analysis of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory. At a minimum, spikes and duplicate samples are to be analyzed on 10% of the samples.

4. **Penalties for Tampering**

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

5. **Reporting of Monitoring Results**

Monitoring results must be reported on a Discharge Monitoring Report (DMR) form (EPA No. 3320-1). Permittees are required to use preprinted DMR forms provided by ADEQ, unless specific written authorization to use other reporting forms is obtained from ADEQ. Monitoring results obtained during the previous calendar month shall be summarized and reported on a DMR form postmarked no later than the 25th day of the month, following the completed reporting period to begin on the effective date of the permit. Duplicate copies of DMR's signed and certified as required by Part II.d.11 and all other reports required by Part II.D. (Reporting Requirements), shall be submitted to the Director at the following address:

NPDES Enforcement Section
Water Division
Arkansas Department of Environmental Quality
8001 National Drive
P.O. Box 8913
Little Rock, AR 72219-8913

If permittee uses outside laboratory facilities for sampling and/or analysis, the name and address of the contract laboratory shall be included on the DMR.

6. **Additional Monitoring by the Permittee**

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If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the results of 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) analyses were formed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The measurements and results of such analyses.

9. Inspection and Entry

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

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

SECTION D – REPORTING REQUIREMENTS

1. Planned Changes

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The permittee shall give notice and provide plans and specification to the Director for review and approval prior to any planned physical alterations or additions to the permitted facility. Notice is required only when:

For Industrial Dischargers

- a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29(b).
- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40CFR Part 122.42 (a)(1).

For POTW Dischargers:

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

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 II.C.5. (Reporting). **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

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14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

6. **Twenty-four Hour Report**

a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain the following information:

- (1) a description of the noncompliance and its cause;
- (2) the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- (3) steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.

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

- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
- (2) Any upset which exceeds any effluent limitation in the permit and
- (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part III of the permit to be reported within 24 hours.

c. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

7. **Other Noncompliance**

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

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

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

- a. That any activity has occurred or will occur which would result in the discharge, in a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the “notification levels” described in 40 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**

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

10. Duty to reapply

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

11. Signatory Requirements

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

a. All permit applications shall be signed as follows:

(1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

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

(ii) The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship: by a general partner or proprietor, respectively; or

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

(i) The chief executive officer of the agency, or

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

b. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person.

A person is a duly authorized representative only if:

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- (1) The authorization is made in writing by a person described above.
- (2) The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
- (3) The written authorization is submitted to the Director.

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

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

12. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2 and Regulation 6, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department of Pollution and Ecology. 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 II.A.2. and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

PART III OTHER CONDITIONS

1. The operator of this wastewater treatment facility shall be licensed by the State of Arkansas in accordance with Act 1103 of 1991, Act 556 of 1993, Act 211 of 1971, and Regulation No. 3, as amended.
2. 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 water body, or a Total Maximum Daily Load (TMDL) is established or revised for the water body that were not available at the time of permit issuance that would have justified the application of different permit conditions at the time of permit issuance.
3. **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: **001**

CRITICAL DILUTION (%): **100%**

EFFLUENT DILUTION SERIES (%): **100%,75%,56%,42%,32%**

COMPOSITE SAMPLE TYPE: Defined at PART I

TEST SPECIES/METHODS: 40 CFR Part 136

Ceriodaphnia dubia chronic static renewal survival and reproduction test, Method 1002.0, EPA/600/4-91/002 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/600/4-91/002, 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 defined as the greatest effluent dilution at and below which lethality that is statistically different from the control (0% effluent) at the 95% confidence level does not occur. 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.
- 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.
- d. Test failure is defined as a demonstration of statistically significant sub-lethal or lethal effects to a test species at or below the effluent critical dilution.

2. PERSISTENT LETHALITY The requirements of this subsection apply only when a toxicity test demonstrates significant lethal effects at or below the critical dilution. Significant lethal effects are herein defined as a statistically significant difference at the 95% confidence level between the survival of the appropriate test organism in a specified effluent dilution and the control (0% effluent).

a. Part I Testing Frequency Other Than Monthly

- i. The permittee shall conduct a total of two (2) additional tests for any species that demonstrates significant lethal effects at or below the critical dilution. The two additional tests shall be conducted monthly during the next two consecutive months. The permittee shall not substitute either of the two additional tests in lieu of routine toxicity testing. The 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 one or both of the two 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 ADEQ in writing within 5 days of the failure of any retest, and the

TRE initiation date will be the test completion date of the first failed retest. A TRE may be also be required due to a demonstration of persistent significant sub-lethal effects or intermittent lethal effects at or below the critical dilution, or for failure to perform the required retests.

- iii. If one or both of the two additional tests demonstrates significant lethal effects at or below the critical dilution, the permittee shall henceforth increase the frequency of testing for this species to once per quarter for the life of the permit.
- iv. The provisions of Item 2.a are suspended upon submittal of the TRE Action Plan.

b. Part I Testing Frequency of Monthly

The permittee shall initiate the Toxicity Reduction Evaluation (TRE) requirements as specified in Item 5 of this section when any two of three consecutive monthly toxicity tests exhibit significant lethal effects at or below the critical dilution. A TRE may be also be required due to a demonstration of persistent significant sub-lethal effects or intermittent lethal effects at or below the critical dilution, or for failure to perform the required retests.

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.

- iv. 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.
- v. 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.
- vi. The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal or nonlethal 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.

Test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%. A repeat test shall be conducted within the required reporting period of any test determined to be invalid.

b. Statistical Interpretation

- 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/600/4-91/002 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/600/4-91/002 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 an 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.

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- 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 are representative of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on an intermittent basis.
- iii. 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 4 degrees Centigrade during collection, shipping, and/or storage.
- iv. If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum number of effluent portions and the sample holding time are waived during that sampling period. However, the permittee must collect an effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days 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.
- v. 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.
- vi. 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/600/4-91/002, 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 II.C.7 of this permit. The permittee shall submit full reports upon the specific request of the Department. For any test which fails, is considered invalid or which is terminated early for any reason, the full report must be submitted for 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 biomonitoring data for each species is to be recorded on the DMR for each reporting period. The data submitted should reflect the LOWEST survival results for each species during the reporting period. All invalid tests, repeat tests (for invalid tests), and retests (for tests previously failed) performed during the reporting period must be attached to the DMR for ADEQ review.
- c. The permittee shall submit the results of each valid toxicity test on DMR for that reporting period in accordance with PART II.D.4 of this permit, as follows below. Submit retest information clearly marked as such with the following 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) If the No Observed Effect Concentration (NOEC) for growth is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TGP6C.
 - (C) Report the NOEC value for survival, Parameter No. TOP6C.

- (D) Report the NOEC value for growth, Parameter No. TPP6C.
- (E) Report the highest (critical dilution or control) Coefficient of Variation, Parameter No. TQP6C.

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) If the No Observed Effect Concentration (NOEC) for reproduction is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TGP3B.
- (B) Report the NOEC value for survival, Parameter No. TOP3B.
- (C) Report the NOEC value for reproduction, Parameter No. TPP3B.
- (E) Report the higher (critical dilution or control) Coefficient of Variation, Parameter No. TQP3B.

5. Monitoring Frequency Reduction

- a. The permittee may apply for a testing frequency reduction upon the successful completion of the first four consecutive quarters of testing for one or both test species, with no lethal or sub-lethal effects demonstrated at or below the critical dilution without a major modification. 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 Department will issue a letter of confirmation of the monitoring frequency reduction.

A copy of the letter will be forwarded to the Permit Compliance System section to update the permit reporting requirements.

- c. SUB-LETHAL FAILURES - If a statistically significant sub-lethal effect is demonstrated at or below the critical dilution during any quarterly test, the permittee shall conduct two retests. The retests shall be conducted monthly during the next two consecutive months.

If during the first four quarters, statistically significant sub-lethal effects are exhibited, quarterly testing will be required for that species until the effluent passes both the lethal and sub-lethal tests endpoints for the affected species, for four consecutive quarters. After passing four consecutive quarters for the affected species the permittee may request a reduction in testing frequency. Monthly retesting is not required if the permittee is performing a TRE.

- d. SURVIVAL FAILURES - If any test fails the survival endpoint at any time during the life of this permit, two monthly retests are required and the monitoring frequency for the affected test species shall be increased to once per quarter until the permit is re-issued. Monthly retesting is not required if the permittee is performing a TRE.
- e. This monitoring frequency reduction 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.

6. TOXICITY REDUCTION EVALUATION (TRE)

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

- 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 (800) 553-6847, 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:
- i. any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;
 - ii. any studies/evaluations and results on the treatability of the facility's effluent toxicity; and
 - iii. any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant lethality at the critical dilution.
- d. The permittee shall submit a Final Report on Toxicity Reduction Evaluation Activities no later than twenty-eight (28) months from confirming lethality in the retests, which provides information pertaining to the specific control mechanism selected that will, when implemented, result in reduction of effluent toxicity to no significant lethality at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism.

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

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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).

PART IV DEFINITIONS

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

1. **“Act”** means the Clean Water Act, Public Law 95-217 (33.U.S.C. 1251 et seq.) as amended.
2. **“Administrator”** means the Administrator of the U.S. Environmental Protection Agency.
3. **“Applicable effluent standards and limitations”** means all State and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.
4. **“Applicable water quality standards”** means all water quality standards to which a discharge is subject under the federal Clean Water Act and which has been (a) approved or permitted to remain in effect by the Administrator following submission to the Administrator pursuant to Section 303 (a) of the Act, or (b) promulgated by the Director pursuant to Section 303(b) or 303(c) of the Act, and standards promulgated under regulation No. 2, as amended, (regulation establishing water quality standards for surface waters of the State of Arkansas.)
5. **“Bypass”** means the intentional diversion of waste streams from any portion of a treatment facility.
6. **“Daily Discharge”** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.
Mass Calculations: For pollutants with limitations expressed in terms of mass, the “daily discharge” is calculated as the total mass of pollutant discharged over the sampling day.
Concentration Calculations: For pollutants with limitations expressed in other units of measurement, determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the “daily discharge” determination of concentration shall be the arithmetic average (weighted by flow value) of all the samples collected during that sampling day by using the following formula: where C= daily concentration, F=daily flow and n=number of daily samples; daily average discharge

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

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

9. **“Department”** means the Arkansas Department of Environmental Quality (ADEQ).
10. **“Director”** means the Administrator of the U.S. Environmental Protection Agency and/or the Director of the Arkansas Department of Environmental Quality.
11. **“Grab sample”** means an individual sample collected in less than 15 minutes in conjunction with an instantaneous flow measurement.
12. **“Industrial User”** means a nondomestic discharger, as identified in 40 CFR 403, introducing pollutants to a publicly-owned treatment works.
13. **“National Pollutant Discharge Elimination System”** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318 and 405 of the Clean Water Act.
14. **“POTW”** means a Publicly Owned Treatment Works.
15. **“Severe property damage”** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in products.
16. **“APCEC”** means the Arkansas Pollution Control and Ecology Commission.
17. **“Sewage sludge”** means the solids, residues, and precipitate separated from or created in sewage by the unit processes a publicly-owned treatment works. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and storm water runoff that are discharged to or otherwise enter a publicly-owned treatment works.
18. **“7-day average”** discharge limitation, other than for fecal coliform bacteria, is the highest allowable arithmetic means of the values for all effluent samples collected during the calendar week. The 7-day average for fecal coliform bacteria is the geometric mean of the values of all effluent samples collected during the calendar week in colonies/100 ml. The DMR should report the highest 7-day average obtained during the calendar month. For reporting purposes, the 7-day average values should be reported as occurring in the month in which the Saturday of the calendar week falls in.
19. **“30-day average”**, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. The 30-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar month. For Fecal Coliform Bacteria (FCB) report the monthly average as a 30-day geometric mean in colonies per 100 ml.
20. **“24-hour composite sample”** consists of a minimum of 12 effluent portions collected at equal time intervals over the 24-hour period and combined proportional to flow or a sample collected at frequent intervals proportional to flow over the 24-hour period.
21. **“12-hour composite sample”** consists of 12 effluent portions, collected no closer together than one hour and composited according to flow. The daily sampling intervals shall include the highest flow periods.

22. **“6-hour composite sample”** consists of six effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.

23. **“3-hour composite sample”** consists of three effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.

24. **“Treatment works”** means any devices and systems used in storage, treatment, recycling, and reclamation of municipal sewage and industrial wastes, of a liquid nature to implement section 201 of the Act, or necessary to recycle reuse water at the most economic cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities, and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

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

26. **“For Fecal Coliform Bacteria”**, a sample consists of one effluent grab portion collected during a 24-hour period at peak loads. For Fecal Coliform Bacteria (FCB) report the monthly average as a 30-day geometric mean in colonies per 100 ml.

27. **“Dissolved oxygen limit”**, shall be defined as follows:

- a. When limited in the permit as a monthly minimum, shall mean the lowest acceptable monthly average value, determined by averaging all samples taken during the calendar month;
- b. When limited in the permit as an instantaneous minimum value, shall mean that no value measured during the reporting period may fall below the stated value.

28. **The term “MGD”** shall mean million gallons per day.

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

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

31. **The term “cfs”** shall mean cubic feet per second.

32. **The term “ppm”** shall mean part per million.

33. **The term “s.u.”** shall mean standard units.

34. 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 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 Discharge Monitoring report shall be submitted by the 25th of the month following the monitoring period end date.

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

QUARTERLY:

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

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

SEMI-ANNUAL:

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

ANNUAL or YEARLY:

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

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Statement of Basis

For renewal of draft NPDES Permit Number AR0039268 to discharge to Waters of the State

1. PERMITTING AUTHORITY.

The issuing office is:

Arkansas Department of Environmental Quality
8001 National Drive
Post Office Box 8913
Little Rock, Arkansas 72219-8913

2. APPLICANT.

The applicant is:

Tyson Foods, Inc.-Clarksville
P. O. Box 469
Clarksville, AR 72830

3. PREPARED BY.

The permit was prepared by:

Marysia Jastrzebski, P.E.
NPDES Branch, Water Division

4. DATE PREPARED.

The permit was prepared on April 28, 2005.

5. PREVIOUS PERMIT ACTIVITY.

Effective Date: March 1, 2000
Expiration Date: February 28, 2005

The permittee submitted a permit renewal application on 09/02/2004 . It is proposed that the current NPDES permit be reissued for a 5-year term in accordance with regulations promulgated at 40 CFR Part 122.46(a).

6. RECEIVING STREAM SEGMENT AND DISCHARGE LOCATION.

The outfall is located at the following coordinates:

Latitude: 35° 26' 37" Longitude: 93° 29' 00"

The receiving waters named:

Blue Creek, thence to Spadra Creek, thence to the Arkansas River in Segment 3H of the Arkansas River Basin. The receiving stream is a Water of the State classified for secondary contact recreation, raw water source for public, industrial, and agricultural water supplies, propagation of desirable species of fish and other aquatic life, and other compatible uses.

7. **303d List and Endangered Species Considerations**

A. **303d List**

The receiving stream is not listed on the 303d list. Therefore no permit action is needed.

B. **Endangered Species:**

No comments were received from the U.S. Fish and Wildlife Service (USF&WS). Therefore no permit action is needed. The drafted permit and Statement of Basis will be sent to the USF&WS for their review.

8. **OUTFALL AND TREATMENT PROCESS DESCRIPTION.**

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

Maximum Reported Flow: 1.48 MGD(March 2003). This facility receives the following wastestreams from four facilities:

Tyson Chicken processing plant – process wastewater; max. reported flow- 1.36 mgd (March 2003)

Tyson Poultry Meal and Oil protein plant – process wastewater; max reported flow – 0.16 mgd (August 2004)

Spadra Feed Mill (seep water) and Natural Dam Hatchery (evaporation wastewater); Max. reported flow – 0.010 mgd (October 2004)

Type of treatment: screening, equalization basin (optional), dissolved air flotation (optional), anaerobic lagoon, oxidation ditch, clarification, chlorination, and post aeration.

Discharge Description: treated industrial wastewater.

9. **APPLICANT ACTIVITY.**

The applicant's activities are the operation of poultry slaughtering and processing and rendering facilities.

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10. SEWAGE SLUDGE PRACTICES.

Sludge is stored in the lagoon until is land applied under a separate permit.

11. PERMIT CONDITIONS.

The Arkansas Department of Environmental Quality has made a tentative determination to issue a permit for the discharge described in the application. Permit requirements are based on NPDES regulations (40 CFR Parts 122, 124, and Subchapter N) and regulations promulgated pursuant to the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended, Ark. Code Ann. 8-4-101 et. seq.).

a. Interim Effluent Limitations

Outfall 001-treated industrial wastewater

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

<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.	Daily Max	Monthly Avg.	Daily Max		
Flow	N/A	N/A	Report	Report	Once/day	Totalizing meter
Carbonaceous Biochemical Oxygen Demand (CBOD5)	123	185	10	15	Twice/month	6-hr composite
Total Suspended Solids (TSS)	185	284	15	23	Once/week	6-hr composite
Ammonia Nitrogen (NH3-N)						
(May-Oct)	62	99	5	8	Once/week	6-hr composite
(Nov-April)	82	136	6	11	Once/week	6-hr composite
Dissolved Oxygen	N/A	N/A	5.0 (Min.)		Twice/month	Grab
Fecal Coliform Bacteria (FCB)			(colonies/100ml)			
	N/A	N/A	400(Inst. Max)		Twice/month	Grab
Oil and Grease (O & G)	123	185	10	15	Twice/month	Grab
Total Nitrogen	1,347	1,926	106	151	Once/month	Grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	Twice/month	Grab
Chronic Biomonitoring	N/A	N/A	See Section 12 F Page 15		Once/quarter	24-hr composite

b. Final Effluent Limitations

Outfall 001-treated industrial wastewater

i. Conventional and/or Toxic Pollutants

<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.	Daily Max	Monthly Avg.	Daily Max		
Flow	N/A	N/A	Report	Report	Once/day	Totalizing meter
Carbonaceous Biochemical Oxygen Demand (CBOD5)	123	185	10	15	Twice/month	6-hr composite
Total Suspended Solids (TSS)	185	284	15	23	Once/week	6-hr composite
Ammonia Nitrogen (NH3-N)						
(April)	Report	69	Report	5.6	Once/week	6-hr composite
(May-Oct)	62	69	5	5.6	Once/week	6-hr composite
(Nov-March)	82	136	6	11	Once/week	6-hr composite
Dissolved Oxygen	N/A	N/A	5.0 (Min.)		Twice/month	Grab
Fecal Coliform Bacteria (FCB)			(colonies/100ml)			
	N/A	N/A	400(Inst. Max)		Twice/month	Grab
Oil and Grease (O & G)	123	185	10	15	Twice/month	Grab
Total Nitrogen	1,347	1,926	106	151	Once/month	Grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	Twice/month	Grab
Chronic Biomonitoring	N/A	N/A	See Section 12 F Page 15		Once/quarter	24-hr composite

ii. **Solids, Foam, and Free Oil:** There shall be no discharge of distinctly visible solids, scum or foam of a persistent nature, nor shall there be any formation of slime, bottom deposits or sludge banks. No visible sheen (Sheen means an iridescent appearance on the surface of the water).

12. BASIS FOR PERMIT CONDITIONS.

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 tentative decisions as required under 40 CFR 124.7 (48 FR 1413, April 1, 1983).

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

Following regulations promulgated at 40 CFR Part 122.44 (1) (2) (ii), 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.

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

Following regulations promulgated at 40 CFR Part 122.44 (1) (2) (ii), the final permit limits are based on either technology-based effluent limits pursuant to 40 CFR Part 122.44 (a) or on State water quality standards and requirements pursuant to 40 CFR Part 122.44 (d), whichever are more stringent.

C. Technology-Based Effluent Limitations and/or Conditions

(1) General Comments

Regulations promulgated at 40 CFR Part 122.44 (a) require technology-based effluent limitations to be placed in NPDES permits based on effluent limitations guidelines where applicable.

The wastewater treatment plant receives wastewater from four Tyson facilities. Two of the wastestreams, process wastewater from the poultry processing plant(Tyson Chicken) and process wastewater from the rendering plant(Tyson Poultry Meal & Oil) are regulated by the categorical standards. The wastewater trucked from the Spadra Feed Mill and Natural Dam Hatchery is considered to be unregulated and dilute wastestream.

(2) Applicable Effluent Limitations Guidelines or Best Professional Judgment of the Permit Writer

Discharges from facilities of this type (poultry processing plant and rendering plant) are covered by the Federal Effluent Limitations Guidelines for the Meat and Poultry Products Point Source Category. These guidelines were promulgated under 40 CFR Part 432.

(3) Process wastewater (Outfall 001)

Production based limitations, which are calculated using effluent limitation guidelines (ELG) in 40 CFR 432 (Meat and Poultry Products Point Source Category), are based on the following production data reported by the permittee:

(a) Tyson Chicken – Subpart K. Poultry First Processing and Subpart L -Poultry Further Processing:

Poultry first processing for year 2004 – 366,337,966 pounds per year (in units of LWK (live weight killed)).

Poultry Further Processing for year 2004 – 299,328,848 pounds per year (in units of finished product)

BCT limitations for BOD5, Fecal Coliform Bacteria, Oil and Grease, and TSS:

BCT limitations (40 CFR 432.117 & 40 CFR 432.127) are required for BOD5, FCB, O&G, and TSS. BCT limitations are the same as the corresponding limitations specified in 40 CFR 432.112(BPT) and 40 CFR 432.122. They are listed in the following table:

BCT Limits (40 CFR 432.117 = 40 CFR 432.112 = 40 CFR 432.127=40 CFR 432.122)		
Pollutant	Limit (mg/l)	
	Monthly Average	Daily Maximum
BOD5	16	26
FCB	(1)	(1)
O&G	8.0	14.0
TSS	20	30

(1)Maximum of 400 MPN (most probable number) or CFU(colony-forming unit) per 100 ml at any time.

BAT limitations for Ammonia (as N) and Total Nitrogen:

BAT limitations specified in 40 CFR 432.113 and 40 CFR 432.123 are required for Ammonia (as N) and Total Nitrogen. They are listed in the following table:

BAT Limits (40 CFR 432.113 = 40 CFR 432.123)
--

Pollutant	Limit (mg/l)	
	Monthly Average	Daily Maximum
Ammonia (as N)	4.0	8.0
Total Nitrogen	103	147

The technology based effluent limitations can be found in the following table:

Pollutant	Concentration(mg/l)		Mass(lbs/day)(1)	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum
BOD5	16	26	181	295
FCB	400 col/100 ml (Inst. Max)		N/A	N/A
O&G	8	14	91	159
TSS	20	30	227	340
Ammonia(asN)	4.0	8.0	45	91
Total Nitrogen	103	147	1,168	1,667

- (1) Mass limitations are calculated by multiplying the concentration limitations by the maximum monthly average flow of 1.36 mgd (reported for March 2003) and the appropriate conversion factor of 8.34.

(b) Tyson Poultry Meal and Oil – Subpart J- Renderers

Highest production for year 2004 – 165,461,880 pounds of raw material. Since 312 days of production have been reported – 530,326 pounds of raw material per day has been assumed in the following calculations.

BPT limitations for BOD5, Fecal Coliform Bacteria, Oil and Grease, and TSS:

BPT limitations (40 CFR 432.102) are required for BOD5, FCB, O&G, and TSS. They are listed in the following table:

<p>BPT Limits 40 CFR 432.102</p>

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Pollutant	Limit (pounds per 1000 pounds of raw material RM)	
	Monthly Average	Daily Maximum
BOD5	0.17	0.34
FCB	N/A	(1)
O&G	0.10	0.20
TSS	0.21	0.42

(1)Maximum of 400 MPN (most probable number) or CFU(colony-forming unit) per 100 ml at any time.

BAT limitations for Ammonia (as N) and Total Nitrogen:

BAT limitations specified in 40 CFR 432.103 are required for Ammonia (as N) and Total Nitrogen. They are listed in the following table:

BAT Limits (40 CFR 432.103)		
Pollutant	Limit	
	Monthly Average	Daily Maximum
Ammonia (as N)	0.07(1)	0.14(1)
Total Nitrogen	134 mg/l	194 mg/l

(1) pounds per 1000 pounds of raw material (RM)

The technology based effluent limitations can be found in the following table:

Pollutant	Categorical standards (lb per 1000 lbs of RM)		Mass(lbs/day)	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum
BOD5	0.17	0.34	90(1)	180(1)
FCB	400 col/100 ml (Inst. Max)		N/A	N/A
O&G	0.10	0.20	53(1)	106(1)

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TSS	0.21	0.42	111(1)	223(1)
Ammonia(asN)	0.07	0.14	37(1)	74(1)
Total Nitrogen	134 mg/l	194 mg/l	179(2)	259(2)

- (1) Mass limitations are calculated by multiplying the categorical guidelines limitations by the maximum daily production of 530,326 lbs/day.
- (2) Mass limitations are calculated by multiplying the categorical guidelines concentrations by the highest monthly average flow of 0.16 mgd.

(c) Total mass technology based limitations. The following technology based mass effluent limitations have been calculated for the facility:

Pollutant	First and further processing(lbs/day)		Rendering (lbs/day)		Proposed technology based mass limitations (lbs/day)	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum
BOD5	181	295	90	180	271	475
O&G	91	159	53	106	144	265
TSS	227	340	111	223	338	563
Ammonia(asN)	45	91	37	74	82	165
Total Nitrogen	1,168	1,667	179	259	1,347	1,926

The following technology based concentrations have been calculated for each parameter using the combined wastestream formula shown below. This conversion is necessary to enable the comparison with the water quality based limitations expressed as concentrations.

Parameter concentration limitation = $[C_p \times Q_p \times 8.34 + M_r / 8.34 \times Q_r] / (Q_p + Q_r + Q_o) \times 8.34$,

Where:

C_p = BCT/BAT effluent limitations (in mg/l) from 40 CFR 432.117 & 40 CFR 432.127 and/or 40 CFR 432.113 & 40 CFR 432.123 for poultry processing plant

Q_p = maximum reported flow from the poultry processing plant, 1.36 mgd (reported for March 2003)

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Mr = BPT/BAT effluent limitations (in lbs/day) for rendering facilities

Qr = maximum reported flow from the rendering plant, 0.16 mgd (reported for August 2004)

Qo = maximum reported unregulated/dilute flow from the Spadra Feed Mill and Natural Dam Hatchery, 0.01 mgd (reported for October 2004). It is assumed that the unregulated wastestreams from these facilities contain no pollutants, or that concentrations of pollutants in these streams is negligible.

BOD5:

Monthly Average:

$$[(16 \text{ mg/l} \times 1.36 \text{ mgd} \times 8.34) + 90 \text{ lbs/day}/(8.34 \times 0.16 \text{ mgd})]/(1.36 \text{ mgd} + 0.16 \text{ mgd} + 0.01 \text{ mgd}) \times 8.34 = 19.5 \text{ mg/l}$$

Daily Maximum:

$$[(26 \text{ mg/l} \times 1.36 \text{ mgd} \times 8.34) + 180 \text{ lbs/day}/(8.34 \times 0.16 \text{ mgd})]/(1.36 \text{ mgd} + 0.16 \text{ mgd} + 0.01 \text{ mgd}) \times 8.34 = 33.7 \text{ mg/l}$$

O&G:

Monthly Average:

$$[(8 \text{ mg/l} \times 1.36 \text{ mgd} \times 8.34) + 53 \text{ lbs/day}/(8.34 \times 0.16 \text{ mgd})]/(1.36 \text{ mgd} + 0.16 \text{ mgd} + 0.01 \text{ mgd}) \times 8.34 = 10.2 \text{ mg/l}$$

Daily Maximum:

$$[(14 \text{ mg/l} \times 1.36 \text{ mgd} \times 8.34) + 106 \text{ lbs/day}/(8.34 \times 0.16 \text{ mgd})]/(1.36 \text{ mgd} + 0.16 \text{ mgd} + 0.01 \text{ mgd}) \times 8.34 = 18.7 \text{ mg/l}$$

TSS:

Monthly Average:

$$[(20 \text{ mg/l} \times 1.36 \text{ mgd} \times 8.34) + 111 \text{ lbs/day}/(8.34 \times 0.16 \text{ mgd})]/(1.36 \text{ mgd} + 0.16 \text{ mgd} + 0.01 \text{ mgd}) \times 8.34 = 24.3 \text{ mg/l}$$

Daily Maximum:

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$$[(30 \text{ mg/l} \times 1.36 \text{ mgd} \times 8.34) + 223 \text{ lbs/day}/(8.34 \times 0.16 \text{ mgd})]/(1.36 \text{ mgd} + 0.16 \text{ mgd} + 0.01 \text{ mgd}) \times 8.34 = 39.8 \text{ mg/l}$$

Ammonia (as N):

Monthly Average:

$$[(4 \text{ mg/l} \times 1.36 \text{ mgd} \times 8.34) + 37 \text{ lbs/day}/(8.34 \times 0.16 \text{ mgd})]/(1.36 \text{ mgd} + 0.16 \text{ mgd} + 0.01 \text{ mgd}) \times 8.34 = 5.7 \text{ mg/l}$$

Daily Maximum:

$$[(8 \text{ mg/l} \times 1.36 \text{ mgd} \times 8.34) + 74 \text{ lbs/day}/(8.34 \times 0.16 \text{ mgd})]/(1.36 \text{ mgd} + 0.16 \text{ mgd} + 0.01 \text{ mgd}) \times 8.34 = 11.5 \text{ mg/l}$$

Total Nitrogen:

Monthly Average:

$$[(103 \text{ mg/l} \times 1.36 \text{ mgd} \times 8.34) + (134 \times 8.34 \times 0.16 \text{ mgd})]/(1.36 \text{ mgd} + 0.16 \text{ mgd} + 0.01 \text{ mgd}) \times 8.34 = 105.6 \text{ mg/l}$$

Daily Maximum:

$$[(147 \text{ mg/l} \times 1.36 \text{ mgd} \times 8.34) + (194 \text{ mg/l} \times 8.34 \times 0.16 \text{ mgd})]/(1.36 \text{ mgd} + 0.16 \text{ mgd} + 0.01 \text{ mgd}) \times 8.34 = 151 \text{ mg/l}$$

Parameter	Proposed technology based concentration limitations (mg/l)	
	Monthly Average	Daily Maximum
BOD5	20	34
O&G	10	19
TSS	24	40
Ammonia (as N)	6	12
Total Nitrogen	106	151

These technology based effluent limitations are compared with the water quality based limitations in Section E. Final Limitations.

D. State Water Quality Numerical Standards Based Limitations

(1) **Conventional and Non-Conventional Pollutants.**

The water quality-based limits for CBOD5, TSS, and DO have been based on the current NPDES permit, and 40 CFR Part 122.44(l). These limitations are included in the updated Arkansas Water Quality Management Plan (AWQMP). Fecal Coliform Bacteria, pH and Oil and Grease limitations are based on Chapter 5, Sections 2.507, 2.504, and 2.510 of Regulation No. 2 as amended, respectively. They are continued from the previous permit. The calculation of the loadings (lbs per day) uses a maximum reported flow of 1.48 MGD and the following equation:

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

All water quality based effluent limitations are compared with the technology based limitations in Section E. Final Limitations.

Ammonia-Nitrogen

The water quality effluent limitations for Ammonia are based on either DO-based effluent limits or on toxicity-based standards, whichever are more stringent.

The toxicity-based effluent limitations are based on Chapter 5, Section 2.512 of Regulation No. 2 and memo dated March 28, 2005. The following formula has been used to calculate toxicity based Ammonia limits:

$$C_d = (IWC(Q_d + Q_b) - C_b Q_b) / Q_d,$$

Where:

C_d = effluent limit concentration (mg/l)

IWC = Ammonia toxicity standard for Arkansas River Valley Ecoregion per memo dated March 28, 2005 are as follows:

5.6 mg/l Daily Maximum, Report - Monthly Average (April-October)

16.7 mg/l Daily Maximum, Report - Monthly Average (November-March)

Q_d = MAX flow = 1.48 MGD = 2.3 cfs

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

C_b = background concentration = 0 mg/l

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April-October :

Daily Maximum:

$$Cd = [5.6 \text{ mg/l} \times (2.3 \text{ cfs} + 0 \text{ cfs}) - 0 \text{ mg/l} \times 0 \text{ cfs}] / 2.3 = 5.6 \text{ mg/l}$$

November-March:

Daily Maximum:

$$Cd = [16.7 \text{ mg/l} \times (2.3 \text{ cfs} + 0 \text{ cfs}) - 0 \text{ mg/l} \times 0 \text{ cfs}] / 2.3 = 16.7 \text{ mg/l}$$

Months	DO based limit		Toxicity based limit		Water Quality Permit limit	
	Monthly Average mg/l	Daily Maximum, mg/l	Monthly Average, mg/l	Daily Maximum, mg/l	Monthly Average, mg/l	Daily Maximum, mg/l
April	7	11	Report	5.6	Report	5.6
May-October	5	8	Report	5.6	5.0	5.6
November-March	7	11	Report	16.7	7	11

Notes:

Monitoring and reporting requirements for Monthly Average (April) are being included in the permit because the Monthly Average limit cannot exceed the daily maximum limit.

Compliance with the final water quality effluent limitations for NH3-N is required one year from the effective date of the permit.

Ammonia Nitrogen Interim limitations:

Compliance with the interim effluent limitations is required on the effective date of this permit. These interim limits are based on either technology based limits or DO - based NH3-N limits, whichever are more stringent.

Concentrations:

Months	Technology based limit		DO based limit		Interim Permit limit	
	Monthly Average mg/l	Daily Maximum, mg/l	Monthly Average, mg/l	Daily Maximum, mg/l	Monthly Average, mg/l	Daily Maximum, mg/l
May-October	6	12	5	8	5	8
November-April	6	12	7	11	6	11

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Mass:

Months	Technology based limit		DO based limit		Interim Permit limit	
	Monthly Average mg/l	Daily Maximum, mg/l	Monthly Average, mg/l	Daily Maximum, mg/l	Monthly Average, mg/l	Daily Maximum, mg/l
May-October	82	165	62	99	62	99
November-April	82	165	86	136	82	136

E. Final Limitations

The following effluent limitations or "report" requirements were placed in the permit based on the more stringent of the technology-based, water quality-based or previous NPDES permit limitations:

Concentrations:

Parameter	Water Quality-Based		Technology-Based/BPJ		Previous NPDES Permit		Final Permit	
	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l
CBOD5	10	15	N/A	N/A	10	15	10	15
BOD5*	N/A	N/A	20	34	N/A	N/A	N/A*	N/A*
TSS	15	23	24	40	15	23	15	23
NH3-N								
(April)	Report	5.6	6	12	7	11	Report	5.6
(May-Oct)	5	5.6	6	12	5	8	5	5.6
(Nov-March)	7	11	6	12	7	11	6	11
DO	5.0(Min)		N/A		5.0 (Inst. Min)		5.0(Min)	
FCB (col/100ml)								
(Apr-Sept)	1000	2000	400(Inst. Max)		200	400	400(Inst. Max)	
(Oct-Mar)	1000	2000	400(Inst. Max)		1000	2000	400(Inst. Max)	
O & G	10	15	10	19	10	15	10	15

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pH	6.0-9.0 s.u.		N/A		6-9 s.u.		6.0-9.0 s.u.	
Total Nitrogen	N/A	N/A	106	151	N/A	N/A	106	151

* Based on BEJ of the permit writer, there is no need for BOD5 limits in the permit, since, more stringent water quality based CBOD5 limits are included.

Mass (all in units of lbs/day):

Parameter	Water Quality-Based		Technology-Based/BPJ		Previous NPDES Permit		Final Permit	
	Monthly Avg.	Daily Max.	Monthly Avg.	Daily Max.	Monthly Avg.	Daily Max.	Monthly Avg.	Daily Max.
CBOD5	123	185	N/A	N/A	138	206	123	185
BOD5*	N/A	N/A	271	475	N/A	N/A	N/A*	N/A*
TSS	185	284	338	563	206	317	185	284
NH3-N								
(April)	Report	69	82	165	96	151	Report	69
(May-Oct)	62	69	82	165	69	110	62	69
(Nov-March)	86	136	82	165	96	151	82	136
O & G	123	185	144	265	138	206	123	185
Total Nitrogen	N/A	N/A	1,347	1,926	N/A	N/A	1,347	1,926

* Based on BEJ of the permit writer, there is no need for BOD5 limits in the permit, since, more stringent water quality based CBOD5 limits are included.

F. Biomonitoring

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, ADEQ is required under 40 CFR Part 122.44(d)(1), adopted by reference in Regulation 6, to include conditions as necessary to achieve water quality standards as established under Section 303 of the Clean Water Act. 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."

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

FREQUENCY: Once/quarter

Requirements for measurement frequency are based on appendix D of CPP.

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

The calculations for dilution used for chronic biomonitoring are as follows:

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

$$Q_d = \text{Design flow} = 1.48 \text{ MGD} = 2.3 \text{ cfs}$$

$$7Q_{10} = 0 \text{ Cfs}$$

$$Q_b = \text{Background flow} = (0.67) \times 7Q_{10} = 0 \text{ cfs}$$

$$CD = (2.3) / (2.3 + 0) \times 100 = 100 \%$$

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 **32%, 42%, 56%, 75%, and 100%** (See **Attachment I** of CPP). The low-flow effluent concentration (critical dilution) is defined as **100%** effluent. The requirement for chronic biomonitoring 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 indigenous to the geographic area of the facility; the use of these is consistent with the requirements of the State water quality standards. The biomonitoring 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/600/4-91/002, July 1994 and shall be submitted as an attachment to the Discharge Monitoring Report (DMR).

This permit may be reopened to require further biomonitoring studies, Toxicity Reduction Evaluation (TRE) and/or effluent limits if biomonitoring data submitted to the Department shows toxicity in the permittee's discharge. Modification or revocation of this permit is subject to the provisions of 40 CFR 122.62, as adopted by reference in ADEQ Regulation 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** (See **Attachment 1**.)

G. Sample Type and Sampling Frequency

Regulations promulgated at 40 CFR 122.44(i) (1) require permit to establish monitoring requirements which assure compliance with permit limitations. Requirements for sample type and sampling frequency for flow and Ammonia Nitrogen were based on recommended frequencies for self-monitoring of industrial discharges within the flow of 1.0 to 5.0 MGD. CBOD5, Oil and Grease, and FCB monitoring frequencies have been reduced using EPA's *Interim Guidance for Performance - Based Reductions of NPDES Permit Monitoring Frequencies*. Additionally, pH and DO monitoring frequencies have been reduced. Based on 40 CFR 122.44 (1)(2)(i)(B)(1) this decrease in monitoring frequency does not constitute backsliding since information is available which was not available at the time of permit issuance and which would have justified the application of a less stringent effluent limitation at the time of permit issuance. Requirements for sampling type and measurement frequency for biomonitoring have been based on the current NPDES permit. Sampling frequency for BOD5 has been established to be once/year, since CBOD5 is monitored 2/month. Sampling frequency for Total Nitrogen has been established to be once/month, since Ammonia Nitrogen is monitored once/week.

H. Changes from the previously issued permit

1. The coordinates for the facility and Outfall 001 have been corrected.
2. The mass effluent limitations for CBOD5, TSS, and O&G have been revised.
3. The interim and final effluent limitations for NH3-N have been included. A schedule of compliance has been added.
4. The final Monthly Average effluent limitations for NH3-N for April have been changed to a "monitor and report" requirement.

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5. The final Daily Max effluent limitations for NH₃-N for the months of April-October have been revised.
6. The final Monthly Average effluent limitations for NH₃-N for the months of November-March have been changed.
7. The final monthly mass limitations for NH₃-N have been revised.
8. The effluent limitations for BOD₅ and Total Nitrogen have been added.
9. The effluent limitations for pH have been changed from 6-9 s.u. to 6.0-9.0 s.u.
10. The effluent limitations for FCB have been revised.
11. The effluent limitation for DO has been changed from Inst. Minimum to Minimum Monthly Average.
12. Sampling frequencies for CBOD₅, O&G, DO, pH, and FCB have been changed.
13. Sample types for CBOD₅, TSS and NH₃-N have been changed.
14. Parts II, III, and IV have been revised.
15. A footnote in regard to sample location of flow has been revised in Part I of the permit.

13. SCHEDULE OF COMPLIANCE.

Compliance with final effluent limitations is required by the following schedule:

Compliance with the interim effluents limitations for Ammonia Nitrogen is required on the effective date of the permit.

Compliance with the final effluent limitations for Ammonia Nitrogen is required one year from the effective date of the permit.

14. 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.

15. SOURCES.

The following sources were used to draft the permit:

- A. NPDES application No. AR0039268 received 09/02/2004.
- B. Arkansas Water Quality Management Plan (WQMP).
- C. Regulation No. 2.
- D. Regulation No. 6.
- E. 40 CFR 122, 125, 432.
- F. NPDES permit file AR0039268.
- G. Discharge Monitoring Reports (DMRs).
- H. "Arkansas Water Quality Inventory Report 2000 (305B)", ADEQ.

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- I. "Identification and Classification of Perennial Streams of Arkansas", Arkansas Geological Commission.
- J. Continuing Planning Process (CPP). E-mail from Benson to Jastrzebski dated February 18, 2004.
- K. E-mail from Singleton to Jastrzebski dated February 18, 2005.
- L. E-mail from Clem to Jastrzebski, dated February 28, 2005.
- M. E-mail from Cotter to Jastrzebski, dated January 21, 2005.
- N. E-mail from Benson to Jastrzebski, dated January 21, 2004
- O. EPA's "Interim Guidance for Performance - Based Reductions of NPDES Permit Monitoring Frequencies".
- P. E-mails from Scott Johnson, Tyson Foods, Inc. to Jastrzebski dated March 9, 2005, March 11, 2005, and March 29, 2005, containing revised Form 1, revised process line drawing, flow schematic, and responses to questions posed in Jastrzebski's February 25, 2005, e-mail.
- Q. Memorandum dated March 28, 2005, from Mo Shafii, Permits Section Chief to NPDES Engineers.
- R. Site visit on February 23, 2005.

16. 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 draft permit and may request a public hearing to clarify issues involved in the permit 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 draft permit and draft public notice will be sent to the District Engineer, Corps of Engineers, and to the Regional Director of the U.S. Fish and Wildlife Service on a case-by-case basis, and the EPA and Arkansas Department of Health prior to the publication of that notice.

17. NPDES POINT OF CONTACT.

For additional information, contact:

Marysia Jastrzebski, P.E.
NPDES Branch, Water Division
Arkansas Department of Environmental Quality
8001 National Drive
Post Office Box 8913
Little Rock, Arkansas 72219-8913
Telephone: (501) 682-0622

ADEQ

ARKANSAS
Department of Environmental Quality

Date (PN date)

CERTIFIED MAIL: RETURN RECEIPT REQUESTED ()

Mr. Chris Graves, Complex Manager
Tyson Foods, Inc.-Clarksville
P. O. Box 469
Clarksville, AR 72830

RE: Application to Discharge to Waters of the State Permit Number AR0039268

Dear Mr. Graves:

Enclosed is the public notice, Statement of Basis , and a copy of the permit which the Arkansas Department of Environmental Quality has drafted under the authority of the National Pollutant Discharge Elimination System and the Arkansas Water and Air Pollution Control Act. A copy of the final permit will be mailed to you when the Department has made a final permit decision.

The enclosed public notice will be published by ADEQ in the newspaper of general circulation. 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 payment to the following address as soon as possible but no later than XXX(end of PN date here). Until this Department receives proof of publication of the public notice, no further action will be taken on the issuance of your NPDES discharge permit.

Arkansas Department of Environmental Quality
NPDES-Water Division
P.O. Box 8913
Little Rock, AR 72219-8913
501-682-0620 Fax: 501-682-0910

Comments must be received at ADEQ prior to the close of the public comment period as shown in the enclosed public notice. The public comment period will begin on the date of publication and will end no sooner than 30 days from that date. 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 permit, please feel free to contact (501) 682-0622.

Sincerely,

Martin Maner, P.E.
Chief, Water Division

MM:mj

Enclosure

E:\2005\AR0039268_PN

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY NPDES AUTHORIZATION
TO DISCHARGE TO WATERS OF THE STATE, PERMIT NUMBER AR0039268

This is to give notice that the Arkansas Department of Environmental Quality has developed a Draft Permit for the following applicant under the National Pollutant Discharge Elimination System (NPDES) and the Arkansas Water and Air Pollution Control Act.

Tyson Foods, Inc.-Clarksville
P. O. Box 469
Clarksville, AR 72830

The discharge from this facility is made into Blue Creek, thence to Spadra Creek, thence to the Arkansas River in Segment 3H of the Arkansas River Basin. The receiving stream is a Water of the State classified for secondary contact recreation, raw water source for public, industrial, and agricultural water supplies, propagation of desirable species of fish and other aquatic life, and other compatible uses. The facility is located as follows: 1307 South Crawford, approximately 1.5 miles northeast of the Spadra Feed Mill; Latitude: 35° 26' 40"; Longitude: 93° 29' 12" in Section 8, Township 9 North, Range 23 West in Johnson County, Arkansas, and the outfall is located at the following coordinates: Latitude: 35° 26' 37" Longitude: 93° 29' 00". Sludge is stored in the lagoon until is land applied under separate permit. Type of treatment: screening, equalization basin, dissolved air flotation, anaerobic lagoon, oxidation ditch, clarification, chlorination, and post aeration.

Under the standard industrial classification (SIC) codes 2015 and 2077 the applicant's activities are the operation of poultry slaughtering and processing and rendering Operation.

Changes from the previously issued permit are as follows:

1. The coordinates for the facility and Outfall 001 have been corrected.
2. The mass effluent limitations for CBOD5, TSS, and O&G have been revised.
3. The interim and final effluent limitations for NH3-N have been included. A schedule of compliance has been added
4. The final Monthly Average effluent limitations for NH3-N for April have been changed to a "monitor and report" requirement.
5. The final Daily Max effluent limitations for NH3-N for the months of April-October have been revised.
6. The final Monthly Average effluent limitations for NH3-N for the months of November-March have been changed.
7. The final monthly mass limitations for NH3-N have been revised.
8. The effluent limitations for BOD5 and Total Nitrogen have been added.
9. The effluent limitations for pH have been changed from 6-9 s.u. to 6.0-9.0 s.u.
10. The effluent limitations for FCB have been revised.
11. The effluent limitation for DO has been changed from Inst. Minimum to Minimum Monthly Average.
12. Sampling frequencies for CBOD5, O&G, DO, pH, and FCB have been changed.
13. Sample types for CBOD5, TSS and NH3-N have been changed.
14. Parts II, III, and IV have been revised.
15. A footnote in regard to sample location of flow has been revised in Part I of the permit.

The permit(s) will become effective on or after _____ unless:

Comments are received and/or public hearing is requested prior to _____, in which case the permit will be effective on or after _____.

The ADEQ contact person for submitting written comments, requesting information regarding the draft permit, and/or obtaining copies of the permit and the Statement of Basis is:

Marysia Jastrzebski, P.E.
NPDES Branch, Water Division
Arkansas Department of Environmental Quality
Post Office Box 8913
Little Rock, Arkansas 72219-8913
(501) 682-0622

NPDES comments and public hearing procedures may be found at 40 CFR 124.10 through 124.12. The period during which written comments on the draft permit may be submitted extends for 30 days from the date of this notice. During the comment period, any interested person may request a public hearing by filing a written request which must state the technical issues to be raised. A public hearing will be held if ADEQ finds a significant degree of public interest.

ADEQ will notify the applicant, and each person who has submitted written comments or requested notice, of the final permit decision. A final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit. Any interested person who has submitted comments may appeal a final decision by ADEQ in accordance with the Arkansas Department of Environmental Quality Regulation No. 8 (Administrative Procedures).

Attachment 1

**BIOMONITORING FREQUENCY RECOMMENDATION
AND RATIONALE FOR ADDITIONAL REQUIREMENTS**

Permit Number: **AR0039268**

Facility Name: **Tyson Food, Inc. - Clarksville**

Previous Critical Dilution: **100 %** Proposed Critical Dilution: **100 %**

Date of Review: **2-28-05** Name of Reviewer: **Clem**

Number of Test Performed during previous 5 years by Species:

***Pimephales promelas* (Fathead minnow) : 15**

***Ceriodaphnia dubia* (water flea): 16**

Failed Test Dates during previous 5 years by Species:

***Pimephales promelas* (Fathead minnow) : None**

***Ceriodaphnia dubia* (water flea): Sub-lethal: 6-00, 10-00**

Previous TRE Activities: None

Frequency Recommendation by Species:

***Pimephales promelas* (Fathead minnow) : four/year**

***Ceriodaphnia dubia* (water flea): four/year**

Additional Requirements (including WET Limits) Rationale/Comments Concerning Permitting:

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

