

# DRAFT

Permit Number: AR0042846

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

In accordance with the provisions of the Arkansas Water and Air Pollution Control Act (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.),

Ash Grove Cement Company  
P.O. Box 130  
Foreman, AR 71836

is authorized to discharge from a facility located as follows: 4457 Highway 108 West, Forman, AR 71836; approximately two miles southwest of Foreman, AR on Highway 108 West, in Section 28, Township 32 West, Range 12 South, in Little River County, Arkansas.

Latitude: 33° 41' 45"; Longitude: 94° 25' 24"

to receiving waters named:

an unnamed tributary of French Creek, thence to French Creek, thence to Walnut Bayou, thence to the Red River in Segment 1B of the Red River Basin.

The outfalls are located at the following coordinates:

Outfall 001: Latitude: 33° 41' 00"; Longitude: 94° 25' 30"

Outfall 002: Latitude: 33° 41' 30"; Longitude: 94° 25' 30"

Outfall 003: Latitude: 33° 41' 10"; Longitude: 94° 25' 30"

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

Issue Date:

Effective Date:

Expiration Date:

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

**PART I  
PERMIT REQUIREMENTS**

**SECTION A1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 001 – Fishing Lake**  
(active quarry dewatering and stormwater runoff<sup>3</sup>).

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

<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 <sup>2</sup>	Sample Type
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max		
Flow <sup>1</sup>	N/A	N/A	Report	Report	once/month	instantaneous
Total Suspended Solids (TSS)	N/A	N/A	N/A	50 mg/l	once/month	grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab

- 1 Report monthly average and daily maximum as MGD.
- 2 Samples shall be taken at first discharge of the month (See Condition #4 of Part III).
- 3 See Condition # 4 of Part III.

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There shall be no discharge of distinctly visible solids, scum or foam of a persistent nature, nor shall there be any formation of slime, bottom deposits or sludge banks. There shall be no visible sheen due to the presence of oil (Sheen means an iridescent appearance on the surface of the water).

Samples taken in compliance with the monitoring requirements specified above shall be taken at the discharge from the fishing lake.

**PART I**  
**PERMIT REQUIREMENTS**

**SECTION A2. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS:** OUTFALL 002 – Coal Pile Sedimentation Pond (stormwater runoff<sup>3</sup> from coal storage area and closed CKD landfill).

During the period beginning on effective date and lasting until date of expiration, the permittee is authorized to discharge from Outfall 002. 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 <sup>2</sup>	Sample Type
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max		
Flow <sup>1</sup>	N/A	N/A	Report	Report	once/month	instantaneous
Total Suspended Solids (TSS)	N/A	N/A	N/A	50 mg/l	once/month	grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab

- 1 Report monthly average and daily maximum as MGD.
- 2 Samples shall be taken at first discharge of the month (See Condition #4 of Part III).
- 3 See Condition # 4 of Part III.

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There shall be no discharge of distinctly visible solids, scum or foam of a persistent nature, nor shall there be any formation of slime, bottom deposits or sludge banks. There shall be no visible sheen due to the presence of oil (Sheen means an iridescent appearance on the surface of the water).

Samples taken in compliance with the monitoring requirements specified above shall be taken at the discharge from the coal pile sedimentation pond.

**PART I  
PERMIT REQUIREMENTS**

**SECTION A3. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 003 - Process Water Pond (chalk dryer wet scrubber discharge, stormwater runoff<sup>3</sup> from coal processing area, truck washout water, sanitary wastewater treatment lagoon effluent, non-contact cooling water, process area washdown water, and stormwater from the closed Cement Kiln Dust landfill)**

During the period beginning on effective date and lasting until date of expiration, the permittee is authorized to discharge from Outfall 003. 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 <sup>2</sup>	Sample Type
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max		
Flow <sup>1</sup>	N/A	N/A	Report	Report	once/month	instantaneous
Fecal Coliform Bacteria (FCB)			(colonies/100ml)			
(Apr-Sept)	N/A	N/A	200	400	once/month	grab
(Oct-Mar)	N/A	N/A	1000	2000	once/month	grab
Discharge Temperature	N/A	N/A	Report, °F	Report, °F	once/month	in-situ
Total Suspended Solids (TSS)	N/A	N/A	N/A	50 mg/l	once/month	grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab

- 1 Report monthly average and daily maximum as MGD.
- 2 Samples shall be taken at first discharge of the month (See Condition #4 of Part III).
- 3 See Condition # 4 of Part III.

There shall be no discharge of distinctly visible solids, scum or foam of a persistent nature, nor shall there be any formation of slime, bottom deposits or sludge banks. There shall be no visible sheen due to the presence of oil (Sheen means an iridescent appearance on the surface of the water).

Samples taken in compliance with the monitoring requirements specified above shall be taken at the discharge from the process water pond.

**PART I**  
**PERMIT REQUIREMENTS**

**SECTION A4. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: INTERNAL OUTFALL 003A - CKD Pond (runoff from CKD dust landfill).**

During the period beginning on effective date and lasting until date of expiration, the permittee is authorized to discharge from Internal Outfall 003A. 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 <sup>2</sup>	Sample Type
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max		
Flow <sup>1</sup>	N/A	N/A	Report	Report	once/month	instantaneous
Total Suspended Solids (TSS)	N/A	N/A	N/A	50 mg/l	once/month	grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab

- 1 Report monthly average and daily maximum as MGD.
- 2 Samples shall be taken at first discharge of the month (See Condition #4 of Part III).

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There shall be no discharge of distinctly visible solids, scum or foam of a persistent nature, nor shall there be any formation of slime, bottom deposits or sludge banks. There shall be no visible sheen due to the presence of oil (Sheen means an iridescent appearance on the surface of the water).

Samples taken in compliance with the monitoring requirements specified above shall be taken before the discharge to the process water pond.

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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 is required on 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 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.



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## 8. Property Rights

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

## 9. Severability

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

## 10. 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 PART 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

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

### 3. Duty to Mitigate

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

### 4. Bypass of Treatment Facilities

#### 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).

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## 5. Upset Conditions

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

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## 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 +/- 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 25<sup>th</sup> day of the month, following the completed reporting period to begin on the effective date of the permit. Duplicate copies of DMR forms 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

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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

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

## 7. Retention of Records

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

## 8. Record Contents

Records and monitoring information shall include:

- a. The date, exact place, time and methods of sampling or measurements, and preservatives used, if any;
- b. The individuals(s) who performed the sampling or measurements;
- c. The date(s) and time analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; 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

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

## SECTION D – REPORTING REQUIREMENTS

### 1. Planned Changes

The permittee shall give notice 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 40 CFR 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.

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## 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 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 I of the permit to be reported within 24 hours to Enforcement of Water Division of the ADEQ.
- c. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours to Enforcement of Water Division of the ADEQ.

## 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**

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 as follows:

- a. All **permit applications** shall be signed as follows:
  - (1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
    - (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:
- (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 Environmental Quality. As required by the Regulations, the name and address of any permit applicant or permittee, permit applications, permits and effluent data shall not be considered confidential.

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## 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 Industrial 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 a relevant water body, or a Total Maximum Daily Load (TMDL) is established or revised for the water body that was not available at the time of the permit issuance that would have justified the application of different permit conditions at the time of permit issuance.
3. Other Specified Monitoring Requirements

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

- The monitoring and analytical instruments are consistent with accepted scientific practices;
- The requests shall be submitted in writing to the NPDES Section of the ADEQ Water Division for use of the alternate method or instrument.
- The method and/or instrument is in compliance with 40 CFR PART 136 or approved by the Director; and
- All associated devices are installed, calibrated and maintained to insure the accuracy of the measurements and are consistent with accepted capability of that type of device. The calibration and maintenance shall be performed as part of the permittee's laboratory Quality Control/Quality Assurance program.

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

4. Storm Water Pollution Prevention Plan Requirements
  - A. **General**

- (1) If your facility already has a storm water pollution prevention plan (SWPPP) in place, then you shall continue the implementation of this

SWPPP. If you do not have a SWPPP, then you shall prepare a SWPPP for your facility within 60 days of the effective starting date of this permit. Your SWPPP must be prepared in accordance with good engineering practices. Your SWPPP must:

- (a) Identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from your facility;
  - (b) Describe and ensure implementation of practices which you will use to reduce the pollutants in storm water discharges from the facility; and
  - (c) Assure compliance with the terms and conditions of this permit.
- (2) No Exposure Exclusions, as allowed by 40 CFR 122.26(g), can be obtained for the storm water discharges from the facility as long as all of the required conditions for applicability can be certified. These required conditions can be found in the federal regulation. The No Exposure Exclusion application form can be obtained from the Storm Water section of the ADEQ. Application for this exclusion must be made on the form obtained from the ADEQ.

## B. Contents of Plan

### (1) Pollution Prevention Team

- (a) You must identify the staff individual(s) (by name or title) that comprise the facility's storm water Pollution Prevention Team. Your Pollution Prevention Team is responsible for assisting the facility/plant manager in developing, implementing, maintaining and revising the facility's SWPPP. Responsibilities of each staff individual on the team must be listed.

### (2) Site Description

- (a) Your SWPPP must include the following:
  - i. *Activities at Facility.* Description of the nature of the industrial activity(ies) at your facility;
  - ii. *General Location Map.* A general location map (e.g., U.S.G.S. quadrangle, or other map) with enough detail to

identify the location of your facility and the receiving waters within one mile of the facility;

- iii. A legible site map identifying the following:
- (a) Directions of storm water flow (e.g., use arrows to show which ways storm water will flow);
  - (b) Locations of all existing structural BMPs;
  - (c) Locations of all surface water bodies;
  - (d) Locations of potential pollutant sources identified under Section B(4)(a) of this Part and where significant materials are exposed to precipitation;
  - (e) Location where major spills or leaks identified under Section B(5) of this Part have occurred;
  - (f) Locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, and liquid storage tanks;
  - (g) Locations of storm water outfalls and an approximate outline of the area draining to each outfall;
  - (h) Location and description of non-storm water discharges;
  - (i) Locations of the following activities where such activities are exposed to precipitation: processing and storage areas; access roads, rail cars and tracks; the location of transfer of substance in bulk; and machinery;
  - (j) Location and source of runoff from adjacent property containing significant quantities of pollutants of concern to the facility (an evaluation of how the quality of the runoff impacts your storm water discharges may be included).

(3) **Receiving Waters and Wetlands**

- (a) You must provide the name of the nearest receiving water(s), including intermittent streams, dry sloughs, arroyos and the areal extent and description of wetland or other special aquatic sites that may receive discharges from your facility.

(4) **Summary of Potential Pollutant Source**

- (a) You must identify each separate area at your facility where industrial materials or activities are exposed to storm water. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading/unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product. For each separate area identified, the description must include:
- i. *Activities in Area.* A list of the activities (e.g., material storage, equipment fueling and cleaning, cutting steel beams); and
  - ii. *Pollutants.* A list of the associated pollutant(s) or pollutant parameter(s) (e.g., crankcase oil, iron, biochemical oxygen demand, pH, etc.) for each activity. The pollutant list must include all significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three (3) years before being covered under this permit and the present.

(5) **Spills and Leaks**

- (a) You must clearly identify areas where potential spills and leaks, which can contribute pollutants to storm water discharges, can occur, and their accompanying drainage points. For areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility to be covered under this permit, you must provide a list of significant spills and leaks of toxic or hazardous pollutants that occurred during the three (3) year period prior to the starting date of this permit. Your list must be updated if significant spills or leaks occur in exposed areas of your facility during the time you are covered by the permit.

- (b) Significant spills and leaks include, but are not limited to releases of oil or hazardous substances in excess of quantities that are reportable under CWA 311 (see 40 CFR 110.10 AND 40 CFR 117.21) or section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements.

(6) **Sampling Data**

- (a) You must provide a summary of existing storm water discharge sampling data taken at your facility. All storm water sampling data collected during the term of this permit must also be summarized and included in this part of the SWPPP.

(7) **Storm Water Controls**

- (a) Description of Existing and Planned BMPs. Describe the type and location of existing non-structural and structural best management practices (BMPs) selected for each of the areas where industrial materials or activities are exposed to storm water. All the areas identified in Section B(4)(a) of this Part should have a BMP(s) identified for the areas discharges. For areas where BMPs are not currently in place, describe appropriate BMPs that you will use to control pollutants in storm water discharges. Selection of BMPs should take into consideration:
  - i. The quantity and nature of the pollutants, and their potential to impact the water quality of receiving waters;
  - ii. Opportunities to combine the dual purposes of water quality protection and local flood control benefits (including physical impacts of high flows on streams - e.g., bank erosion, impairment of aquatic habitat, etc.);
  - iii. Opportunities to offset the impact impervious areas of the facility on ground water recharge and base flows in local streams (taking into account the potential for ground water contamination.)
- (b) BMP Types to be Considered. The following types of structural, non-structural, and other BMPs must be considered for implementation at your facility. Describe how each is, or will be, implemented. This requirement may have been fulfilled with area-

specific BMPs identified under Section B(7)(a) of this Part, in which case the previous descriptions are sufficient. However, many of the following BMPs may be more generalized or non site-specific and therefore not previously considered. If you determine that any of these BMPs are not appropriate for your facility, you must include an explanation of why they are not appropriate. The BMP examples listed below are not intended to be an exclusive list of BMPs that you may use. You are encouraged to keep abreast of new BMPs or new applications of existing BMPs to find the most cost effective means of permit compliance for your facility. If BMPs are being used or planned at the facility which are not listed here (e.g., replacing a chemical with a less toxic alternative, adopting a new or innovative BMP, etc.), include descriptions of them in this section of the SWPPP.

(c) Non-Structural BMPs

- i. *Good Housekeeping:* You must keep all exposed areas of the facility in a clean, orderly manner where such exposed areas could contribute pollutants to storm water discharges. Common problem areas include: around trash containers, storage areas and loading docks. Measures must also include: a schedule for regular pickup and disposal of garbage and waste materials; routine inspections for leaks and conditions of drums, tanks and containers.
- ii. *Minimizing Exposure:* Where practicable, industrial materials and activities should be protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff.
- iii. *Preventive Maintenance:* You must have a preventive maintenance program which includes timely inspection and maintenance of storm water management devices, (e.g., cleaning oil/water separators, catch basins) as well as inspecting, testing, maintaining and repairing facility equipment and systems to avoid breakdowns or failures that may result in discharges of pollutants to surface waters.
- iv. *Spill Prevention and Response Procedures:* You must describe the procedures which will be followed for cleaning up spills or leaks. Those procedures, and necessary spill response equipment, must be made available to those



employees that may cause or detect a spill or leak. Where appropriate, you must explain existing or planned material handling procedures, storage requirements, secondary containment, and equipment (e.g., diversion valves), which are intended to minimize spills or leaks at the facility. Measures for cleaning up hazardous material spills or leaks must be consistent with applicable RCRA regulations at 40 CFR Part 264 and 40 CFR Part 265.

- v. *Routine Facility Inspections:* In addition to or as part of the comprehensive site evaluation required under Section G of this Part, you must have qualified facility personnel inspect all areas of the facility where industrial materials or activities are exposed to storm water. The inspections must include an evaluation of existing storm water BMPs. Your SWPPP must identify how often these inspections will be conducted. You must correct any deficiencies you find as soon as practicable, but no later than 14 days from the date of the inspection. You must document in your SWPPP the results of your inspections and the corrective actions you took in response to any deficiencies or opportunities for improvement that you identify.
- vi. *Employee Training:* You must describe the storm water employee training program for the facility. The description should include the topics to be covered, such as spill response, good housekeeping, and material management practices, and must identify periodic dates (e.g., every 6 months during the months of July and January) for such training. You must provide employee training for all employees that work in areas where industrial materials or activities are exposed to storm water, and for employees that are responsible for implementing activities identified in the SWPPP (e.g., inspectors, maintenance people). The employee training should inform them of the components and goals of your SWPPP.

(d) Structural BMPs

- i. *Sediment and Erosion Control:* You must identify the areas at your facility which, due to topography, land disturbance (e.g., construction), or other factors, have a potential for significant soil erosion. You must describe the structural,

vegetative, and/or stabilization BMPs that you will be implementing to limit erosion.

- ii. *Management of Runoff:* You must describe the traditional storm water management practices (permanent structural BMPs other than those which control the generation or source(s) of pollutants) that currently exist or that are planned for your facility. These types of BMPs typically are used to divert, infiltrate, reuse, or otherwise reduce pollutants in storm water discharges from the site. Factors to consider when you are selecting appropriate BMPs should include: 1) the industrial materials and activities that are exposed to storm water, and the associated pollutant potential of those materials and activities; and 2) the beneficial and potential detrimental effects on surface water quality, ground water quality, receiving water base flow (dry weather stream flow), and physical integrity of receiving waters. Structural measures should be placed on upland soils, avoiding wetlands and flood plains, if possible. Structural BMPs may require a separate permit under section 404 of the CWA before installation begins.
- iii. *Example BMPs:* BMPs you could use include but are not limited to: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices).

(e) Other Controls

- i. No solid materials, including floatable debris, may be discharged to waters of the United States, except as authorized by a permit issued under section 404 of the CWA. Off-site vehicle tracking of raw, final, or waste materials or sediments, and the generation of dust must be minimized. Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas must be minimized. Velocity dissipation devices must be placed at discharge locations and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and

protected (e.g., no significant changes in the hydrological regime of the receiving water).

## C. Maintenance

- (1) All BMPs you identify in your SWPPP must be maintained in effective operating condition. If site inspections required by Section B(7)(c)(v) of this Part identify BMPs that are not operating effectively, maintenance must be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable. In the case of non-structural BMPs, the effectiveness of the BMP must be maintained by appropriate means (e.g., spill response supplies available and personnel trained, etc.).

## D. Non-Storm Water Discharges

### (1) Certification of Non-Storm Water Discharges

- (a) Your SWPPP must include a certification that all discharges (i.e., outfalls) have been tested or evaluated for the presence of non-storm water. The certification must be signed in accordance with Part II Section D.11 of the individual permit, and include:
  - i. The date of any testing and/or evaluation;
  - ii. Identification of potential significant sources of non-storm water at the site;
  - iii. A description of the results of any test and/or evaluation for the presence of non-storm water discharges;
  - iv. A description of the evaluation criteria or testing method used; and
  - v. A list of the outfalls or onsite drainage points that were directly observed during the test.
  - vi. If you are unable to provide the certification required (testing for non-storm water discharges), you must notify the Director 180 days after the effective starting date of this permit to be covered by this permit. If the failure to certify

is caused by the inability to perform adequate tests or evaluations, such notification must describe:

- vii. The reason(s) why certification was not possible;
- viii. The procedure of any test attempted;
- ix. The results of such test or other relevant observations; and
- x. Potential sources of non-storm water discharges to the storm sewer.
- xi. A copy of the notification must be included in the SWPPP at the facility. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

## **E. Allowable Non-storm Water Discharges**

- (1) Certain sources of non-storm water are allowable under this permit. For the list of allowable non-storm water discharges please see Part I.B.1.a.i on Page 16 of the Industrial Storm Water General Permit number ARR000000. In order for these discharges to be allowed, your SWPPP must include:
  - (a) An identification of each allowable non-storm water source;
  - (b) The location where it is likely to be discharged; and
  - (c) Descriptions of appropriate BMPs for each source.
  - (d) Except for flows from fire fighting activities, you must identify in your SWPPP all sources of allowable non-storm water that are discharged under the authority of this permit.
  - (e) If you include mist blown from cooling towers amongst your allowable non-storm water discharges, you must specifically evaluate the potential for the discharges to be contaminated by chemicals used in the cooling tower and determined that the levels of such chemicals in the discharges would not cause or contribute to a violation of an applicable water quality standard after implementation of the BMPs you have selected to control such discharges.

## F. **Comprehensive Site Compliance Evaluation**

### (1) **Frequency and Inspectors**

- (a) You must conduct facility inspections at least once a year. The inspections must be done by qualified personnel provided by you. The qualified personnel you use may be either your own employees or outside consultants that you have hired, provided they are knowledgeable and possess the skills to assess conditions at your facility that could impact storm water quality and assess the effectiveness of the BMPs you have chosen to use to control the quality of your storm water discharges. If you decide to conduct more frequent inspections, your SWPPP must specify the frequency of inspections.

### (2) **Scope of the Compliance Evaluation**

- (a) Your inspections must include all areas where industrial materials or activities are exposed to storm water, as identified in Section B(4)(a) of this Part, and areas where spills and leaks have occurred within the past 3 years. Inspectors should look for: a) industrial materials, residue, or trash on the ground that could contaminate or be washed away in storm water; b) leaks or spills from industrial equipment, drums, barrels, tanks, or similar containers; c) offsite tracking of industrial materials or sediment where vehicles enter or exit the site; d) tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas; and e) for evidence of, or the potential for, pollutants entering the drainage system. Storm water BMPs identified in your SWPPP must be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they must be inspected to see whether BMPs are effective in preventing significant impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations must be inspected if possible.

### (3) **Follow-up Actions**

- (a) Based on the results of the inspections, you must modify your SWPPP as necessary (e.g., show additional controls on the map required by Section B(2)(a)(iii) of this Part and revise the description of controls required by Section B(7)(a) of this Part to include additional or modified BMPs designed to correct the problems identified. You must complete revisions to the SWPPP

within 14 calendar days following the inspection. If existing BMPs need to be modified or if additional BMPs are necessary, implementation must be completed before the next anticipated storm event. If implementation before the next anticipated storm event is impracticable, they must be implemented as soon as practicable.

**(4) Compliance Evaluation Report**

- (a) You must insure a report summarizing the scope of the inspection, name(s) of personnel making the inspection, the date(s) of the inspection, and major observations relating to the implementation of the SWPPP is completed and retained as part of the SWPPP for at least three years from the date permit coverage expires or is terminated. Major observations should include: the location(s) of discharges of pollutants from the site; and location(s) of BMPs that need to be maintained; location(s) where additional BMPs are needed that did not exist at the time of inspection. You must retain a record of actions taken in accordance with Part II Section C.7 (Retention of Records) of this permit as part of the storm water pollution prevention plan for at least three years from the date that permit coverage expires or is terminated. The inspection reports must identify any incidents of non-compliance. Where an inspection report does not identify any incidents of non-compliance, the report must contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. Both the inspection report and any reports of follow-up actions must be signed in accordance with Part II Section D (Reporting Requirements) of this permit.

**(5) Credit As a Routine Facility Inspection**

- (a) Where compliance evaluation schedules overlap with inspections required under Section B(7)(c)(v) of this Part, your annual compliance evaluation may also be used as one of the Section B(7)(c)(v) of this Part , routine inspections.

**G. Maintaining Updated SWPPP**

- (1) You must amend the storm water pollution prevention plan whenever:
- (a) There is a change in design, construction, operation, or maintenance at your facility which has a significant effect on the

discharge, or potential for discharge, of pollutants from your facility;

- (b) During inspections or investigations by you or by local, State, Tribal or Federal officials it is determined the SWPPP is ineffective in eliminating or significantly minimizing pollutants from sources identified under Section B(4) of this Part, or is otherwise not achieving the general objectives of controlling pollutants in discharges from your facility.

## H. **Signature, Plan Review and Making Plans Available**

- (1) You must sign your SWPPP in accordance with Part II Section D.11, and retain the plan on-site at the facility covered by this permit (see Part II Section C.7 for records retention requirements).
- (2) You must keep a copy of the SWPPP on-site or locally available to the Director for review at the time of an on-site inspection. You must make your SWPPP available upon request to the Director, a State, Tribal or local agency approving storm water management plans, or the operator of a municipal separate storm sewer receiving discharge from the site. Also, in the interest of public involvement, EPA encourages you to make your SWPPPs available to the public for viewing during normal business hours.
- (3) The Director may notify you at any time that your SWPPP does not meet one or more of the minimum requirements of this permit. The notification will identify provisions of this permit which are not being met, as well as the required modifications. Within thirty (30) calendar days of receipt of such notification, you must make the required changes to the SWPPP and submit to the Director a written certification that the requested changes have been made.
- (4) You must make the SWPPP available to the USFWS or NMFS upon request.

## I. **Additional Requirements for Storm Water Discharges Associated With Industrial Activity From Facilities Subject to EPCRA Section 313 Reporting Requirements.**

- (1) Potential pollutant sources for which you have reporting requirements under EPCRA 313 must be identified in your summary of potential pollutant sources as per Section B(4) of this Part. Note this additional requirement only applies to you if you are subject to reporting requirements under EPCRA 313.

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4. Samples taken in compliance with the monitoring requirements in Part 1A must be taken at the first discharge of the month. If the first discharge occurs at the last part of the month and continues into the next month, a second sample still must be taken in the new month.



## 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.

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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 PART 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 average 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 per 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 parts per million.

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

34. **The term “Instantaneous Maximum”** When limited in the permit as an instantaneous maximum value, shall mean that no value measured during the reporting period may fall above the stated value.

### **35. 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 25<sup>th</sup> 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 25<sup>th</sup> of the month following the monitoring period end date.

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## **MONTHLY:**

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 are: 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.

# DRAFT

## Statement of Basis

For renewal of draft NPDES Permit Number AR0042846 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:

Ash Grove Cement Company  
P.O. Box 130  
Foreman, AR 71836

### 3. PREPARED BY.

The permit was prepared by:

Amanda Gallagher  
NPDES Branch, Water Division

### 4. DATE PREPARED.

The permit was prepared on 06/20/2006.

### 5. PREVIOUS PERMIT ACTIVITY.

Effective Date:	10/01/2001
Modification Date:	02/01/2003
Expiration Date:	09/30/2006

The permittee submitted a permit renewal application on 04/04/2006. 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).

# DRAFT

## 6. RECEIVING STREAM SEGMENT AND DISCHARGE LOCATION.

The outfalls are located at the following coordinates:

Outfall 001: Latitude: 33° 41' 00"; Longitude: 94° 25' 30"

Outfall 002: Latitude: 33° 41' 30"; Longitude: 94° 25' 30"

Outfall 003: Latitude: 33° 41' 10"; Longitude: 94° 25' 30"

The receiving waters named for Outfalls 001, 002, and 003:

an unnamed tributary of French Creek, thence to French Creek, thence to Walnut Bayou, thence to the Red River in Segment 1B of the Red 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. 303(d) List and Endangered Species Considerations

### A. 303(d) List

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

### B. Endangered Species:

No comments on the application were received from the U.S. Fish and Wildlife Service (USF&WS). The draft 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:

### Outfall 001:

Average Flow: 0.24 MGD, based on the highest monthly average flow during the last two years.

Type of treatment: sedimentation pond.

Discharge Description: Fishing Lake (active quarry dewatering and stormwater runoff).

# DRAFT

## Outfall 002:

Average Flow: 0.29 MGD, based on the highest monthly average flow during the last two years.

Type of treatment: sedimentation pond.

Discharge Description: Coal Pile Sedimentation Pond (stormwater runoff from coal storage area and closed Cement Kiln Dust (CKD) landfill).

## Outfall 003:

Average Flow: 0.36 MGD, based on the highest monthly average flow during the last two years.

Type of treatment: sedimentation pond.

Discharge Description: Process Water Pond (chalk dryer wet scrubber discharge, stormwater runoff<sup>3</sup> from coal processing area, truck washout water, sanitary wastewater treatment lagoon effluent, non-contact cooling water, process area washdown water, and stormwater from the closed Cement Kiln Dust landfill)

## Outfall 03A (Internal):

Average Flow: 0.001 MGD, based on the highest monthly average flow during the last two years.

Type of treatment: sedimentation ponds.

Discharge Description: CKD Pond (runoff from Cement Kiln Dust (CKD) landfill). Effluent from this outfall discharges to the process pond and then through Outfall 003.

## 9. APPLICANT ACTIVITY.

Under the standard industrial classification (SIC) code 3241, the applicant's activities are the manufacturing of hydraulic cement.

## 10. SEWAGE SLUDGE PRACTICES.

Sludge generated at this facility remains in the sedimentation ponds on site.

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## 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. Final Effluent Limitations

Outfall 001- Fishing Lake (active quarry dewatering and stormwater runoff).

#### 1. 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 (MGD)	N/A	N/A	Report	Report	once/month	instantaneous
Total Suspended Solids (TSS)	N/A	N/A	N/A	50	once/month	grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab

2. **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. There shall be no visible sheen due to the presence of oil (Sheen means an iridescent appearance on the surface of the water).



# DRAFT

## b. Final Effluent Limitations

Outfall 002 - Coal Pile Sedimentation Pond (stormwater runoff from coal storage area and closed Cement Kiln Dust landfill).

### 1. 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 (MGD)	N/A	N/A	Report	Report	once/month	instantaneous
Total Suspended Solids (TSS)	N/A	N/A	N/A	50	once/month	grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab

2. **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. There shall be no visible sheen due to the presence of oil (Sheen means an iridescent appearance on the surface of the water).

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## c. Final Effluent Limitations

Outfall 003 - Process Water Pond (chalk dryer wet scrubber discharge, stormwater runoff from coal processing area, truck washout water, sanitary wastewater treatment lagoon effluent, non-contact cooling water, process area washdown water, and stormwater from the closed Cement Kiln Dust landfill)

### 1. **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 (MGD)	N/A	N/A	Report	Report	once/month	instantaneous
Fecal Coliform Bacteria (FCB)			(colonies/100ml)			
(Apr-Sept)	N/A	N/A	200	400	once/month	grab
(Oct-Mar)	N/A	N/A	1000	2000	once/month	grab
Discharge Temperature	N/A	N/A	Report, °F	Report, °F	once/month	in-situ
Total Suspended Solids (TSS)	N/A	N/A	N/A	50	once/month	grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab

- 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. There shall be no visible sheen due to the presence of oil (Sheen means an iridescent appearance on the surface of the water).

d. **Final Effluent Limitations**

Outfall 03A (Internal) - CKD Pond (runoff from Cement Kiln Dust (CKD) landfill).

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

<b><u>Effluent Characteristics</u></b>	<b><u>Discharge Limitations</u></b>				<b><u>Monitoring Requirements</u></b>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max	Monthly Avg.	Daily Max		
Flow (MGD)	N/A	N/A	Report	Report	once/month	instantaneous
Total Suspended Solids (TSS)	N/A	N/A	N/A	50	once/month	grab
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab

2. **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. There shall be no visible sheen due to the presence of oil (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 PART 124.7 (48 FR 1413, April 1, 1983).

**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.

A. **Technology-Based Effluent Limitations and/or Conditions**

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, on Best Professional Judgment (BPJ) in the absence of guidelines, or on a combination of the two.

## **(1) Applicable Effluent Limitations Guidelines**

Discharges from facilities of this type are covered by Federal effluent limitations guidelines promulgated under 40 CFR Part 411, Cement Manufacturing Point Source Category; Subpart C – Materials Storage Piles Runoff Subcategory.

### Outfalls 001, 002, 003, and 03A (Internal):

The present technology-based limits for TSS and pH are based on 40 CFR Part 411.37. These limitations are judged to represent the level of treatment attainable through the application of the best practicable control technology (BPT).

### pH

pH limits of 6.0 – 9.0 s.u. for all of the outfalls are based on 40 CFR Part 411.32 (b). These limitations are judged to represent the level of treatment attainable through the application of the best practicable control technology (BPT). These limitations are also identical to the water quality based limits found in Section 2.504 of Regulation 2.

### Total Suspended Solids (TSS)

The technology-based limits for TSS of 50 mg/l have been based on the 40 CFR Part 411.32 (b). These limitations are judged to represent the level of treatment attainable through the application of the best practicable control technology (BPT).

## **(2) Stormwater runoff**

Effluent limitations guidelines have not been promulgated for discharges of this sort. Therefore under the authority of Section 402 (a) (1) of the Clean Water Act and State laws, the State has developed a permit on a case-by-case basis. Stormwater pollution prevention plan requirements are included.

## **B. State Water Quality Numerical Standards Based Limitations**

Fecal Coliform Bacteria and pH limitations are based on chapter 5, Sections 2.507 and 2.504 of APCEC Regulation No. 2 as amended, respectively. These limitations are the same as the technology based limitations in 40 CFR Part 411.

### Temperature (Outfall 003)

Per section 2.502 of APCEC Regulation No. 2, the maximum allowable temperature for the Gulf Coastal Plains Eco-region resulting from man-induced causes is 86 °F. Due to lack of temperature data for the discharge from Outfall 003, a complete evaluation cannot be performed. Therefore, year-round Monitoring and Reporting requirements are being included in this permit

for Outfall 003. If at anytime that it has been determined that the discharge temperature from Outfall 003 has violated water quality standards, the permit may be reopened to include appropriate limits.

## **C. Toxics Pollutants-Priority Pollutant Scan (PPS)**

### **(1) Post Third Round Policy and Strategy**

Section 101 of the Clean Water Act (CWA) states that "...it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited..." To insure that the CWA's prohibitions on toxic discharges are met, EPA has issued a "Policy for the Development of Water Quality-Based Permit Limitations by Toxic Pollutants"(49 FR 9016-9019, 3/9/84). In support of the national policy, Region 6 adopted the "Policy for post Third Round NPDES Permitting" and the "Post Third Round NPDES Permit Implementation Strategy" on October 1, 1992. The Regional policy and strategy are designed to insure that no source will be allowed to discharge any wastewater which (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical State water quality standard resulting in non-conformance with the provisions of 40 CFR Part 122.44(d); (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation which threatens human health.

### **(2) Implementation**

The State of Arkansas is currently implementing EPA's Post Third-Round Policy in conformance with the EPA Regional strategy. The 5-year NPDES permits contain technology-based effluent limitations reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, or where there are no applicable technology-based limits, additional water quality-based effluent limitations and/or conditions are included in the NPDES permits. State narrative and numerical water quality standards from the Regulation No. 2 are used in conjunction with EPA criteria and other available toxicity information to determine the adequacy of technology-based permit limits and the need for additional water quality-based controls.

### **(3) Priority Pollutant Scan**

In accordance with the regional policy ADEQ has reviewed and evaluated the effluent in evaluating the potential toxicity of each analyzed pollutant:

- a. The results were evaluated and compared to EPA's Minimum Quantification Levels (MQLs) to determine the potential presence of a respective toxic pollutant. Those pollutants which are greater than or equal to the MQLs are determined to be reasonably present in the effluent and an evaluation of their potential toxicity is necessary.

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- b. Those pollutants with one datum shown as "non-detect" (ND), providing the level of detection is equal to or lower than MQL are determined to be not potentially present in the effluent and eliminated from further evaluation.
- c. Those pollutants with a detectable value even if below the MQL are determined to be reasonably present in the effluent and an evaluation of their potential toxicity is necessary.
- d. For those pollutants with multiple data values and all values are determined to be non-detect, therefore no further evaluation is necessary. However, where data set includes some detectable concentrations and some values as ND, one-half of the detection level is used for those values below the level of detection to calculate the geometric mean of the data set.

The concentration of each pollutant after mixing with the receiving stream was compared to the applicable water quality standards as established in the Arkansas Water Quality Standards, Reg. No. 2 and with the aquatic toxicity, human health, and drinking water criteria obtained from the "Quality Criteria for Water, 1986 (Gold Book)". The following expression was used to calculate the pollutant instream waste concentration (IWC):

$$IWC = ((C_e \times Q_e) + (C_b \times Q_b)) / (Q_e + Q_b)$$

Where:

IWC = instream concentration of pollutant after mixing with receiving stream ( $\mu\text{g/l}$ )

$C_e$  = pollutant concentration in effluent ( $\mu\text{g/l}$ )

$Q_e$  = effluent flow of facility (cfs)

$C_b$  = background concentration of pollutant in receiving stream ( $\mu\text{g/l}$ )

$Q_b$  = background flow of receiving stream (cfs)

The following values would be used in the IWC calculations:

$C_e$  = varies with pollutant. A single value from the Priority Pollutant Screen (PPS) submitted by the permittee as part of the NPDES permit application or the geometric mean of a group of data points (less than 20 data points) is multiplied by a factor of 2.13. This factor is based on EPA's Region VI procedure (See attachment IV of Continuing Planning Process (CPP)) to extrapolate limited data sets to better evaluate the potential toxicity for higher effluent concentrations to exceed water quality standards. This procedure employs a statistical approach which yields an estimate of a selected upper percentile value (the 95th percentile) of an effluent data set which would be expected to exceed 95% of effluent concentrations in a discharge. If 20 or more data points during the last two years are available, do not multiply by 2.13, but instead use the maximum reported values.

$Q_e^*$  = (see below)

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OUTFALL	FLOW IN CFS
001	0.37 cfs
002	0.45 cfs
003	0.56 cfs
03A	0.0015 cfs

\* based on highest monthly average flow from the industry during the last two (2) years.

$$C_b = 0 \mu\text{g/l}$$

$$Q_b = \text{(See below):}$$

e. Aquatic Toxicity

**Chronic Toxicity:** Flow (Outfalls 001, 002, 003, and 03A) = 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.

**Acute Toxicity:** Flow (Outfalls 001, 002, 003, and 03A) = 0 cfs, for comparison with acute aquatic toxicity. This flow is **33** percent of the 7Q10 for the receiving stream.

f. Bioaccumulation

Flow = 0 cfs, for comparison with bioaccumulation criteria. This flow is the long term average (LTA) of the receiving stream which is based on the "Identification and Classification of Perennial Stream of Arkansas", Arkansas Geological Commission Map.

g. Drinking Water

Flow = 0 cfs, for comparison with drinking water criteria. This flow is the 7Q10 for the receiving stream.

The following values were used to determine limits for the pollutants:

Hardness = 31 mg/l, based on attachment VI of CPP.

pH = 7.42 s.u., based on compliance data from Arkansas Water Quality Inventory Report 305(b).

#### (4) Water Quality Standards for Metals and Cyanide

Standards for Chromium (VI), Mercury, Selenium, and Cyanide are expressed as a function of the pollutant's water-effect ratio (WER), while standards for cadmium, chromium (III), copper,

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lead, nickel, silver, and zinc are expressed as a function of the pollutant's water-effect ratio, and as a function of hardness.

The **Water-effect ratio** (WER) is assigned a value of 1.0 unless scientifically defensible study clearly demonstrates that a value less than 1.0 is necessary or a value greater than 1.0 is sufficient to fully protect the designated uses of the receiving stream from the toxic effects of the pollutant.

The WER approach compares bioavailability and toxicity of a specific pollutant in receiving water and in laboratory test water. It involves running toxicity tests for at least two species, measuring LC50 for the pollutant using the local receiving water collected from the site where the criterion is being implemented, and laboratory toxicity testing water made comparable to the site water in terms of chemical hardness. The ratio between site water and lab water LC50 is used to adjust the national acute and chronic criteria to site specific values.

## **(5) Conversion of Dissolved Metals Criteria for Aquatic Life to Total Recoverable Metal**

Metals criteria established in Regulation No. 2 for aquatic life protection are based on dissolved metals concentrations and hardness values (See Page 6 of **Attachment 1**). However, Federal Regulations cited at 40 CFR 122.45(c) require that effluent limitations for metals in NPDES permits be expressed as total recoverable (See Pages 1 and 6 of **Attachment 1**). Therefore a dissolved to the total recoverable metal conversion must be implemented. This involves determining a linear partition coefficient for the metal of concern and using this coefficient to determine the fraction of metal dissolved, so that the dissolved metal ambient criteria may be translated to a total effluent limit. The formula for converting dissolved metals to total recoverable metals for streams and lakes are provided in **Attachment 2** and Region 6 Implementation Guidance for Arkansas Water Quality Standards promulgated at 40 CFR Part 131.36.

## **(6) Comparison of the submitted information with the water quality standards and criteria**

ADEQ has determined from the information submitted by the permittee that no priority pollutants were detected in any of the outfalls at the facility. Therefore no permit action is necessary to maintain these standards or criteria.



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## 13. 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:

### (Outfalls 001, 002, and 03A (Internal))

Parameter	Water Quality-Based		Technology-Based		Previous NPDES Permit		Draft 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
TSS	N/A	N/A	N/A	50	N/A	50	N/A	50
pH	6.0-9.0 s.u.		N/A		6-9 s.u.		6.0-9.0 s.u.	

### (Outfall 003)

Parameter	Water Quality-Based		Technology-Based		Previous NPDES Permit		Draft 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
FCB								
(Apr-Sept)	200	400	N/A	N/A	N/A	N/A	200	400
(Oct-Mar)	1000	2000	N/A	N/A	N/A	N/A	1000	2000
Temperature	Report	Report	N/A	N/A	N/A	N/A	Report	Report
TSS	N/A	N/A	N/A	50	N/A	50	N/A	50
pH	6.0-9.0 s.u.		N/A		6-9 s.u.		6.0-9.0 s.u.	

## 14. SAMPLE TYPE AND SAMPLING FREQUENCY

Regulations promulgated at 40 CFR Part 122.44(i) (l) require the permit to establish monitoring requirements which assure compliance with permit limitations.

Requirements for sample type and sampling frequency have been based on the current NPDES permit.

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## 15. CHANGES FROM THE PREVIOUSLY ISSUED PERMIT

Permittee is responsible for reading the permit in detail carefully and becoming familiar with all the changes even if they are not listed below.

1. Parts II, III, and IV have been revised.
2. Coordinates for Outfall 003A changed.
3. Stream segment changed from 1C to 1B based on the 2004 Integrated Water Quality Monitoring and Assessment Report, the 2004 Edition of the Arkansas Atlas and Gazetteer, and the ADEQ Water Quality Planning Segments Map.
4. Discharge descriptions updated for all outfalls.
5. pH changed from 6-9 s.u. to 6.0-9.0 s.u. for accuracy reporting.
6. Fecal Coliform Limits added to Outfall 003.
7. Monitoring and Reporting requirements for temperature have been added to Outfall 003.

## 16. SCHEDULE OF COMPLIANCE.

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

Compliance is required on the effective date of the permit.

## 17. MONITORING AND REPORTING.

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

## 18. SOURCES.

The following sources were used to draft the permit:

- A. NPDES application No. AR0042846 received 04/04/2006.
- B. Arkansas Water Quality Management Plan (WQMP).
- C. APCEC Regulation No. 2.
- D. APCEC Regulation No. 6.
- E. 40 CFR Parts 122, 125, 411.
- F. NPDES permit file AR0042846.
- G. Discharge Monitoring Reports (DMRs).
- H. "Arkansas Water Quality Inventory Report 2000 (305B)", ADEQ.
- I. "Identification and Classification of Perennial Streams of Arkansas", Arkansas Geological Commission.
- J. Continuing Planning Process (CPP).
- K. Technical Support Document For Water Quality-based Toxic Control.

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Page 15 of Statement of Basis  
Permit Number: AR0042846

- L. Region 6 Implementation Guidance for Arkansas Water Quality Standards promulgated at 40 CFR Part 131.36.
- M. Site Visit – May 5 2006.

## 19. PUBLIC NOTICE.

The public notice describes the procedures for the formulation of final determinations and shall provide for a public comment period of 30 days. During this period, any interested persons may submit written comments on the 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.

## 20. NPDES POINT OF CONTACT.

For additional information, contact:

Amanda Gallagher  
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



A R K A N S A S  
Department of Environmental Quality

September 8, 2006

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (7004 2510 0004 6937 1339)

Dan Peterson  
Ash Grove Cement Company  
P.O. Box 130  
Foreman, AR 71836

RE: Application to Discharge to Waters of the State Permit Number AR0042846

Dear Mr. Peterson:

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.

In accordance with APCEC Regulation 8, Part 2.1.6, the enclosed public notice will be published by ADEQ in a newspaper of general circulation on or before **September 8, 2006** for one (1) day only. An invoice for the cost of publishing the public notice and proof of publication will be sent to you by the advertising newspaper. The permittee must send proof of publication and payment to the following address as soon as possible but no later than **October 9, 2006**. 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 contact the NPDES Branch at (501) 682-0622.

Sincerely,

Martin Maner, P.E.  
Chief, Water Division

MM:ag

Enclosure

**NPDES DRAFT PERMITTING DECISION  
PERMIT NUMBER AR0042846**

This is to give notice that the Arkansas Department of Environmental Quality Post Office Box 8913, Little Rock, Arkansas 72219-8913 proposes a draft renewal of the permit for the application which was received on 04/04/2006 for the following applicant under the National Pollutant Discharge Elimination System and the Arkansas Water and Air Pollution Control Act.

Ash Grove Cement Company  
P.O. Box 130  
Foreman, AR 71836

The applicant is requesting a renewal of their existing NPDES discharge permit.

**Facility Location:** The facility is located as follows: 4457 Highway 108 West, Foreman, AR 71836; approximately two miles southwest of Foreman, AR on Highway 108 West, in Section 28, Township 32 West, Range 12 South, in Little River County, Arkansas. (Latitude: 33° 41' 45" Longitude: 94° 25' 24").

**Discharge Location:** The discharge from this existing facility is made into an unnamed tributary of French Creek, thence to French Creek, thence to Walnut Bayou, thence to the Red River in Segment 1B of the Red 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.

**Outfall Location:** The outfalls are located at the following coordinates:

Outfall 001: Latitude: 33° 41' 00"; Longitude: 94° 25' 30"

Outfall 002: Latitude: 33° 41' 30"; Longitude: 94° 25' 30"

Outfall 003: Latitude: 33° 41' 10"; Longitude: 94° 25' 30"

**303(d) List Consideration:** The receiving stream is not listed on the 303(d) list. Therefore, no permit action is needed.

**Endangered Species Consideration:** No comments on the application were received from the U.S. Fish and Wildlife Service (USF&WS). The draft permit and Statement of Basis will be sent to the USF&WS for their review.

**Type of Treatment:** Outfalls 001, 002, 003, and 03A - sedimentation ponds.

**Sludge Condition:** Sludge generated at this facility remains in the sedimentation ponds on site.

**Activity:** Under the standard industrial classification (SIC) code 3241, the applicant's activities are the manufacturing of hydraulic cement.

**Changes:** Changes from the previously issued permit are listed below. The permittee is responsible for carefully reading the permit in detail and becoming familiar with all of the changes therein.

1. Parts II, III, and IV have been revised.
2. Coordinates for Outfall 003A changed.
3. Stream segment changed from 1C to 1B based on the 2004 Integrated Water Quality Monitoring and Assessment Report, the 2004 Edition of the Arkansas Atlas and Gazetteer, and the ADEQ Water Quality Planning Segments Map.

4. Discharge descriptions updated for all outfalls.
5. pH changed from 6-9 s.u. to 6.0-9.0 s.u. for accuracy reporting.
6. Fecal Coliform Limits added to Outfall 003.
7. Monitoring and Reporting requirements for temperature have been added to Outfall 003.

**Public Notice:** In accordance with APCEC Regulation No.8 the public notice will be published by ADEQ in a newspaper of general circulation on or before September 8, 2006 for one (1) day only. Comments must be received at ADEQ prior to the close of the public comment period October 9, 2006. The public comment period will begin on the date of publication and will end no sooner than 30 days from that date.

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.

**Issuance of the Final Permit:** The permit will become effective on or after November 1, 2006 unless comments are received and/or public hearing is requested prior to October 9, 2006, in which case the permit will be effective on or after December 1, 2006.

**Comments and Public Hearing:** NPDES comments and public hearing procedures may be found at 40 CFR Part 124.10 through 124.12 and Regulation No. 8. All persons, including the permittee, who wish to comment on ADEQ's draft permit decision must submit written comments to ADEQ, along with their name and mailing address. 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. If a public hearing is held, ADEQ will issue a public notice of hearing at least 30 days prior to the scheduled hearing.

After the public comment period, and public hearing if one is held, ADEQ will issue a final permit decision. 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 Pollution Control and Ecology Commission Regulation No. 8 (Administrative Procedures).

Submitting written comments to ADEQ or making oral statements on the record at the public hearing on the proposed permitting decision provides individuals with legal standing to appeal a final Department permitting decision. Comments supporting or opposing the proposed decision will provide legal standing. Only parties with legal standing may appeal a permitting decision.

**Permit Application Record:** The permit application and the administrative record is available for review and copying in the Central Records Section, ADEQ, State Police Headquarters, One State Police Plaza, near Interstate 30 and Geyer Springs, Little Rock, Arkansas.

**Web Site Information:** For those with Internet access, a copy of the proposed draft permit may be found on the Arkansas Department of Environmental Quality's website at:

[http://www.adeq.state.ar.us/water/branch\\_npdes/pn\\_permits/pnpermits.asp](http://www.adeq.state.ar.us/water/branch_npdes/pn_permits/pnpermits.asp).

**Contact Person:** The ADEQ contact person for submitting written comments, requesting information, or obtaining copies of the application, permit and the Statement of Basis is:

Amanda Gallagher  
NPDES Branch, Water Division  
Arkansas Department of Environmental Quality  
Post Office Box 8913  
Little Rock, Arkansas 72219-8913  
(501) 682-0622