

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

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

Gerda Macsteel, Inc.  
Fort Smith Mill

is authorized to discharge contaminated stormwater runoff (includes runoff from areas where roads are lined with lime), air conditioner condensate, and natural springs from a facility located as follows: 5225 Planter Road, Fort Smith, AR 72916 in Sebastian County. The facility is approximately 2.5 miles south of the intersection of Highway 45 and Interstate 540, south of the Fort Smith Regional Airport.

Facility Coordinates: Latitude: 35° 18' 20.83" N; Longitude: 94° 22' 31.79" W

Discharge is to receiving waters named:

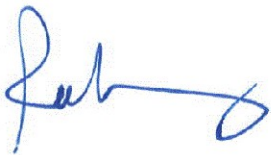
an unnamed tributary of Massard Creek, thence to Massard Creek, thence to the Arkansas River in Segment 3H of the Arkansas River Basin.

The outfall is located at the following coordinates:

Outfall 001: Latitude: 35° 18' 20.13" N; Longitude: 94° 22' 12.23" W

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

Effective Date: February 1, 2021  
Expiration Date: January 31, 2026



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

01/08/2021  
Issue Date

## PART I PERMIT REQUIREMENTS

**SECTION A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS:** OUTFALL 001 - contaminated stormwater runoff (includes runoff from areas where roads are lined with lime), air conditioner condensate, and natural springs.

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

<u><b>Effluent Characteristics</b></u>	<u><b>Discharge Limitations</b></u>				<u><b>Monitoring Requirements</b></u>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max.	Monthly Avg.	Daily Max.		
Flow	N/A	N/A	Report, MGD	Report, MGD	twice/week	instantaneous
Chemical Oxygen Demand (COD)	Report	Report	Report	100	once/month	grab
Total Suspended Solids (TSS)	Report	Report	Report	60.0	once/month	grab
Dissolved Oxygen (DO)	N/A	N/A	Report (Inst. Min.)		once/month	grab
Oil and Grease (O&G)	Report	Report	10	15	once/month	grab
Total Recoverable Arsenic <sup>1, 2</sup>	Report	Report	Report µg/l	Report µg/l	once/quarter <sup>2</sup>	grab
Total Recoverable Copper <sup>1</sup>	Report	Report	9.2 µg/l	18.5 µg/l	once/week	composite
Total Recoverable Lead <sup>1</sup>	Report	Report	2.7 µg/l	5.4 µg/l	once/week	composite
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab
Chronic WET Limit <sup>3</sup>						
<u><b>Pimephales promelas (Chronic)</b></u> Lethality (7-day NOEC) 51714 Sub-Lethality (7-day NOEC) 51714	N/A		Not < 100% Not < 80%		once/quarter once/quarter	composite composite
<u><b>Ceriodaphnia dubia (Chronic)</b></u> Lethality (7-day NOEC) 51710 Sub-Lethality (7-day NOEC) 51710			Not < 100% Not < 80%		once/quarter once/quarter	composite composite
<u><b>Pimephales promelas (Chronic)</b></u> <sup>3</sup> Pass/Fail Lethality (7-day NOEC) TLP6C Pass/Fail Growth (7-day NOEC) TGP6C Survival (7-day NOEC) TOP6C Coefficient of Variation (Growth) TQP6C Growth (7-day NOEC) TPP6C	N/A		<u>7-Day Minimum</u> Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report % Report % Report %		once/quarter once/quarter once/quarter once/quarter once/quarter	composite composite composite composite composite
<u><b>Ceriodaphnia dubia (Chronic)</b></u> <sup>3</sup> Pass/Fail Lethality (7-day NOEC) TLP3B Pass/Fail Reproduction (7-day NOEC) TGP3B Survival (7-day NOEC) TOP3B Coefficient of Variation (Reproduction) TQP3B Reproduction (7-day NOEC) TPP3B			<u>7-Day Minimum</u> Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report % Report % Report %		once/quarter once/quarter once/quarter once/quarter once/quarter	composite composite composite composite composite

<sup>1.</sup> See Part II.6 (Metals Requirements).

<sup>2.</sup> Monitoring and reporting of the Total Recoverable Arsenic levels is only required for one year from the effective date of the permit.

<sup>3.</sup> As per Part II.7 (WET Limit Condition), the permittee shall submit the results of the valid monthly increased frequency toxicity tests on the Unscheduled DMRs (parameters 51714, 51710, TLP6C, TGP6C, TOP6C, TQP6C, TPP6C, TLP3B, TGP3B, TOP3B, TQP3B, and TPP3B). This condition applies to *P. promelas* and *C. dubia*.

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

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

## **SECTION B. PERMIT COMPLIANCE SCHEDULE**

None

## **PART II OTHER CONDITIONS**

1. The operator of this wastewater treatment facility shall hold at least a Basic Industrial license from the State of Arkansas in accordance with APC&EC Rule No. 3.
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 Permits Branch of the Office of Water Quality of the DEQ for use of the alternate method or instrument.
- The method and/or instrument is in compliance with 40 CFR Part 136 or approved in accordance with 40 CFR Part 136.5.
- All associated devices are installed, calibrated, and maintained to ensure the accuracy of the measurements and are consistent with the accepted capability of that type of device. The calibration and maintenance shall be performed as part of the permittee's laboratory Quality Assurance/Quality Control (QA/QC) program.

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

4. Best Management Practices (BMPs), as defined in Part IV.7, must be implemented for the facility to prevent or reduce the pollution of waters of the State from stormwater runoff, spills or leaks, and/or waste disposal. The permittee must amend the BMPs whenever there is a change in the facility or a change in the operation of the facility.
5. Discharge of process wastewater other than contaminated stormwater runoff, air conditioner condensate, and natural springs from Outfall 001 is prohibited.

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

Pollutant	MQL (µg/l)
Total Recoverable Arsenic	0.5
Total Recoverable Copper	0.5
Total Recoverable Lead	0.5

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

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

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

## 7. WHOLE EFFLUENT TOXICITY LIMITS (7-DAY CHRONIC NOEC FRESHWATER)

### A. SCOPE AND METHODOLOGY

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

APPLICABLE TO FINAL OUTFALL(S):	001
REPORTED ON DMR AS FINAL OUTFALL:	001
CRITICAL DILUTION (%):	100
EFFLUENT DILUTION SERIES (%):	32, 42, 56, 80, 100
CHRONIC LIMIT - LETHALITY:	not < 100%
CHRONIC LIMIT - SUB-LETHAL:	not < 80%
SCHEDULE OF COMPLIANCE:	NO
TESTING FREQUENCY:	once/quarter

COMPOSITE SAMPLE TYPE:

Defined in paragraph B.iv.a

TEST SPECIES/METHODS:

40 CFR Part 136

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

Pimephales promelas (Fathead minnow) chronic static renewal 7-day larval survival and growth test, Method 1000.0, EPA-821-R-02-013, or the most recent update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

- ii. The NOEC (No Observed Effect Concentration) is herein defined as the greatest effluent dilution at and below which toxicity (lethal or sub-lethal) that is statistically different from the control (0% effluent) at the 95% confidence level does not occur. Chronic lethal test failure is defined as a demonstration of a statistically significant lethal effect at test completion to a test species at or below the critical dilution. Chronic sub-lethal test failure is defined as a demonstration of a statistically significant sub-lethal effect (i.e., growth or reproduction) at test completion to a test species at or below the critical dilution.
- iii. The conditions of this item are effective beginning with the effective date of the WET limit. When the effluent fails the chronic endpoint below the required limit specified in Item A.i., the permittee shall be considered in violation of this permit limit and the frequency for the affected species will increase to monthly until such time compliance with the No Observed Effect Concentration (NOEC) effluent limitation is demonstrated for a period of three consecutive months, at which time the permittee may return to the testing frequency stated in PART I of this permit. The purpose of the increased frequency WET testing is to determine the duration of a toxic event. A test that meets all test acceptability criteria and demonstrates significant toxic effects does not need additional confirmation. Such testing cannot confirm or disprove a previous test result.
- iv. If under a TRE, the permittee may conduct quarterly testing as a minimum monitoring requirement for the organism(s) under investigation for the duration of the TRE. Upon completion of the TRE, monitoring will revert back to the conditions specified in Item A.iii.
- v. This permit may be reopened to require chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.

## B. REQUIRED TOXICITY TESTING CONDITIONS

### i. Test Acceptance

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

- a. The toxicity test control (0% effluent) must have survival equal to or greater than 80%.
- b. The mean number of Ceriodaphnia dubia neonates produced per surviving female in the control (0% effluent) must be 15 or more.
- c. 60% of the surviving control females must produce three broods.
- d. The mean dry weight of surviving Fathead minnow larvae at the end of the 7 days in the control (0% effluent) must be 0.25 mg per larva or greater.
- e. The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent) for: the young of surviving females in the Ceriodaphnia dubia reproduction test, the growth and survival of the Fathead minnow test.
- f. The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal or sub-lethal effects are exhibited for: the young of surviving females in the Ceriodaphnia dubia reproduction test; the growth and survival endpoints in the Fathead minnow test.
- g. If a test passes, yet the percent coefficient of variation between replicates is greater than 40% in the control (0% effluent) and/or in the critical dilution for: the young of surviving females in the Ceriodaphnia dubia reproduction test; the growth and survival endpoints of the Fathead minnow test, the test is determined to be invalid. A repeat test shall be conducted within the required reporting period of any test determined to be invalid.
- h. If a test fails, test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%.
- i. A Percent Minimum Significant Difference (PMSD) range of 13 - 47 for Ceriodaphnia dubia reproduction;
- j. A PMSD range of 12 - 30 for Fathead minnow growth.



ii. Statistical Interpretation

- a. For the Ceriodaphnia dubia survival test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be Fisher's Exact Test as described in EPA-821-R-02-013 or the most recent update thereof.
- b. For the Ceriodaphnia dubia reproduction test and the Fathead minnow larval survival and growth test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in EPA-821-R-02-013, or the most recent update thereof.
- c. If the conditions of Test Acceptability are met in Item B.i above and the percent survival of the test organism is equal to or greater than 80% in the critical dilution concentration and all lower dilution concentrations, the test shall be considered to be a passing test, and the permittee shall report a survival NOEC of not less than the critical dilution for the DMR reporting requirements found in Item C below.

iii. Dilution Water

- a. Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but unaffected by the discharge. The permittee shall substitute synthetic dilution water of similar pH, hardness, and alkalinity to the closest downstream perennial water where the receiving stream is classified as intermittent or where the receiving stream has no flow due to zero flow conditions.
- b. If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria of Item B.i), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:
  - (1) a synthetic dilution water control which fulfills the test acceptance requirements of Item B.i was run concurrently with the receiving water control;
  - (2) the test indicating receiving water toxicity has been carried out to completion (i.e., 7 days);
  - (3) the permittee includes all test results indicating receiving water toxicity with the full report and information required by Item C.i below; and
  - (4) the synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or closest downstream perennial water not

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

iv. Samples and Composites

- a. The permittee shall collect a minimum of three flow-weighted composite samples from the outfall(s) listed at Item A.i above. Unless otherwise stated in this section, a composite sample for WET shall consist of a minimum of 12 subsamples gathered at equal time intervals during a 24-hour period.
- b. The permittee must collect all three flow-weighted composite samples within the monitoring period. The permittee shall collect second and third composite samples for use during 24-hour renewals of each dilution concentration for each test. The permittee must collect the composite samples such that the effluent samples are representative of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on a regular or intermittent basis.
- c. The permittee must collect all three flow-weighted composite samples within the monitoring period. Second and/or third composite samples shall not be collected into the next monitoring period; such tests will be determined to not meet either reporting period requirements. Monitoring period definitions are listed in Part IV.
- d. The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 72 hours. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first composite sample. Samples shall be chilled to between 0 and 6 degrees Centigrade during collection, shipping, and/or storage.
- e. If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum number of effluent portions and the sample holding time are waived during that sampling period. However, the permittee must have collected an effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item C of this section
- f. MULTIPLE OUTFALLS: If the provisions of this section are applicable to multiple outfalls, the permittee shall combine the composite effluent samples in proportion to the average flow from the outfalls listed in Item A.i above for the day the sample was collected. The permittee shall perform the toxicity test on the flow-weighted composite of the outfall samples.

- g. If chlorination is part of the treatment process, the permittee shall not allow the sample to be dechlorinated at the laboratory. At the time of sample collection the permittee shall measure the TRC of the effluent. The measured concentration of TRC for each sample shall be included in the lab report submitted by the permittee.

### C. REPORTING

- i. The permittee shall prepare a full report of the results of all tests conducted pursuant to this section in accordance with the Report Preparation Section of EPA-821-R-02-013, or the most current publication, for every valid or invalid toxicity test initiated whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of PART III.C.7 of this permit. The permittee shall submit full reports. For any test which fails, is considered invalid or which is terminated early for any reason, the full report must be submitted for agency review.
- ii. The permittee shall report the Whole Effluent Toxicity NOECs under Parameter No. 51710 for *C. dubia* and 51714 for *P. promelas*, on the Scheduled DMR for that reporting period in accordance with PART III.D.4 of this permit.

A valid test for each species must be reported on the Scheduled DMR during each reporting period specified in PART I of this permit. The full reports for all valid tests, invalid tests, repeat tests (for invalid tests), and increased frequency tests (for tests previously failed) performed during the reporting period must be attached to the DMR for Agency review.

- iii. The permittee shall submit the results of the valid toxicity test on the Scheduled DMR for that reporting period in accordance with PART III.D.4 of this permit, as follows below. The permittee shall submit the results of the valid monthly increased frequency toxicity tests on the Unscheduled DMRs. If testing on a quarterly basis, the permittee may substitute one of the monthly increased frequency toxicity tests in lieu of one Scheduled toxicity test on the Scheduled DMR. Only results of valid tests are to be reported on a DMR.

- a. Pimephales promelas (Fathead minnow)

- (1) If the No Observed Effect Concentration (NOEC) for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TLP6C
- (2) Report the NOEC value for survival, Parameter No. TOP6C
- (3) Report the NOEC value for growth, Parameter No. TPP6C
- (4) If the NOEC for growth is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TGP6C

- (5) Report the highest (critical dilution or control) Coefficient of Variation for growth, Parameter No. TQP6C
- (6) Report the lowest NOEC value for survival or growth, Limit Parameter No. 51714
- (7) The permittee shall submit the results of the monthly increased frequency toxicity tests on the Unscheduled DMRs.

b. Ceriodaphnia dubia

- (1) If the NOEC for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TLP3B
- (2) Report the NOEC value for survival, Parameter No. TOP3B
- (3) Report the NOEC value for reproduction, Parameter No. TPP3B
- (4) If the NOEC for reproduction is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TGP3B
- (5) Report the higher (critical dilution or control) Coefficient of Variation for reproduction, Parameter No. TQP3B
- (6) Report the lowest NOEC value for survival or reproduction, Limit Parameter No. 51710
- (7) The permittee shall submit the results of the monthly increased frequency toxicity tests on the Unscheduled DMRs.

D. TOXICITY RE-OPENER

- i. If the TRE has identified the source of toxicity and led to the successful elimination of effluent toxicity at the critical dilution, the WET final effluent limits may be replaced by monitoring and reporting only requirement thru a major permit modification. Otherwise, the permittee must comply with the final WET effluent limits.
- ii. If the TRE has not led to the successful elimination of effluent toxicity at the critical dilution, but has identified a causal parameter, the WET final effluent limit may be replaced by monitoring and reporting only requirement thru a major permit modification, with the addition of a limit for the causal parameter.

(Note: A modified permit must be effective prior to the effective date of the WET limits.)

#### E. MONITORING FREQUENCY REDUCTION

This section does not apply to any species for which the permit establishes whole effluent toxicity (WET) limits. For the first five years after the effective date of a WET limit, the minimum monitoring frequency for the affected species is once per quarter or once per month (in accordance with Item A.i.).

- i. The permittee may apply for a testing frequency reduction upon the successful completion of the first four consecutive quarters or first twelve consecutive months (in accordance with Item A.i.) of the current permit term of testing for a test species, with no lethal or sub-lethal effects demonstrated at or below the critical dilution. If granted, the monitoring frequency for that test species may be reduced to not less than once per year for the less sensitive species (usually the Fathead minnow) and not less than twice per year for the more sensitive test species (usually the *Ceriodaphnia dubia*).
- ii. CERTIFICATION - The permittee must certify in writing that no test failures have occurred and that all tests meet all test acceptability criteria in Item B.i. above. In addition the permittee must provide a list with each test performed including test initiation date, species, NOECs for lethal and sub-lethal effects and the maximum coefficient of variation for the controls. Upon review and acceptance of this information the agency will issue a letter of confirmation of the monitoring frequency reduction. A copy of the letter will be forwarded to the agency's Permit Compliance System section to update the permit reporting requirements.
- iii. SUB-LETHAL OR SURVIVAL FAILURES - If any test fails the lethal or sub-lethal endpoint at any time during the life of this permit, three consecutive monthly retests are required and the monitoring frequency for the affected test species may be increased to once per quarter until the permit is re-issued.
- iv. This monitoring frequency reduction applies only until the expiration date of this permit, at which time the monitoring frequency for both test species reverts to once per quarter until the permit is re-issued.

## **PART III STANDARD CONDITIONS**

### **SECTION A – GENERAL CONDITIONS**

1. **Duty to Comply**

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

2. **Penalties for Violations of Permit Conditions**

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

3. **Permit Actions**

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

- A. Violation of any terms or conditions of this permit.
- B. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts.
- C. A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- D. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.
- E. Failure of the permittee to comply with the provisions of APC&EC Rule No. 9 (Permit fees) as required by Part III.A.11 herein.

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

#### 4. **Toxic Pollutants**

Notwithstanding Part III.A.3, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under APC&EC Rule No. 2, as amended, or Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitations on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standards or prohibition and the permittee so notified.

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

#### 5. **Civil and Criminal Liability**

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

#### 6. **Oil and Hazardous Substance Liability**

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

#### 7. **State Laws**

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

#### 8. **Property Rights**

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

**9. Severability**

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

**10. Applicable Federal, State or Local Requirements**

Permittees are responsible for compliance with all applicable terms and conditions of this permit. Receipt of this permit does not relieve any operator of the responsibility to comply with any other applicable federal requirements such as endangered species, state or local statute, ordinance or regulation.

**11. Permit Fees**

The permittee shall comply with all applicable permit fee requirements (i.e., including annual permit fees following the initial permit fee that will be invoiced every year the permit is active) for wastewater discharge permits as described in APC&EC Rule No. 9 (Rule for the Fee System for Environmental Permits). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to terminate this permit under the provisions of 40 CFR Parts 122.64 and 124.5(d), as adopted in APC&EC Rule No. 6 and the provisions of APC&EC Rule No. 8.

**SECTION B – OPERATION AND MAINTENANCE OF POLLUTION CONTROLS****1. Proper Operation and Maintenance**

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

**2. Need to Halt or Reduce not a Defense**

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



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

3. **Duty to Mitigate**

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

4. **Bypass of Treatment Facilities**

“Bypass” means the intentional diversion of waste streams from any portion of a treatment facility, as defined at 40 CFR 122.41(m)(1)(i).

A. Bypass not exceeding limitation

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

B. Notice

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

C. Prohibition of bypass

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

**5. Upset Conditions**

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

**6. Removed Substances**

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

**7. Power Failure**

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

**SECTION C – MONITORING AND RECORDS****1. Representative Sampling**

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

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

## 2. **Flow Measurement**

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

### Calculated Flow Measurement

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

## 3. **Monitoring Procedures**

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

## 4. **Penalties for Tampering**

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

## 5. **Reporting of Monitoring Results**

40 CFR 127.11(a)(1) and 40 CFR 127.16(a) require that monitoring reports must be reported on a Discharge Monitoring Reports (DMR) and filed electronically. Signatory Authorities

must initially request access for a NetDMR account. Once a NetDMR account is established, access to electronic filing should use the following link <https://cdx.epa.gov>. Permittees who are unable to file electronically may request a waiver from the Director in accordance with 40 CFR 127.15. Monitoring results obtained during the previous monitoring period shall be summarized and reported on a DMR dated and submitted no later than the 25<sup>th</sup> day of the month, following the completed reporting period beginning on the effective date of the permit.

6. **Additional Monitoring by the Permittee**

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

7. **Retention of Records**

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

8. **Record Contents**

Records and monitoring information shall include:

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

9. **Inspection and Entry**

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

- A. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit.
- B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit.

- C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit.
- D. Sample, inspect, or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

## **SECTION D – REPORTING REQUIREMENTS**

### **1. Planned Changes**

The Permittee shall give notice to the Director as soon as possible but no later than 180 days prior to any planned physical alterations or additions to the permitted facility [40 CFR 122.41(l)]. Notice is required only when:

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

### **2. Anticipated Noncompliance**

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

### **3. Transfers**

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

### **4. Monitoring Reports**

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

### **5. Compliance Schedule**

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

## 6. **Twenty-four Hour Report**

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

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

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

B. The following must be reported within 24 hours:

1. Any unanticipated bypass which exceeds any effluent limitation in the permit.
2. Any upset which exceeds any effluent limitation in the permit.
3. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part I of the permit.

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

## 7. **Other Noncompliance**

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

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

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

A. That any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant including those listed in 40 CFR 401.15 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 including those listed in 40 CFR 401.15 which is not limited in the permit, if that discharge will exceed the highest of the “notification levels” described in 40 CFR Part 122.42(a)(2).

9. **Duty to Provide Information**

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

10. **Duty to Reapply**

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

11. **Signatory Requirements**

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

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

1. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
  - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.
  - (b) The manager of one or more manufacturing, production, or operation facilities, provided: the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. For a partnership or sole proprietorship: by a general partner or proprietor, respectively.
  3. For a municipality, State, Federal, or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
    - (a) The chief executive officer of the agency.
    - (b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- B. All **reports** required by the permit and **other information** requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
1. The authorization is made in writing by a person described above.
  2. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).
  3. The written authorization is submitted to the Director.
- C. Certification. Any person signing a document under this section shall make the following certification:
- “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

## 12. **Availability of Reports**

Except for data determined to be confidential under 40 CFR Part 2 and APC&EC Rule No. 6, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division of Environmental Quality. As required by the Regulations, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.



**13. Penalties for Falsification of Reports**

The Arkansas Air and Water Pollution Control Act provides that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this permit shall be subject to civil penalties specified in Part III.A.2 and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.).

**14. Other Information**

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

## PART IV DEFINITIONS

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

1. **“7-Day Average”** also known as “average weekly,” means the highest allowable average of “daily discharges” over a calendar week, calculated as the sum of all “daily discharges” measured during a calendar week divided by the number of “daily discharges” measured during that week. The 7-Day Average for Fecal Coliform Bacteria (FCB) or *E. coli* is the geometric mean of the “daily discharges” of all effluent samples collected during a calendar week in colonies per 100 ml.
2. **“Act”** means the Clean Water Act, Public Law 95-217 (33.U.S.C. 1251 et seq.) as amended.
3. **“Administrator”** means the Administrator of the U.S. Environmental Protection Agency.
4. **“APC&EC”** means the Arkansas Pollution Control and Ecology Commission.
5. **“Applicable effluent standards and limitations”** means all State and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.
6. **“Applicable water quality standards”** means all water quality standards to which a discharge is subject under the federal Clean Water Act and which has been (a) approved or permitted to remain in effect by the Administrator following submission to the Administrator pursuant to Section 303(a) of the Act, or (b) promulgated by the Director pursuant to Section 303(b) or 303(c) of the Act, and standards promulgated under (APC&EC) Rule No. 2, as amended.
7. **“Best Management Practices (BMPs)”** are activities, practices, maintenance procedures, and other management practices designed to prevent or reduce the pollution of waters of the State. BMPs also include treatment technologies, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw sewage. BMPs may include structural devices or nonstructural practices.
8. **“Bypass”** means the intentional diversion of waste streams from any portion of a treatment facility, as defined at 40 CFR 122.41(m)(1)(i).
9. **“Composite sample”** is a mixture of grab samples collected at the same sampling point at different times, formed either by continuous sampling or by mixing a minimum of 4 effluent portions collected at equal time intervals (but not closer than one hour apart) during operational hours, within the 24-hour period, and combined proportional to flow or a sample collected at more frequent intervals proportional to flow over the 24-hour period.
10. **“Daily Discharge”** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.
  - A. **Mass Calculations:** For pollutants with limitations expressed in terms of mass, the “daily discharge” is calculated as the total mass of pollutant discharged over the sampling day.
  - B. **Concentration Calculations:** For pollutants with limitations expressed in other units of measurement, the “daily discharge” is calculated as the average measurement of the pollutant over the day.
11. **“Daily Maximum”** discharge limitation means the highest allowable “daily discharge” during the calendar month.

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

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

  - A. **MONTHLY:**

is defined as a calendar month or any portion of a calendar month for monitoring requirement frequency of once/month or more frequently.
  - B. **BI-MONTHLY:**

is defined as two (2) calendar months or any portion of 2 calendar months for monitoring requirement frequency of once/2 months or more frequently.
  - C. **QUARTERLY:**
    1. is defined as a **fixed calendar quarter** or any part of the fixed calendar quarter for a non-seasonal effluent characteristic with a measurement frequency of once/quarter.

Fixed calendar quarters are: January through March, April through June, July through September, and October through December.

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

**D. SEMI-ANNUAL:**

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

**E. ANNUAL or YEARLY:**

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

23. **“Monthly Average”** means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month. For Fecal Coliform Bacteria (FCB) or *E. coli*, report the Monthly Average as the geometric mean of all “daily discharges” within a calendar month.
24. **“National Pollutant Discharge Elimination System”** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318, and 405 of the Clean Water Act.
25. **“POTW”** means Publicly Owned Treatment Works;
26. **“Reduction of CBOD<sub>5</sub>/BOD<sub>5</sub> and TSS in mg/l Formula”**  
$$[(\text{Influent} - \text{Effluent}) / \text{Influent}] \times 100$$
27. **“Severe property damage”** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in products.
28. **“Sewage sludge”** means the solids, residues, and precipitate separated from or created in sewage by the unit processes at a POTW. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and stormwater runoff that are discharged to or otherwise enter a POTW.
29. **“Treatment works”** means any devices and systems used in storage, treatment, recycling, and reclamation of municipal sewage and industrial wastes, of a liquid nature to implement section 201 of the Act, or necessary to recycle reuse water at the most economic cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities, and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.
30. **Units of Measure:**  
**“MGD”** shall mean million gallons per day.

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

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

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

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

**“s.u.”** shall mean standard units.

31. **“Upset”** means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. Any upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operations.
32. **“Visible sheen”** means the presence of a film or sheen upon or a discoloration of the surface of the discharge. A sheen can also be from a thin glistening layer of oil on the surface of the discharge.
33. **“Weekday”** means Monday – Friday.

## **Final Statement of Basis**

This Statement of Basis is for information and justification of the permit requirements only. Please note that it is not enforceable. This permitting decision is for the renewal of discharge Permit Number AR0039730 with Arkansas Department of Energy and Environment – Division of Environmental Quality (DEQ) Facility Identification Number (AFIN) 66-00274 to discharge to Waters of the State.

### **1. PERMITTING AUTHORITY**

The issuing office is:

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

### **2. APPLICANT**

The applicant's mailing address and facility address is:

Gerdau Macsteel, Inc. - Fort Smith Mill  
5225 Planter Road  
Fort Smith, AR 72916

### **3. PREPARED BY**

The permit was prepared by:

Terry Liu, P.E.  
Staff Engineer  
NPDES Discharge Permits Section  
Office of Water Quality  
(501) 682-0653  
E-mail: [liu@adeq.state.ar.us](mailto:liu@adeq.state.ar.us)

Jessica Sears, P.E.  
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NPDES Discharge Permits Section  
Office of Water Quality  
(501) 682-0621  
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### **4. PERMIT ACTIVITY**

Previous Permit Effective Date:	July 1, 2015
Previous Permit Expiration Date:	June 30, 2020

The permittee submitted a permit renewal application on December 23, 2019, with additional information received January 2, 2020. The current discharge permit is being reissued for a 5-year term in accordance with regulations promulgated at 40 CFR Part 122.46(a).

## **DOCUMENT ABBREVIATIONS**

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

APC&EC - Arkansas Pollution Control and Ecology Commission

BAT - best available technology economically achievable  
BCT - best conventional pollutant control technology  
BMP - best management practice  
BOD<sub>5</sub> - five-day biochemical oxygen demand  
BPJ - best professional judgment  
BPT - best practicable control technology currently available  
CBOD<sub>5</sub> - carbonaceous biochemical oxygen demand  
CD - critical dilution  
CFR - Code of Federal Regulations  
cfs - cubic feet per second  
COD - chemical oxygen demand  
COE - United States Corp of Engineers  
CPP - continuing planning process  
CWA - Clean Water Act  
DMR - discharge monitoring report  
DO - dissolved oxygen  
ELG - effluent limitation guidelines  
EPA - United States Environmental Protection Agency  
ESA - Endangered Species Act  
FCB - fecal coliform bacteria  
gpm - gallons per minute  
MGD - million gallons per day  
MQL - minimum quantification level  
NAICS - North American Industry Classification System  
NH<sub>3</sub>-N - ammonia nitrogen  
NO<sub>3</sub> + NO<sub>2</sub>-N - nitrate + nitrite nitrogen  
NPDES - National Pollutant Discharge Elimination System  
O&G - oil and grease  
Rule 2 - APC&EC Rule No. 2  
Rule 6 - APC&EC Rule No. 6  
Rule 8 - APC&EC Rule No. 8  
Rule 9 - APC&EC Rule No. 9  
RP - reasonable potential  
SIC - standard industrial classification  
TDS - total dissolved solids  
TMDL - total maximum daily load  
TP - total phosphorus  
TRC - total residual chlorine  
TSS - total suspended solids  
UAA - use attainability analysis  
USF&WS - United States Fish and Wildlife Service  
USGS - United States Geological Survey  
WET - whole effluent toxicity  
WQMP - water quality management plan  
WQS - Water Quality standards  
WWTP - wastewater treatment plant

Compliance and Enforcement History:

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

[http://www.adeg.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0039730\\_Compliance%20Review\\_20200115.pdf](http://www.adeg.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0039730_Compliance%20Review_20200115.pdf)

## **5. SIGNIFICANT CHANGES FROM THE PREVIOUSLY ISSUED PERMIT**

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

1. The mailing address was removed from the cover page.
2. The TSS limit has been updated in Part IA due to a change in rounding procedures.
3. Discharge of process wastewater from Outfall 001 is prohibited in Part II.5 of the permit pursuant to 40 CFR Part 420.
4. The sludge disposal condition is revised in Part III.B.6 of the permit.
5. Part III.C.5 of the permit now requires that DMRs be submitted electronically via NetDMR.
6. The twenty-four hour report condition is revised in Part III.D.6 of the permit.
7. A new condition regarding other information is added in Part III.D.14 of the permit.
8. The WET testing dilution series have been updated. See Section 12 of this Statement of Basis for more information.

## **6. RECEIVING STREAM SEGMENT AND DISCHARGE LOCATION**

The outfall is located at the following coordinates based on the renewal application and confirmed with Google Earth using WGS84:

Latitude: 35° 18' 20.13" N; Longitude: 94° 22' 12.23" W

The receiving waters named:

an unnamed tributary of Massard Creek, thence to Massard Creek, thence to the Arkansas River in Segment 3H of the Arkansas River Basin. The receiving stream with USGS Hydrologic Unit Code (H.U.C.) of 11110104 and reach #901 is a Water of the State classified for secondary contact recreation, raw water source for domestic (public and private), industrial, and agricultural water supplies; propagation of desirable species of fish and other aquatic life; and other compatible uses.

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

### **A. 303(d) List**

The receiving stream is not listed on the 2018 303(d) list. Therefore, no permit action is needed at this time.



**B. Applicable Total Maximum Daily Load (TMDL) Reports**

There are no applicable TMDL Reports. Therefore, no permit action is needed at this time.

**C. Endangered Species**

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

**D. Anti-Degradation**

The limitations and requirements set forth in this permit for discharge into waters of the State are consistent with the Anti-degradation Policy and all other applicable water quality standards found in APC&EC Rule No. 2.

**8. OUTFALL, TREATMENT PROCESS DESCRIPTION, AND FACILITY CONSTRUCTION**

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

- A. Average Flow: In the renewal application, the permittee indicated the highest monthly average flow in the last two years was 2.255 MGD.
- B. Type of Treatment: retention control structure followed by pH adjustment
- C. Discharge Description: contaminated stormwater runoff (includes runoff from areas where roads are lined with lime), air conditioner condensate, and natural springs
- D. Facility Status: This facility was evaluated using the NPDES Permit Rating Worksheet (MRAT) to determine the correct permitting status. Since the facility's MRAT score of 20 is less than 80, this facility is classified as a minor industrial.
- E. Facility Construction: This permit does not authorize or approve the construction or modification of any part of the treatment system or facilities. Approval for such construction must be by permit issued under Rule 6.202.

**9. ACTIVITY**

Under the Standard Industrial Classification (SIC) code of 3312 and 3398 or North American Industry Classification System (NAICS) code of 331111, the applicant's activities are the operation of a steel mill.

**10. SOLIDS PRACTICES**

Solids normally remain in the retention area. When the level of accumulation requires removal, samples of the solids are taken for TCLP testing. Once the results of the test are received, the samples are sent to the permitted landfill site.

## 11. DEVELOPMENT AND BASIS FOR PERMIT CONDITIONS

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

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

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

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

Parameter	Water Quality-Based		Technology-Based		Previous Permit		Final Permit	
	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l
COD	N/A	N/A	Report	100	Report	100	Report	100
TSS	N/A	N/A	Report	60.0	Report	60	Report	60.0
DO	N/A		Report (Inst. Min.)		Report (Inst. Min.)		Report (Inst. Min.)	
O&G	10	15	N/A	N/A	10	15	10	15
Total Recoverable Arsenic	N/A	N/A	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l	Report µg/l
Total Recoverable Copper	9.2 µg/l	18.5 µg/l	N/A	N/A	9.2 µg/l	18.5 µg/l	9.2 µg/l	18.5 µg/l
Total Recoverable Lead	2.7 µg/l	5.4 µg/l	N/A	N/A	2.7 µg/l	5.4 µg/l	2.7 µg/l	5.4 µg/l
pH	6.0-9.0 s.u.		N/A		6.0-9.0 s.u.		6.0-9.0 s.u.	

#### **A. Justification for Limitations and Conditions of the Final Permit**

Parameter	Water Quality or Technology	Justification
COD	Technology	40 CFR 122.44(l) and previous permit
TSS	Technology	40 CFR 122.44(l) and previous permit
DO	Technology	Rule 2.505, 40 CFR 122.44(l), and previous permit

Parameter	Water Quality or Technology	Justification
O&G	Water Quality	Rule 2.510, CWA § 402(o), and previous permit
Total Recoverable Arsenic	Technology	EPA Bioaccumulation Standards, Rule 2.409, Ark. Code Ann. § 8-4-216, 40 CFR 122.44(l), and previous permit
Total Recoverable Copper	Water Quality	Rule 2.508, CWA § 402(o), and previous permit
Total Recoverable Lead	Water Quality	Rule 2.508, CWA § 402(o), and previous permit
pH	Water Quality	Rule 2.504, CWA § 402(o), and previous permit

No new information was received to warrant adding, removing, or revising any limitations in the permit. Therefore, the limitations in the permit are consistent with the limitations in the previous permit.

#### B. Anti-backsliding

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

The permit meets or exceeds the requirements of the previous permit.

#### C. Limits Calculations

##### 1. Mass Limits:

Mass limits have not been included in this permit because the volumes of the flows are dependent upon stormwater. Stormwater flows are highly variable.

##### 2. Daily Maximum Limits:

The daily maximum limits for COD and TSS, which are continued from the previous permit, have been judged to represent the level of treatment attainable through the application of best conventional pollutant control technology (BCT).

The daily maximum limits for Copper and Lead are based on Section 5.4.2 of the Technical Support Document for Water Quality-based Toxics Control:

$$\text{daily maximum limits} = \text{monthly average limits} \times 2$$

The daily maximum limit for O&G is based on Rule 2.510.

#### D. Applicable Effluent Limitations Guidelines

This permit does not authorize the discharge of process wastewater. Therefore, any ELGs which may apply to a steel manufacturer are not applicable to this permit.

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

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

The concentration of each pollutant after mixing with the receiving stream was compared to the applicable water quality standards as established in the Arkansas Water Quality Standards (AWQS), Rule No. 2 (Rule 2.508) and criteria obtained from the “Quality Criteria for Water, 1986 (Gold Book).”

Under Federal Regulation 40 CFR Part 122.44(d), as adopted by Rule No. 6, if a discharge poses the reasonable potential to cause or contribute to an exceedance above a water quality standard, the permit must contain an effluent limitation for that pollutant. Effluent limitations for the toxicants listed below have been derived in a manner consistent with the Technical Support Document (TSD) for Water Quality-based Toxics Control (EPA, March 1991), the CPP, and 40 CFR Part 122.45(c).

The following items were used in calculations:

Parameter	Value	Source
Discharge Flow = Q	2.255 MGD = 3.49 cfs	Application
7Q10 Background Flow	0 cfs	U.S.G.S.
LTA Background Flow	1.09 cfs	Watershed Ratio
TSS	3.0 mg/l	CPP
Hardness as CaCO <sub>3</sub>	25 mg/l	CPP
pH	7.0 s.u.	neutral pH since no upstream information is available

The following pollutants were reported above detection levels:

Pollutant*	Concentration Reported, µg/l	ML, µg/l
Arsenic, Total Recoverable	1.45	0.5
Nickel, Total Recoverable	3.2	0.5
Zinc, Total Recoverable	22	20

\* One sample for Nickel and Zinc was reported in the renewal application. Four data points for Arsenic were submitted in the DMR reports from September 30, 2015 to June 30, 2016.

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

[http://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0039730\\_PPS\\_20200110.pdf](http://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0039730_PPS_20200110.pdf)

## 1. Aquatic Toxicity Evaluation

### a. Acute Criteria Evaluation

Pollutant	Concentration Reported ( $C_e$ ) $\mu\text{g/l}$	$C_e \times 2.13^1$	Instream Waste Concentration (IWC)	Criteria <sup>2</sup>	Reasonable Potential (Yes/No)
			Acute, $\mu\text{g/l}$	Acute, $\mu\text{g/l}$	
Total Recoverable Nickel	3.2	6.82	6.82	782.33	No
Total Recoverable Zinc	22	46.9	46.9	96.81	No

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

<sup>2</sup> Criteria are from Rule 2.508 unless otherwise specified.

### b. Chronic Criteria Evaluation

Pollutant	Concentration Reported ( $C_e$ ) $\mu\text{g/l}$	$C_e \times 2.13^1$	Instream Waste Concentration (IWC)	Criteria <sup>2</sup>	Reasonable Potential (Yes/No)
			Chronic, $\mu\text{g/l}$	Chronic, $\mu\text{g/l}$	
Total Recoverable Nickel	3.2	6.82	6.82	86.88	No
Total Recoverable Zinc	22	46.9	46.9	88.40	No

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

<sup>2</sup> Criteria are from Rule 2.508 unless otherwise specified.

## 2. Human Health (Bioaccumulation) Evaluation

Pollutant	Concentration Reported ( $C_e$ ) $\mu\text{g/l}$	$C_e \times 2.13^1$	Instream Waste Concentration (IWC)	Criteria <sup>2</sup>	Reasonable Potential (Yes/No)
Total Recoverable Nickel	3.2	6.82	5.19	46,000	No
Total Recoverable Zinc	22	46.9	35.71	26,000	No
Total Recoverable Arsenic	1.45	3.09	2.35	1.4	Yes

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

<sup>2</sup> Adapted from "National Recommended Water Quality Criteria: 2002 – Human Health Criteria Calculation Matrix", EPA. The respective WQC from the noted reference are Consumption of Organism Only values. The values from the reference are for a lifetime risk factor of  $10^{-6}$ . These values have been multiplied by 10 to correspond to human health criteria lifetime risk factor of  $10^{-5}$  as stated in Rule 2.508.

As can be seen in the tables above, the calculated IWC for Arsenic is higher than the EPA Water Quality Criterion. A.C.A. § 8-4-216 authorizes the Division to require the submission of any information relevant to meeting the requirements of the Arkansas Water and Air Pollution Control Act. A requirement to monitor and report for Arsenic once per quarter for one year has been included in the permit so that, in the event that a WQS for Arsenic is added to Rule 2.508, data will be available to perform a reasonable potential analysis. This is in accordance with the procedure in Appendix D of the CPP (Appendix D, Part IV – Chemical Specific Standards and Criteria, Section E – Protection of Human Health Criteria of the Discharge Permit, Toxic Control Implementation Procedure).

The CPP requires that for all pollutants for which there are no applicable state water standards, IWCs are to be compared with the EPA Human Health Criteria (fish consumption only). If dilution calculations show that the in-stream concentration exceeds these criteria, the permit will require the permittee to monitor and report for the pollutant of concern once per quarter for one year only. A reopener clause has been included in the permit (see Part II.3) to provide permit limits if state water quality standards are developed for the applicable pollutants, and the data shows that there is a reasonable potential for the discharge to violate those water quality standards.

## 12. WHOLE EFFLUENT TOXICITY

Section 101(a)(3) of the Clean Water Act states that ".....it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited....." To ensure that the CWA's prohibitions for toxics are met, EPA has issued a "Policy for the Development of Water Quality-Based Permit Limitations for 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. In addition, DEQ is required under 40 CFR Part 122.44(d)(1), adopted by reference in Rule 6, to include conditions as necessary to achieve water quality standards as established under Section 303 of the Clean Water Act.

The Regional policy and strategy are designed to ensure 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 (WQS) 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.

Whole effluent toxicity (WET) testing has been established for assessing and protecting against impacts upon water quality and designated uses caused by the aggregate toxic effect of the discharge of pollutants. The stipulated test species, which are appropriate to measure whole effluent toxicity, are consistent with the requirements of the State Water Quality Standards. The WET testing frequency has been established to reflect the likelihood of ambient toxicity and to provide data representative of the toxic potential of the facility's discharge, in accordance with the regulations promulgated at 40 CFR Part 122.48.

### Implementation

Arkansas has established a narrative water quality standard under the authority of Section 303 of the CWA which states "toxic materials shall not be present in receiving waters in such quantities as to be toxic to human, animal, plant or aquatic life or to interfere with the normal propagation, growth and survival of aquatic biota."

Whole effluent toxicity testing conducted by the permittee has shown potential ambient toxicity to be the result of the permittee's discharge to the receiving stream or water body, at the appropriate instream critical dilution. Pursuant to 40 CFR 122.44(d)(1)(v), DEQ has determined from the permittee's self reporting that the discharge from this facility does have the reasonable potential to cause, or contribute to an instream excursion above the narrative standard within the applicable State Water Quality Standards, in violation of Section 101(a)(3) of the Clean Water Act. Therefore, the permit must establish both monthly average and 7-day minimum effluent limitations for lethality and sub-lethality following Regulations promulgated by 40 CFR 122.44(d)(1)(v). These effluent limitations for lethality and sub-lethality (7-day NOEC) are applied at outfall **001** on the effective date of the permit. The daily average lethality and 7-day minimum lethality (7-day NOEC) value shall not be less than **100%** (Critical Dilution) effluent, and the daily average sub-lethality and 7-day minimum sub-lethality (7-day NOEC) value shall not be less than **80%** effluent for outfall **001**.

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

#### **TOXICITY TESTS**

Chronic WET

#### **FREQUENCY**

Once/quarter

Requirements for measurement frequency are based on the CPP.

Since the 7Q10 is less than 100 cfs (ft<sup>3</sup>/sec) and the dilution ratio is less than 100:1, chronic WET testing requirements will be included in the permit.

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

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

$$Q_d = \text{Average flow} = 2.255 \text{ MGD} = 3.49 \text{ cfs}$$

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

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

$$CD = (3.49) / (3.49 + 0) \times 100 = 100\%$$

Toxicity tests shall be performed in accordance with protocols described in "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms", EPA/600/4-91/002, July 1994. A minimum of five effluent dilutions in addition to an appropriate control (0%) are to be used in the toxicity tests. These additional effluent concentrations are **32%**, **42%**, **56%**, **80%**, and **100%** (See the CPP). The

low-flow effluent concentration (critical dilution) is defined as **100%** effluent. The requirement for chronic WET tests is based on the magnitude of the facility's discharge with respect to receiving stream flow. The stipulated test species, *Ceriodaphnia dubia* and the Fathead minnow (*Pimephales promelas*) are representative of organisms indigenous to the geographic area of the facility; the use of these is consistent with the requirements of the State water quality standards. The WET testing frequency has been established to provide data representative of the toxic potential of the facility's discharge, in accordance with the regulations promulgated at 40 CFR Part 122.48.

Results of all dilutions as well as the associated chemical monitoring of pH, temperature, hardness, dissolved oxygen conductivity, and alkalinity shall be reported according to EPA-821-R-02-013, October 2002 and shall be submitted as an attachment to the Discharge Monitoring Report (DMR).

This permit may be reopened to require further WET testing studies, Toxicity Reduction Evaluation (TRE) and/or effluent limits if WET testing data submitted to the Division shows toxicity in the permittee's discharge. Modification or revocation of this permit is subject to the provisions of 40 CFR 122.62, as adopted by reference in APC&EC Rule No. 6. Increased or intensified toxicity testing may also be required in accordance with Section 308 of the Clean Water Act and Section 8- 4-201 of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

#### Administrative Records

The following information summarizes toxicity tests submitted by the permittee during the term of the current permit at Outfall 001.



Permit Number:	AR0039730	AFIN:	66-00274	Outfall Number:	001
Date of Review:	1/17/2020	Reviewer:	M. Barnett		
Facility Name:	Gerdau Macsteel, Inc. - Fort Smith Mill				
Previous Dilution series:	32, 42, 56, 80, 100	Proposed Dilution Series:	32, 42, 56, 80, 100		
Previous Critical Dilution:	100	Proposed Critical Dilution:	100		
Previous TRE activities:	TRE 2010-2012 - Final TRE report received January 27, 2012				
Frequency recommendation by species					
<i>Pimephales promelas</i> (Fathead minnow):		once per quarter			
<i>Ceriodaphnia dubia</i> (water flea):		once per quarter			
TEST DATA SUMMARY					
TEST DATE	Vertebrate ( <i>Pimephales promelas</i> )		Invertebrate ( <i>Ceriodaphnia dubia</i> )		
	Lethal NOEC	Sub-Lethal NOEC	Lethal NOEC	Sub-Lethal NOEC	
12/31/2014	100	72	100	100	
12/31/2014	100	100			UV filtration
3/31/2015	100	100	100	100	
6/30/2015	100	72	100	100	
6/30/2015	100	100			UV filtration
8/30/2015	100	100			
8/30/2015	100	100			UV filtration
9/30/2015			100	72	
10/31/2015			100	100	
10/31/2015	32	32			UV filtration
11/30/2015	100	100			
12/31/2015	42	0	100	100	
12/31/2015	100	100			UV filtration
3/30/2016	100	100	100	100	
6/30/2016	100	100	100	100	
6/30/2016	100	100			UV filtration
9/30/2016	100	100			
9/30/2016			56	45	
3/31/2017	56	32	100	100	
3/31/2017	100	45			UV filtration
3/31/2017	100	100	100	100	
6/30/2017	32	0	100	100	
8/1/2017	100	100			
9/1/2017	100	100			
9/30/2017	45	0	100	32	
12/31/2017	32	0	100	100	
12/31/2017	100	100			UV filtration
3/31/2018	100	100	100	100	
6/30/2018	100	100	100	100	
9/30/2018	100	100	100	100	
12/31/2018	100	45	100	100	
6/30/2019	100	100	100	100	
9/30/2019	100	0	100	32	
Failures noted in BOLD					

REASONABLE POTENTIAL CALCULATIONS				
	Vertebrate Lethal	Vertebrate Sub-lethal	Invertebrate Lethal	Invertebrate Sub-Lethal
Min NOEC Observed	32	31	56	32
TU at Min Observed	3.13	3.23	1.79	3.13
Count	30	30	20	20
Failure Count	6	11	1	4
Mean	1.325	1.620	1.039	1.293
Std. Dev.	0.704	0.939	0.176	0.687
CV	0.5	0.6	0.2	0.5
RPMF	1.3	1.4	1.1	1.3
Reasonable Potential	4.063	4.516	1.964	4.063
100/Critical dilution	1.000	1.000	1.000	1.000
Does Reasonable Potential Exist	Yes	Yes	Yes	Yes
PERMIT ACTION				
<i>P. promelas</i> Chronic - Limit 51714 - lethal not < 100%, sub-lethal not < 80%				
<i>C. dubia</i> Chronic - - Limit 51710 - lethal not < 100%, sub-lethal not < 80%				

### 13. STORMWATER REQUIREMENTS

The federal regulations at 40 CFR 122.26(b)(14) require certain industrial sectors to have NPDES permit coverage for stormwater discharges from the facility. These requirements include the development and implementation of a Stormwater Pollution Prevention Plan (SWPPP) to control the quality of stormwater discharges from the facility. This facility was issued stormwater permit coverage under NPDES Tracking number ARR000298.

### 14. SAMPLE TYPE AND FREQUENCY

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

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

Parameter	Previous Permit		Final Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
Flow	twice/week	instantaneous	twice/week	instantaneous
COD	once/month	grab	once/month	grab
TSS	once/month	grab	once/month	grab
DO	once/month	grab	once/month	grab
O&G	once/month	grab	once/month	grab
Total Recoverable Arsenic	once/quarter	composite	once/quarter	composite
Total Recoverable Copper	once/week	composite	once/week	composite
Total Recoverable Lead	once/week	composite	once/week	composite
pH	once/month	grab	once/month	grab

## 15. PERMIT COMPLIANCE SCHEDULE

A Schedule of Compliance has not been included in this permit.

## 16. 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.

## 17. SOURCES

The following sources were used to draft the permit:

- A. [Application No. AR0039730 received December 23, 2019, with additional information received January 2, 2020.](#)
- B. Arkansas Water Quality Management Plan (WQMP).
- C. APC&EC Rule No. 2.
- D. APC&EC Rule No. 3.
- E. APC&EC Rule No. 6, which incorporates by reference certain federal regulations included in Title 40 of the Code of Federal Regulations at Rule 6.104.
- F. 40 CFR Parts 122 and 125.
- G. Discharge permit file AR0039730.
- H. Discharge Monitoring Reports (DMRs).
- I. "2018 Integrated Water Quality Monitoring and Assessment Report," DEQ.
- J. "2018 List of Impaired Waterbodies (303(d) List)," DEQ, May 2020.
- K. "Identification and Classification of Perennial Streams of Arkansas," Arkansas Geological Commission.
- L. Continuing Planning Process (CPP).
- M. Technical Support Document for Water Quality-based Toxic Control.
- N. [Inspection Report dated October 6, 2015.](#)
- O. [Compliance Review Memo from Layne Pemberton to Terry Liu dated January 15, 2020.](#)
- P. [Letter from the Arkansas Department of Health, dated December 7, 2020.](#)

## 18. PUBLIC NOTICE

The public notice of the draft permit was published for public comment on November 21, 2020. The last day of the comment period was thirty (30) days after the publication date. No public comments were received on the draft permit.

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

## 19. PERMIT FEE

In accordance with Rule No. 9.403(D), the annual fee for the permit is calculated from the Highest Monthly Average Flow (Q, in MGD) of the last two years as follows:

$$\$200 + (5,600 \times Q) = \$200 + (5,600 \times 2.255) = \$12,828 > \text{Maximum Fee of } \$10,000$$

$$\text{Fee} = \$10,000$$

## 20. POINT OF CONTACT

For additional information, contact:

Terry Liu, P.E.  
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Division of Environmental Quality  
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Telephone: (501) 682-0653