

**Authorization to Discharge under the National Pollutant Discharge
Elimination System and the Arkansas Water and Air Pollution Control Act**

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

**Non-contact Cooling Water, Cooling Tower Blowdown, and Boiler Blowdown Facilities Located within
the State of Arkansas**

are authorized to construct a treatment system and discharge non-contact cooling water, cooling tower blowdown, and boiler blowdown wastewater as discussed in Part 1.2 to the Waters of the State, except as stated in Part 1.3, in accordance with effluent limitations, monitoring requirements, and other conditions set forth in this permit.

After properly filing a Notice of Intent (NOI) under Part 1.4, facilities that are eligible for coverage under this general permit will receive a Notice of Coverage (NOC) letter, with a tracking number starting with ARG25, and a copy of the permit for the facility. The NOC letter includes the Division's determination that a facility is covered under this general permit and may specify alternate requirements outlined in the permit, such as modified sampling frequencies for certain parameters or the inclusion of monitoring for parameters in addition to those requiring regular monitoring.

Effective Date: December 1, 2022

Expiration Date: November 30, 2027

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PART 1

COVERAGE UNDER THIS PERMIT

1.1 Permit Area

The area covered by this permit includes all areas within the State of Arkansas.

1.2 Eligibility and Authorization

This general permit covers facilities, with or without a treatment system, that discharge non-contact cooling water, cooling tower blowdown, and boiler blowdown wastewater to Waters of the State, upon demonstration that eligibility requirements are met.

1.2.1 This general permit also covers the construction of treatment systems for non-contact cooling water, cooling tower blowdown, and boiler blowdown if treatment is necessary to meet the limitations and conditions of this permit.

1.2.2 Applicants requesting coverage under this permit must submit a complete Notice of Intent (NOI) to DEQ and receive a Notice of Coverage (NOC) to discharge under this general permit, as stated in Part 1.4.

1.2.3 Facilities within the State of Arkansas discharging from this type of activity must be authorized to discharge by either this general permit or an individual National Pollutant Discharge Elimination System (NPDES) permit.

1.3 Exclusions

This general permit does not cover the following types of discharges. Other permits such as an individual NPDES permit, an alternate general permit, or other approval from the Division may be obtained for the following, if applicable:

1.3.1 Any facility that discharges into a water body listed pursuant to Section 303(d) of the Clean Water Act where the pollutant of concern is present in the discharge and the requirements of the permit are inadequate to provide sufficient reduction of the listed pollutant (e.g. a new source or new discharge if the discharges would cause or contribute to the water quality impairment).

1.3.2 Any facility that discharges into an Extraordinary Resource Water (ERW), Ecologically Sensitive Waterbody (ESW), or Natural and Scenic Waterway (NSW) as defined in APC&EC Rule¹ 2. These facilities require coverage under an individual permit.

1.3.3 Any facility not previously permitted or covered by this permit that discharges into a losing stream segment as defined in APC&EC Rule 6.301(B), unless additional information is provided to demonstrate that the pollutant limits and the requirements of the permit are adequate to provide sufficient reduction of all pollutants of concern and protection of the designated uses of

¹ In accordance with Act 315 of the Arkansas General Assembly, the documents formerly established as “regulations” by the APC&EC will be changed to “rules” the next time they are promulgated. All references to “rules” in this general permit also apply to “regulations” that have not yet been re-promulgated.

the receiving waters.

- 1.3.4 Any facility that discharges into a lake or reservoir where pollutants of concern are present in the discharge and the requirements of the permit are inadequate to provide sufficient reduction of the pollutants.
- 1.3.5 Discharges from a facility into receiving waters for which there is an established Total Maximum Daily Load (TMDL) and Waste Load Allocation (WLA) for a pollutant that is limited in this permit, and the limit is not restrictive enough for the facility to meet the TMDL and WLA requirements.
- 1.3.6 Discharges that the Division has determined to be or which may reasonably be expected to be contributing to a violation of a water quality standard.
- 1.3.7 Facilities not in compliance with a previously issued individual or general permit and/or in violation of state water quality regulations.
- 1.3.8 Industries with effluent limitations guidelines for non-contact cooling water, cooling tower blow down, and/or boiler blow down (listed in 40 CFR § 400 through § 471).
- 1.3.9 Discharges mixed with any other discharge (e.g., stormwater.)
- 1.3.10 Any facility covered under a National Pollutant Discharge Elimination System (NPDES) individual permit or other NPDES general permits, and the issuance of this permit would violate the anti-backsliding requirements of 40 CFR § 122.44(1).
- 1.3.11 Facilities using groundwater containing any of the toxic substances listed in APC&EC Rule 2.508.
- 1.3.12 Facilities using additives containing tributyl tin oxide, chromium, or zinc in any form.
- 1.3.13 Facilities receiving water from a cooling water intake structure that is subject to the requirements of regulation §316(b) of the Clean Water Act unless the intake structure is currently covered by an active NPDES Individual Discharge Permit.
- 1.3.14 Facilities discharging greater than 0.5 MGD (million gallons per day), unless the Division determines that the terms and conditions of the permit are sufficient to protect water quality standards at a greater discharge flow. Such determination will be made on a case-by-case basis.

1.4 Notification Requirements

- 1.4.1 Requests for coverage shall be submitted as follows:

- 1.4.1.1 For existing discharges covered under the General Permit (ARG250000) expiring on November 30, 2022:

- A recertification NOI and all necessary information may be submitted upon issuance of this general permit renewal but no later than thirty (30) days prior to the effective date of this general permit renewal.

1.4.1.2 For new discharges with no construction expected:

An NOI and all necessary information must be completed and submitted to DEQ no later than thirty (30) days prior to date coverage is desired.

1.4.1.3 For new discharges with construction expected:

An NOI and all necessary information must be completed and submitted to DEQ no later than ninety (90) days prior to date coverage is desired.

1.4.1.4 Notices of Intent and other required documents may be submitted by electronic application using DEQ ePortal:

<https://eportal.adeq.state.ar.us>

Applicants may apply for a waiver from electronic reporting if unable to use the ePortal system, as detailed in Part 1.5 of this permit.

1.4.1.5 All notices of intent for coverage under this general permit must be signed and certified in accordance with the Part 6.8 of the permit.

1.4.2 In order to discharge under this general permit, applicants must submit the following items to the Division:

1.4.2.1 A Notice of Intent (NOI);

1.4.2.2 For new dischargers or facilities with a change in facility, outfall or treatment area location, only: site map indicating the location of the facility, treatment areas (if applicable), and outfalls;

1.4.2.3 If the permittee is a corporation, then the legal permittee name must be listed as it is registered with the office of the Secretary of State of Arkansas. The legal permittee must be in Good Standing with the Secretary of State of Arkansas. Additionally, if the legal permittee's state of incorporation is any state other than Arkansas, a Certificate of Good Standing from that state must also be documented with the NOI;

1.4.2.4 A Disclosure Statement as required by APC&EC Rule 8.204, if applicable; and

1.4.2.5 A permit fee as allowed by APC&EC Rule 9.404(C). The initial and annual permit fee shall be \$200 until this permit is assigned a specific fee value under APC&EC Rule 9.

1.4.3 The NOI shall include the following minimum information:

1.4.3.1 The legal name and address of the permittee;

1.4.3.2 The facility location (street address or legal description);

1.4.3.3 The name and telephone number of the facility contact;

1.4.3.4 The number and location of outfalls, including the type of wastewater discharged and latitude and longitude of each;

1.4.3.5 The type of business, facility SIC code(s), and facility NAICS code(s);

1.4.3.6 discharge path and name of receiving water(s);

1.4.3.7 The actual or projected wastewater flow;

1.4.3.8 If a licensed operator is required, the license number of any wastewater operators working at the facility;

1.4.3.9 A list of all cooling water and boiler water additives proposed to be used in the system, and the additive information required by Part 7.1 of this permit.

1.4.4 Construction Requirements

1.4.4.1 Any facility requesting approval to construct a treatment system must submit a DEQ Form 1, plans and specifications, and design calculations stamped by a Professional Engineer licensed in the State of Arkansas in accordance with APC&EC Rule 6.202.

1.4.4.2 An additional fee will be required based on APC&EC Rule 9.402(A).

1.4.4.3 If a construction site will disturb greater than or equal to one (1) acre and less than five (5) acres, the permittee shall comply with the requirements in APC&EC Rule 6.203 for Stormwater discharge associated with a small construction site, as defined in APC&EC Rule 6. If the construction site will disturb five (5) acres or more, the permittee shall comply with the terms of the Stormwater Construction General Permit Number ARR150000 prior to the start of construction. BMPs must be implemented regardless of the size.

1.4.5 Operator Licensing Requirements

1.4.5.1 If a treatment system is to be used for the wastewater, and the treatment system meets the definition of a “wastewater treatment plant” as defined in APC&EC Rule 3, the operator of the treatment system shall be licensed at minimum as Basic Industrial by the State of Arkansas in accordance with APC&EC Rule 3.

1.4.5.2 If a licensed operator is required, new permittees shall have the appropriate operator license prior to commencing operation of the treatment system.

1.5 Waivers from Electronic Reporting

1.5.1 Waivers from electronic reporting may be granted based on one of the following conditions:

1.5.1.1 The operational headquarters is physically located in a geographic area (i.e. zip code or census tract) that is identified as under-served for broadband internet access in the most recent National Broadband Map from the Federal Communications Commission (available online at <https://broadbandmap.fcc.gov/>);

- 1.5.1.2 Available computer access or computer capability is limited; or
- 1.5.1.3 The applicant is a religious community that chooses not to use certain modern technologies pursuant to 40 CFR §127.15(c)(1).
- 1.5.2 In order to apply for a waiver from electronic reporting, the applicant must submit the required information outlined in 40 CFR §127.15(b)(2):
 - 1.5.2.1 Facility Name;
 - 1.5.2.2 NPDES permit number (if applicable);
 - 1.5.2.3 Facility address;
 - 1.5.2.4 Name, address, and contact information for the owner, applicant, or duly authorized facility representative;
 - 1.5.2.5 Brief written statement regarding the basis for claiming such a temporary waiver; and
 - 1.5.2.6 Any other information required by the authorized NPDES program.
- 1.5.3 If DEQ grants a waiver approval to use a paper form, and the applicant elects to use it, the applicant must use the approved form developed by DEQ.

1.6 NOI Review and Public Notification Process

All NOIs for permit coverage under this general permit will be reviewed by DEQ prior to undergoing a public notification process as follows:

Upon receipt of Notice of Intent (NOI), DEQ will review the submitted documents to ensure that all permit requirements are fulfilled. DEQ may request additional information from the applicant if additional information is necessary to complete the NOI. If DEQ makes a preliminary determination that the NOI is complete, the NOI will be made available for a five (5) business day public review and comment period on the DEQ website. DEQ will review comments received during this period and, if necessary, require the applicant to revise the NOI. If determined appropriate by DEQ, the permittee will be granted coverage under this general permit upon written notification by DEQ.

Comments on a specific facility coverage notice will only be considered if they are in regard to a specific facility's NOI. Comments on the contents of the General Permit ARG250000 will only be considered to the extent of its technical or regulatory applicability to the specific facility NOI. Commenters will receive notification of the Division's decision regarding the coverage.

1.7 Requesting General Permit Coverage

The applicant excluded from coverage by this General Permit solely because the facility already has an individual NPDES permit may request the individual permit be terminated and that the discharge be covered by this General Permit. In order to avoid conflict with the "anti-backsliding" provisions of the Clean Water Act (CWA), coverage under this general permit will be allowed only if the permittee can demonstrate to DEQ's satisfaction that all limits that are less stringent based on the conversion to this

General Permit is consistent with CWA 303(d)(4), CWA 402(o), and 40 CFR § 122.44(l). (Note that a simple pH range limit may not necessarily have to be considered a water-quality based limit unless developed to address known discharge problems at a particular facility. Compliance with the numeric limitations under the individual permit may also be criteria for eligibility to transfer from an individual NPDES permit to the General Permit.)

1.8 Requiring an Individual NPDES Permit

1.8.1 At the discretion of the Director, the Division may require any permittee covered under this general permit to apply for and obtain an individual NPDES permit for reasons that include but are not limited to the following:

1.8.1.1 The discharger is not in compliance with the conditions of the general permit;

1.8.1.2 Conditions or standards have changed so that the discharger no longer qualifies for a general permit;

1.8.1.3 The Division does not renew this general permit; or

1.8.1.4 Effluent limitation guidelines (ELGs) are promulgated for point sources covered by the general permit and requirements of the general permit are inadequate to provide compliance with the ELG;

1.8.1.5 A Water Quality Management Plan (WQMP) containing requirements applicable to such point sources is approved and the requirements of the general permit are inadequate to provide compliance with these requirements; or

1.8.1.6 The discharge(s) is a significant contributor of pollutants. In making this determination, the Director may consider the following factors:

1.8.1.6.1 The location of the discharge with respect to Waters of the State;

1.8.1.6.2 The size of the discharge;

1.8.1.6.3 The quantity and nature of the pollutants discharged to Waters of the State; and

1.8.1.6.4 Other relevant factors.

1.8.2 The permittee will be notified in writing that an application for an individual permit is required. When an individual NPDES discharge permit is issued to a permittee otherwise covered under this general permit, the permittee is required to submit a Notice of Termination (NOT). Coverage under the general permit will then be terminated no earlier than the effective date of the individual NPDES permit.

Timeliness: Should DEQ determine at any point that the permittee has not submitted or responded to the permitting process or requests for information in a timely manner, DEQ will provide a final notice in writing setting a reasonable time/period for the permittee to complete the necessary application(s) or supplementary material to complete processing. After that time

DEQ may terminate the continued coverage and may terminate the review of any incomplete permit application in accordance with permitting procedures identified by APC&EC Rule No. 8.

- 1.8.3 Any permittee covered by this General Permit may request to be excluded from the coverage by applying for an individual NPDES permit.

1.9 Terminating Coverage

- 1.9.1 A facility covered by this permit must submit a Notice of Termination (NOT) within thirty (30) days after one of the following conditions have been met:

1.9.1.1 all discharges authorized by this permit are eliminated; or

1.9.1.2 coverage under an Individual NPDES Permit; or alternative general permit, for all discharges authorized by this permit is obtained.

- 1.9.2 A facility covered by this general permit shall adhere to the requirements of this general permit until notified by DEQ that the facility is no longer covered by this general permit regardless of the submission of an NOT.

- 1.9.3 The NOT may be submitted by electronic application using DEQ ePortal:

<https://eportal.adeg.state.ar.us>

Applicants may apply for a waiver from electronic reporting if unable to use the ePortal system, as detailed in Part 1.5 of this permit.

PART 2

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The following effluent limitations are applicable for the discharge of non-contact cooling water, cooling tower blowdown, and boiler blowdown wastewater.

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>		<u>Monitoring Requirements</u>	
	Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max.		
Flow (MGD) ¹	N/A	0.5 ²	twice/week	instantaneous
Chemical Oxygen Demand (COD)	50	75	twice/month	grab
Total Suspended Solids (TSS)	35.0	52.5	twice/month	grab
Oil and Grease (O&G)	10	15	twice/month	grab
pH	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	twice/month	grab
Temperature ³	See table below for Daily Maximum Limit		twice/month	in-situ

¹ Flow must be monitored and reported. Report in units of million gallons per day (MGD).

² Flows greater than 0.5 MGD may be authorized on a case-by-case basis. If a facility is authorized for a different flow, this authorization will be included on the facility's notice of coverage.

³ For all outfalls, the discharge shall not cause or contribute to a rise in the temperature of the receiving stream resulting from artificial origin of greater than 5°F, i.e., downstream temp. – upstream temp. shall be ≤ 5°F, based upon the monthly average of the daily temperatures measured at mid-depth or three feet (whichever is less).

Ecoregion and Waterbody Specific Criteria	Temperature Limit, °F Daily Max.
Ozark Highlands	84.2
Boston Mountains and Arkansas River Valley	87.8
Ouachita Mountains, Springwater-influenced Gulf Coastal, Typical Gulf Coastal, and Least-Altered Delta	86.0
Channel-Altered Delta, White River (Dam #1 to mouth), St. Francis River, Mississippi River, Arkansas River, Ouachita River (Little Missouri River to state line), Red River, lakes, and reservoirs	89.6
Trout Waters	68.0

There shall be no discharge of distinctly visible solids, scum or foam in other than trace amounts.

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 8 of this permit.

Samples shall be taken after final treatment (if a treatment system is used) and prior to the receiving stream.

PART 3 GENERAL CONDITIONS

3.1 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 or for requiring a permittee to apply for an Individual Permit. Any values reported in the required monitoring reports which are in excess of the effluent limitation specified in Part 2 shall constitute evidence of violation of such effluent limitation and of this permit.

3.2 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 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.

3.3 Permit Actions

This general permit may be modified, revoked and reissued, or terminated for cause in accordance with the requirements of the National Pollutant Discharge Elimination System (NPDES) Permit Program Regulations at 40 CFR §§ 122 and 124, as adopted by reference in APC&EC Rule 6. 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.

3.4 Toxic Pollutants

Notwithstanding Part 3.3, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under APC&EC Rule 2, as amended, (rule establishing water quality standards for surface waters of the State of Arkansas) or Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitations on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the permittee so notified.

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

3.5 Civil and Criminal Liability

Except as provided in permit conditions on “Bypassing” (Part 4.4), and “Upsets” (Part 4.5), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

3.6 Oil and Hazardous Substance Liability

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

3.7 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 injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

3.8 Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision 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.

3.9 Permit Fees

The permittee shall comply with all applicable permit fee requirements for wastewater discharge permits as described in APC&EC Rule 9 (Rule for the Fee System for Environmental Permits). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to terminate this permit under the provisions of 40 CFR §§ 122.64 and 124.5(d), as adopted in APC&EC Rule 6 and the provisions of APC&EC Rule 8.

3.10 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, state or local statute, ordinance, policy, rule, or regulation.

3.11 Re-opener Clause

In accordance with 40 CFR § 122.62(a)(2), the permit may be modified, or alternatively, revoked and reissued, if new information is received that was not available at the time of permit issuance that would have justified the application of different permit conditions at the time of permit issuance.

3.12 Continuance of the Expired General Permit

If this permit is not re-issued or replaced prior to the expiration date, it will be administratively continued in accordance with Ark. Code Ann. § 8-4-203(m) and remain in force and effect. If permit coverage was granted prior to the expiration date, the permittee will automatically remain covered by the continued permit until the earliest of:

3.12.1 Re-issuance or replacement of this permit, at which time the permittee must comply with the conditions of the new permit to maintain authorization to discharge;

3.12.2 Submittal of a Notice of Termination by the permittee, and confirmation of termination by DEQ;

- 3.12.3 Issuance of an individual permit, or other general permit, for the facility's discharges;
- 3.12.4 A formal permit decision by DEQ to not re-issue this general permit, at which time the permittee must seek coverage under an individual permit or other general permits, if available. See Part 1.8.2; or
- 3.12.5 Notification from DEQ that the permittee is no longer covered under this permit.

PART 4

OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

4.1 Proper Operation and Maintenance

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.

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.

4.2 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.

4.3 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.

4.4 Bypass of Treatment Facilities

4.4.1 Bypass not exceeding limitation.

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part 4.4.2 and 4.4.3.

4.4.2 Notice.

4.4.2.1 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.

4.4.2.2 Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part 6.4 (twenty-four hour reporting).

4.4.3 Prohibition of bypass.

4.4.3.1 Bypass is prohibited and the Director may take enforcement action against a permittee for

bypass, unless:

- 4.4.3.1.1 Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- 4.4.3.1.2 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 periods of equipment downtime or preventive maintenance; and
- 4.4.3.1.3 The permittee submitted notices as required by Part 4.4.2.

4.4.3.2 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 4.4.3.1.

4.5 Upset Conditions

- 4.5.1 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 4.5.2 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.
- 4.5.2 Conditions necessary for a 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:
 - 4.5.2.1 An upset occurred and that the permittee can identify the specific cause(s) of the upset;
 - 4.5.2.2 The permitted facility was at the time being properly operated;
 - 4.5.2.3 The permittee submitted notice of the upset as required by Part 6.5.2; and
 - 4.5.2.4 The permittee complied with any remedial measures required by Part 4.3.
- 4.5.3 Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

4.6 Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of waste waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering the waters of the State. A state land application permit is required for land application of the above wastes. The permittee must comply with all applicable State and Federal regulations and rules governing the disposal of solids, including but not limited to 40 CFR §503, 40 CFR §257, and 40 CFR §258.

4.7 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.

PART 5 MONITORING AND RECORDS

5.1 Representative Sampling

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

5.2 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.

5.3 Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR § 136, unless other test procedures have been specified in this permit. The permittee shall calibrate and perform maintenance procedures on all monitoring 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.

5.4 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.

5.5 Reporting of Monitoring Results

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

To obtain a waiver, contact the Enforcement Branch of the Office of Water Quality at (501) 682-0615. If the electronic reporting requirement is waived, the paper DMRs are to be submitted to DEQ prior to the 25th day of the month following the reporting period at the following address:

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

5.6 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 § 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 summary report. Such increased frequency shall also be indicated in the summary report.

5.7 Retention of Records

The permittee shall retain records of all monitoring information, including daily logs, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit, and records of all data used to request coverage under this permit, for a period of at least three (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.

5.8 Record Contents

Records and monitoring information shall include:

- 5.8.1 Name and model of equipment;
- 5.8.2 Calibration date and time;
- 5.8.3 The individual who performed the calibration(s);
- 5.8.4 The date, exact place, time and methods of sampling or measurements;
- 5.8.5 The individual(s) who performed the sampling or measurements;
- 5.8.6 The date(s) analyses were performed;
- 5.8.7 The individual(s) who performed the analyses;
- 5.8.8 The analytical techniques or methods used; and
- 5.8.9 The measurements and results of such analyses.

5.9 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:

- 5.9.1 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;
- 5.9.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 5.9.3 Inspect at reasonable times any facilities, equipment (including monitoring and control

equipment), practices, or operations regulated or required under this permit; and

- 5.9.4 Sample, inspect or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and/or Arkansas Water and Air Pollution Control Act, any substances or parameters at any location.

PART 6 REPORTING REQUIREMENTS

6.1 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. Notice is required only when:

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

6.2 Transfers

Facilities authorized under this permit that undergo a change in ownership or name change must submit a Permit Transfer form to the Director. A Permit Transfer form can be obtained from the General Permits Section of the Office of Water Quality at the following website:

<https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/>

For an ownership change, the Permit Transfer form must be submitted a minimum of thirty (30) days prior to the date the transfer to the new permittee will take place. A Disclosure Statement will be required for the new owner unless exempted by Arkansas Code Annotated § 8-1-106(b). The new owner must comply with the existing permit for the facility during the interim period.

6.3 Monitoring Reports

Monitoring results shall be reported at the intervals and in the form specified in Part 5.5. Discharge Monitoring Reports must be submitted even when no discharge occurs during the reporting period.

6.4 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.

6.5 Twenty-Four Hour Reporting

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

- 6.5.1 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:

6.5.1.1 A description of the noncompliance and its cause;

6.5.1.2 The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

6.5.1.3 Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

6.5.2 The following must be reported within 24 hours:

6.5.2.1 Any unanticipated bypass which exceeds any effluent limitation in the permit;

6.5.2.2 Any upset which exceeds any effluent limitation in the permit; and

6.5.2.3 Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part 2.

6.5.3 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.

6.6 Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Parts 6.3 and 6.4 at the time monitoring reports are submitted. The reports shall contain the information listed at Part 6.4.

6.7 Changes in Discharge of Toxic Substances for Industrial Discharges including Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers

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

6.7.1 That any activity has occurred or will occur which would result in the discharge, in 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 § 122.42(a)(1).

6.7.2 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 § 122.42(a)(2).

6.8 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.

6.9 Signatory Requirements

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

6.9.1 All permit applications shall be signed as follows:

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

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

6.9.1.1.2 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.

6.9.1.2 For a partnership or sole proprietorship: by a general partner or proprietor, respectively; or

6.9.1.3 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:

6.9.1.3.1 The chief executive officer of the agency, or

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

6.9.2 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:

6.9.2.1 The authorization is made in writing by a person described above;

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

6.9.2.3 The written authorization is submitted to the Director.

6.9.3 Changes to authorization. If an authorization under Part 6.9.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part 6.9.2 of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

6.9.4 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.”

6.10 Availability of Reports

Except for data determined to be confidential under 40 CFR § 2 and APC&EC Rule 6, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of DEQ. As required by the Rules and Regulations, the name and address of any permit applicant or permittee, permit applications, permits and effluent data shall not be considered confidential.

6.11 Penalties for Falsification of Reports

The Arkansas Water and Air 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 and/or criminal penalties specified in Part 3.2 under the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

6.12 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 7 OTHER CONDITIONS

7.1 Cooling Water and Boiler Water Additives

7.1.1 The permittee shall provide the following information for any biocide, corrosion inhibitor, or chemical additive proposed be used in the system:

7.1.1.1 Name and general composition of biocide or chemical;

7.1.1.2 Safety Data Sheets (SDS);

7.1.1.3 Available aquatic toxicity data;

7.1.1.4 Quantities to be used;

7.1.1.5 Frequency of use;

7.1.1.6 Proposed discharge concentrations; and

7.1.1.7 EPA registration number, if applicable.

7.1.2 The permittee shall notify the Director in writing not later than sixty (60) days prior to instituting the use of any biocide, corrosion inhibitor, or chemical additive in a cooling or boiler system that was not identified in the application for coverage under this permit. Such notification shall include the information listed in Part 7.1.1.1 through 7.1.1.7 of the permit.

7.1.3 The use of a biocide or additive containing tributyl tin oxide, zinc, chromium or related compounds is prohibited in a cooling or boiler system(s) from which a discharge regulated by this permit occurs. The additives shall be free of the 126 priority pollutants listed in Appendix A of 40 CFR § 423 and shall meet State Water Quality Standards or Best Professional Judgment-based requirements for total residual chlorine or free available chlorine. Unidentified, unapproved and/or unlisted additives shall not be used prior to a determination by the Division that permit modification to control discharge of the additive is not required, or prior to issuance of a permit modification controlling discharge of the additive.

7.2 Best Management Practices

7.2.1 Spills shall be cleaned up expeditiously and not allowed to enter the waste treatment system or outfall(s).

7.2.2 Where activities ancillary to the primary business of the facility are performed on site, they shall be performed in a manner to prevent pollutants from entering the waste treatment system or outfall(s).

7.3 Monitoring Frequency Reduction

For the first three (3) months, the permittee shall monitor Chemical Oxygen Demand (COD), Total Suspended Solids (TSS), and Oil & Grease (O&G) at a frequency of twice/month. If no violations are

reported during three consecutive months of testing, with at least two discharges reported per month, the required monitoring frequency may be reduced to once/month upon request and receipt of written permission from DEQ. The monitoring reduction will be valid until the effective date of the next renewal permit.

A return to the baseline monitoring frequency for a parameter is required if a monitoring result is in exceedance of the permit limit for that parameter. The permittee must then re-qualify for the reduced monitoring frequency.

PART 8 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:

- 8.1 **“Act” or “CWA”** means the Clean Water Act, Public Law 95-217 (33.U.S.C.1251et seq.) as amended.
- 8.2 **“Administrator”** means the Administrator of the U.S. Environmental Protection Agency.
- 8.3 **“APC&EC”** means the Arkansas Pollution Control and Ecology Commission.
- 8.4 **“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.
- 8.5 **“Applicable water quality standards”** means all water quality standards to which a discharge is subject under the federal Clean Water Act and which have been (a) approved or permitted to remain in effect by the Administrator following submission to the Administrator pursuant to Section 303(a) of the Act, or (b) promulgated by the Director pursuant to Section 303(b) or 303(c) of the Act, and standards promulgated under APC&EC Rule 2, as amended, (regulation establishing water quality standards for surface waters of the State of Arkansas).
- 8.6 **“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).
- 8.7 **“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.
 - 8.7.1 **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.
 - 8.7.2 **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.
- 8.8 **“Daily Maximum”** discharge limitation means the highest allowable "daily discharge" during the calendar month.
- 8.9 **“DEQ” or “Division”** means the Arkansas Department of Energy and Environment – Division of Environmental Quality.
- 8.10 **“Director”** means the Director of the Division of Environmental Quality.
- 8.11 **“Grab sample”** means an individual sample collected in less than 15 minutes in conjunction with an instantaneous flow measurement.
- 8.12 **“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.
- 8.13 **“In-situ temperature measurement”** means a temperature measurement taken directly in the effluent flow.
- 8.14 **“Monitoring and Reporting”** When a permit becomes effective, monitoring requirements are of the immediate period of the permit effective date. The Discharge Monitoring Report (DMR) shall be submitted in accordance with Part 5.5 of this permit.
- 8.15 **“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.

- 8.16 “National Pollutant Discharge Elimination System (NPDES)”** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under section 307, 402, 318 and 405 of the Clean Water Act.
- 8.17 “NOI”** means Notice of Intent to be covered by this permit.
- 8.18 “Permittee”** means any person (any state agency, municipality, governmental subdivision of the state or the United States, public or private corporation, individual, partnership, association, or other entity) who has the primary management and decision-making responsibility over a permitted operation, facility, or activity. The permittee is responsible for ensuring compliance with all applicable environmental regulations and conditions. The permittee is the entity named as such on an individual permit or the entity covered by a general permit.
- 8.19 “Pollutant(s) of Concern”** means pollutants that are anticipated in the effluent at a facility of this nature including, but not limited to, those listed in Part 2 of this permit; pollutants which a facility must monitor as part of a Waste Load Allocation (WLA) due to a Total Maximum Daily Load (TMDL).
- 8.20 “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 productions.
- 8.21 “Total Maximum Daily Load” or “TMDL”** means the sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for non-point sources and natural background. If receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any non-point sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.
- 8.22 “Total Suspended Solids (TSS)”** means the amount of solid material suspended in water, commonly expressed as a concentration, in terms of mg/L.
- 8.23 “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.
- 8.24 Units of Measure:**
- 8.24.1 **“mg/l”** milligrams per liter or parts per million (ppm)
 - 8.24.2 **“MGD”** million gallons per day
 - 8.24.3 **“s.u.”** standard units
- 8.25 “Upset”** means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An 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.
- 8.26 “Visible sheen”** 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

8.27 “Waters of the State” means all streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state.