

**Authorization to Construct a Process Water Pond and
Discharge Process Water, Dredging Water, and Commingled Stormwater under
The National Pollutant Discharge Elimination System and
The Arkansas Water Pollution Control Act**

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

Aggregate Facilities

are authorized to construct a process water pond and discharge process water (sand and gravel washing water, quarry dewatering water, and mine dewatering water), dredging water, and commingled stormwater to all receiving waters except those receiving streams which are excluded in Part 1.3 of the permit in accordance with effluent limitations, monitoring requirements, and other conditions set forth in this permit.

After properly filing a Notice of Intent under Part 1.2.6, facilities that are eligible for coverage under this general permit, will receive a Notice of Coverage (NOC) letter, with a tracking number starting with ARG50, and a copy of the permit for the facility. The NOC letter includes the Department'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.

Operators within the State of Arkansas who fail to make a written request to the Director to be covered by this general permit are not authorized to discharge under the general permit.

Effective Date: February 1, 2016

Expiration Date: January 31, 2021


Ellen Carpenter
Chief, Water Division
Arkansas Department of Environmental Quality


Issue Date

PART 1 PERMIT REQUIREMENTS

COVERAGE UNDER THIS PERMIT

1.1.1. **Permit Area:** The area covered by this permit includes all areas within the State of Arkansas except those receiving streams which are excluded in Part 1.3 of the permit.

1.2.1. Eligibility and Authorization

1.2.1.1. This general permit covers discharges from process water ponds at Aggregate facilities that conduct activities designated by one or more of the following categories from 40 CFR 436:

Dimension Stone-Subpart A
Crushed and Broken Limestone-Subpart B
Crushed and Broken Granite-Subpart B
Crushed and Broken Stone-Subpart B
Construction Sand and Gravel-Subpart C

All other 40 CFR 436 Subparts (e.g. Subpart D-Industrial Sand) will require coverage under an individual NPDES discharge permit.

1.2.1.2. This general permit covers discharges of process water (sand and gravel washing water, quarry dewatering water and mine dewatering water), dredging water, and commingled stormwater. Stormwater discharge commingled with process, dewatering, and dredging water is authorized by this permit subject to the applicable pollutant limits. Stormwater only outfalls are not authorized by this permit and must be covered by a separate permit.

1.2.1.3. This general permit also covers the construction of process water ponds at Aggregate facilities.

1.2.2 Facilities with existing process water ponds may be authorized for permit coverage if they meet the following standards:

1.2.2.1 Process water ponds have been designed and constructed with a storage capacity to handle runoff from a 10 year, 24 hour storm event; and

1.2.2.2 The facility has a wastewater treatment operator certified as a “Basic Industrial” operator in accordance with Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 3. Facilities have six months from the Notice of Coverage to meet this requirement.

1.2.2.3 Facilities which add chemicals to meet permit limits or to aid in processing operations must satisfy all of the following requirements.

1.2.2.3.1. The process ponds meet the requirements of the Ten State Standards as required by APC&EC Regulation No. 6 and the ADEQ Pond Requirements Policy.

1.2.2.3.2. Demonstrate that the chemicals used are protective of all water quality standards, including aquatic life use.

1.2.2.3.3. Demonstrate that any chemicals used and their byproducts are detectable by the monitoring requirements of this general permit.

1.2.2.3.4. Demonstrate that the use of chemicals proposed is within the skill set of an operator as defined in section 2.4 of this permit.

1.2.3 Facilities without process water ponds may be authorized for permit coverage if they meet the following standards:

- 1.2.3.1 Dredging operations may operate upon receipt of a Notice of Coverage. Any discharge of stormwater associated with industrial activity to an existing or abandoned dredge pond must be permitted under a separate NPDES permit. The Department acknowledges that minor quantities of stormwater associated with industrial activity will inevitably be discharged to a dredge pond from the operations and maintenance of dredge equipment. If this is the only stormwater associated with industrial activity discharging to the dredge pond, separate NPDES permit coverage is not required; or
- 1.2.3.2 Quarries and other mines dewatering their pits are authorized to discharge under limits in Outfall Type 101(Section 2.2 of the permit) upon receipt of a Notice of Coverage.

1.2.4 Facilities that intend to construct a process water pond may be authorized for permit coverage if they meet the following standards:

1.2.4.1 Pond Construction Requirements; and

- 1.2.4.1.1 Any facility, previously permitted or seeking a permit, that will require the construction of a process water pond will require the submission of ADEQ Form 1 and design, plans, and specifications stamped by a Professional Engineer registered in the State of Arkansas in accordance with APC&EC Reg. 6.202;
- 1.2.4.1.2 The process water pond shall be protected from physical damage by the one hundred (100) year flood and should remain fully operational and accessible during the twenty-five (25) year flood in accordance with Section 51.2 of the Ten State Standards;
- 1.2.4.1.3 The pond must be designed and constructed in accordance with Ten State Standards and the ADEQ Pond Requirements Policy;
- 1.2.4.1.4 The outfall structure must be designed in accordance with Section 55 of the Ten State Standards; and
- 1.2.4.1.5 An additional \$500.00 fee will be required based on APC&EC Reg. 9.402(A).
- 1.2.4.1.6 Upon completion of the pond the permittee shall submit a certification signed and stamped by a registered Professional Engineer in the state of Arkansas that the pond is in good operating condition and is in compliance with the Ten State Standards. **Operation of the pond shall not commence until the Water Division has issued the Notice of Coverage.**

1.2.4.2 The facility shall have a wastewater operator as described in Section 1.2.2.2 of the permit.

1.2.5 The operator excluded from coverage by this General Permit solely because the facility already has an individual NPDES permit may request that 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), a permit transfer will be allowed only if the permittee can demonstrate to the Department’s satisfaction that all limits that are less stringent based on the conversion to this General Permit are consistent with CWA 303(d)(4), CWA 402(o), and 40 CFR 122.44(l). (Note that a simple pH range limit would 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.)

1.2.6 Written notification of intent shall include the following, at minimum, on ADEQ provided forms;

- 1.2.6.1 the legal name and legal address of the operator;
- 1.2.6.2 the facility location (street address or legal description);

- 1.2.6.3 name and telephone number of the facility contact;
- 1.2.6.4 number and location of all outfalls, including a brief description of each;
- 1.2.6.5 name of receiving stream(s), stream segment and hydrological basin code;
- 1.2.6.6 actual or projected wastewater flow;
- 1.2.6.7 all notices of intent for coverage under this general permit must be signed and certified in accordance with the provisions of 40 CFR 122.22, as adopted by reference in APC&EC Regulation No. 6;
- 1.2.6.8 submission of any chemicals used onsite coming into contact with any water onsite;
- 1.2.6.9 license number of any wastewater operators working at the facility;
- 1.2.6.10 a site map showing the following; all outfalls discharging water at the site (including those outfalls permitted under different NPDES permits), direction of stormwater flow onsite, areas of active and inactive mining, processing areas, location of potential pollutant sources and all nearby receiving waters; and
- 1.2.6.11 a geological description of the site.

Note: Any changes to the information listed above must be submitted to the Department prior to taking place.

- 1.2.7 Operators shall notify the Director in writing upon permanent termination of operations resulting in a cessation of discharge from any permitted outfall.
- 1.2.8 Facilities within the State of Arkansas discharging from an outfall as described in this permit must be authorized to discharge by either this general permit or an individual NPDES permit.
- 1.2.9 In addition to the activities designated by the above categories (1.2.1.1 above), related activities may be considered for coverage under this general permit when ADEQ determines that discharge characteristics are similar and the permit conditions satisfy applicable state and federal requirements.
- 1.2.10 Permit coverage may only be granted after all required permit fees have been paid in accordance with the fee schedule in APC&EC Regulation No. 9.
- 1.2.11 No permit coverage may be granted without review of an ADEQ Disclosure Statement as required by APC&EC Regulation No. 8.
- 1.2.12 Requests for coverage shall be submitted as follows:
 - 1.2.12.1 For existing dischargers covered under the 2011 General Permit ARG500000, an NOI and all necessary information shall be submitted no later than the effective date of this permit, February 1st, 2016.
 - 1.2.12.2 For new dischargers without construction expected, required documents must be submitted at least 30 days prior to the date of desired permit coverage.
 - 1.2.12.3 For new dischargers with construction expected, required documents must be submitted at least 90 days prior to the start of construction.
 - 1.2.12.4 For existing dischargers covered under an individual NPDES permit and meeting eligibility requirements for this permit, no deadline for permit coverage exists. The NOI must be submitted and approved prior to the termination of an individual permit. They must continue meeting individual permit requirements until such time coverage under the General Permit is issued.

- 1.2.12.5 Notices of Intent, permit fees (no permit coverage will be issued until all fees have been paid) and other required documents may be submitted to the following address:

ADEQ, Water Division
Permits Branch
5301 Northshore Drive
North Little Rock, AR 72118

Or by email: water.permit.application@adeq.state.ar.us

1.2.12.6 NOI REVIEW and PUBLIC NOTIFICATION PROCESS

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

Upon receipt of Notice of Intent (NOI), ADEQ will review the submitted documents to ensure that all permit requirements are fulfilled. ADEQ may request additional information from the applicant if additional information is necessary to complete the NOI. If ADEQ makes a preliminary determination that the NOI is complete, the NOI will be made available for five (5) business days for public review on the ADEQ website. Questions or remarks on the NOI may be submitted to ADEQ by e-mail at Water-Draft-Permit-Comment@adeq.state.ar.us. ADEQ will review comments received during this period and, if necessary, require the applicant to revise the NOI or submit an individual permit application. If determined appropriate by ADEQ, the operator will be granted coverage under this general permit upon written notification by ADEQ.

Comments will only be considered if they regard a specific facility's NOI. Comments on the contents of the General Permit ARG500000 will not be considered during the public comment period for a specific facility's coverage under this permit.

1.3. **Facilities EXCLUDED From Coverage Under This Permit:**

ADEQ will not provide coverage under this permit for the following situations:

- 1.3.1 The facility discharges into Extraordinary Resource Waters (ERWs), Ecologically Sensitive Waters (ESWs), Natural and Scenic Waterways (NSW), or reservoirs. These facilities require coverage under an individual permit.
- 1.3.2 The facility discharges into waters for which there is an established Total Maximum Daily Load (TMDL) 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.
- 1.3.3 The Director determines a facility is, or is reasonably expected to be, contributing to a violation of a water quality standard or is discharging in violation of the APC&EC Regulation No. 2, as amended.
- 1.3.4 The facility is in significant non-compliance with a previously issued individual permit, is in significant non-compliance with the previous version of this general permit, and/or discharging in violation of state water quality regulations. Significant non-compliance will be examined on a case-by-case basis. Failure to submit DMRs and the repeated violation of effluent limitations are considered significant non-compliances.
- 1.3.5 The facility conducts or plans to conduct streambed mining as regulated by APC&EC Reg. 15.403 or dredging operations as described in Section 404 of the Clean Water Act.

- 1.3.6 The facility is in an industrial subcategory with federal Effluent Limitation Guidelines more stringent than this general permit.
- 1.3.7 The facility discharges water to a water body listed pursuant to Section 303(d) of the Clean Water Act where the pollutant limits 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). Additionally, aggregate facilities discharging to a waterbody and/or watershed listed in the 303(d) list as impaired for minerals (i.e. sulfates, chlorides, or total dissolved solids).
- 1.3.8 The facility discharges into a losing stream segment as defined in APC&EC Reg. 6.301(B).
- 1.3.9 Facility outfalls that only discharge stormwater. Such outfalls must be covered by a Stormwater Industrial General Permit (ARR000000).

1.4. **Requiring an individual permit**

- 1.4.1 At the discretion of the Director, the Department may require any operator 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:
 - 1.4.1.1 The discharger is a significant contributor of pollution;
 - 1.4.1.2 The discharger is not in compliance with the conditions of the general permit; or
 - 1.4.1.3 Conditions or standards have changed so that the discharger no longer qualifies for a general permit.

1.5 **Process for Coverage under an Individual Permit**

- 1.5.1 The operator must be notified in writing that an application for an individual permit is required. When an individual NPDES permit is issued to an operator otherwise covered under this general permit, the applicability of the general permit to that operator automatically terminates upon the effective date of the individual NPDES permit.
- 1.5.2 Any operator covered by this General Permit may request to be excluded from the coverage by applying for an individual NPDES permit.

1.6 **Re-opener Clause**

In accordance with 40 CFR Part 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.

PART 2
PERMIT REQUIREMENTS

2.1 Monitoring Requirements for Mine Pits

Mine Pits: **All** mines, mine pits (active and inactive), and unlined process water ponds retaining water at a facility permitted by this general permit are subject to the following monitoring requirements. This monitoring requirement includes pits permitted under Outfall Type 101. The sampling location(s) must be identified on the NOI.

<u>Monitoring Parameter</u>	<u>Monitoring Requirements</u>		
	Measurement Type	Frequency	Sample Type
pH*	Report (s.u.)	once/6 months	grab

*At least one (1) sample shall be taken at every three (3) feet of pond depth with the exception of the pond's bottom (i.e., the following samples should be collected from a 15 foot deep pond; a sample at the surface, a sample at three (3) feet of depth, a sample at six (6) feet of depth, a sample at nine (9) feet of depth, a sample at twelve (12) feet of depth). Samples shall be composited prior to analysis. The use of a sampler that is capable of sampling the entire water column from the top of the pond to the deepest point may be used. For exceptionally deep ponds, samples must be taken to a minimum depth of 18 feet.

2.2 Monitoring Requirements And Effluent Limitations

Outfall Type 101: Subject to the requirements of 40 CFR 436, the effluent limitations below are applicable to the discharge from process water ponds at aggregate facilities under 40 CFR 436 as follows:

- Dimension Stone-Subpart A
- Crushed and Broken Limestone-Subpart B
- Crushed and Broken Granite-Subpart B
- Crushed and Broken Stone-Subpart B
- Construction Sand and Gravel-Subpart C

The following types of wastewater are authorized for discharge under this outfall type:

- Process water from washing of rock or construction sand (without detergents) and
- Mine dewatering water

The above types of wastewater may be discharged through this outfall type, subject to limits, in combination with stormwater from industrial mine operations. Discharges of industrial stormwater only must obtain alternate permit coverage.

<u>Effluent Characteristics</u> ²	<u>Monitoring Requirements</u> ³			
	Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max		
Flow ¹	Report	Report	twice/week	Instantaneous
Total Suspended Solids (TSS)	35.0	53.0	once/month	grab
Oil and Grease (O & G)	10.0	15.0	once/month	grab
pH	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab
Total Dissolved Solids (TDS)	Report	Report	once/month	grab

1. Report Monthly Average and Daily Maximum as MGD.
2. Any overflow from facilities, resulting from a storm exceeding a 10-year, 24-hour precipitation event, discharging through this outfall shall not be subject to the limitations of this outfall if the facilities are designed, constructed and maintained to contain or treat the volume of waste water which would result from a 10-year 24-hour precipitation event. The permittee is required to submit proof, along with a DMR, to the Department that their facility has been designed, constructed and maintained to contain or treat the volume of waste water resulting from a 10-year, 24-hour or greater precipitation event if they seek to not be subject to the above limits. All discharges not resulting from a storm exceeding a 10-year, 24-hour precipitation event are required to meet permit limits.
3. Discharges from this outfall are typically from storm events. Regardless of the type of discharge, a sample must be obtained during the monitoring period.

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

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 at the outfall(s) specified in the NOI.

2.3 Special Conditions Applicable To Dredging Operations

Special requirements exist for suction dredging operations operating under categories authorized by this permit in Part 1.2.1. Only discharges of wastewater used for the suction dredging of deposits in a manmade sand or gravel pit that are then returned directly to the manmade sand or gravel pit without being used for other purposes or combined with other wastewater are authorized by this permit. This return of water to the dredge pit is subject to the following operating conditions:

- 2.3.1. Suction dredging cannot take place in a waterbody existing prior to the commencement of mining. The dredging of streams, lakes, creeks, wetlands and other waters of the state is not authorized by this permit. Only suction dredging of manmade sand and gravel pits is allowed by this permit;
- 2.3.2. Return flows from suction dredging operations must return to the point of origin. (i.e. after sand has been removed from the water transport medium, the water must be returned to the sand pit from whence it came.);
- 2.3.3. All pits/ponds created as a result of suction dredging must install berms to prevent stormwater from flowing into the pit. No discharge of industrial stormwater is authorized into dredging pits/ponds except for the small amount from the dredging equipment. Stormwater discharges associated with dredging operations must seek separate NPDES permit coverage;
- 2.3.4. Pits/ponds may only be dredged when the water level is more than 3 feet below the ground surface in accordance with Section 93.415 of the Ten State Standards;
- 2.3.5. Dredging should be avoided at silt and clay deposits. Return flows should be comprised of a minimal amount of fines and any sand or gravel rejected from the sizing process. No material or water not originating from the dredge pit may be disposed of in the dredge pit;
- 2.3.6. Dredging equipment shall be maintained to prevent the discharge of petroleum products. Dredging equipment shall be removed in a timely fashion if a flood event is predicted to inundate this pit/pond;
- 2.3.7. If a flood inundates this pit/pond, all berms and equipment shall be inspected and repaired prior to recommencing operations. A flood event where a dredge pond is inundated by river or stream is not considered a discharge of mine dewatering water; and,
- 2.3.8. Every active dredge pond needs to have a permitted outfall location in accordance with 1.2.4.1.4 to sample any “mine dewatering” which may occur.

2.4 Wastewater Operator Requirements

Facilities eligible for permit coverage must maintain compliance with APC&EC Regulation No. 3 regarding licensing of wastewater operators. Facilities will fall into one of three categories; operations requiring no licensed operator, operations requiring a “Basic Industrial” wastewater operator and operations requiring an “Advanced Industrial” wastewater operator.

ADEQ will inform facilities of their requirements regarding wastewater licensing in a facility’s Notice of Coverage letter. APC&EC Regulation No. 3 will be referenced if any questions arise regarding wastewater licensing requirements.

No wastewater license is required when a facility discharges “mine dewatering” water or process water that is not treated.

A “Basic Industrial” license is required when a facility discharges treated process water. Sedimentation or pH adjustment may occur at the facility.

An “Advanced Industrial” license is required when a facility discharges any waters with chemical clarification or sedimentation.

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; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. **Any values reported in the required Discharge Monitoring Report which are in excess of an effluent limitation or outside of a range (i.e., pH limitations) 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 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.

3.3. 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 Parts 122 and 124, as adopted by reference in Reg. 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 Regulation No. 2, as amended, (regulation establishing water quality standards for surface waters of the State of Arkansas) or Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitations on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standards or prohibition and the permittee so notified.

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

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. **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.

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

3.9. **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.

3.10. **Permit Fees**

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

3.11 **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, or regulation.

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 insure 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

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 4.4.1 and 4.4.2.

4.4.1 Notice

4.4.1.1 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.

4.4.1.2 Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part 6.4 (24-hour notice).

4.4.2 Prohibition of bypass.

4.4.2.1 Bypass is prohibited and the Director may take enforcement action against a permittee for bypass, unless:

4.4.2.1.1 Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

4.4.2.1.2 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

4.4.2.1.3 The permittee submitted notices as required by Part 4.4.1.

4.4.2.2 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 4.4.2.1.

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 6.6; 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. Written approval for such disposal must be obtained from the ADEQ.

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

5.2. Flow Measurement

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

5.3. Monitoring Procedures

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

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

Monitoring results must be reported on a Discharge Monitoring Report (DMR) form. Permittees are required to use preprinted DMR forms provided by ADEQ, unless specific written authorization to use other reporting forms is obtained from ADEQ. Monthly DMRs shall be submitted quarterly no later than the last day of the following month (i.e. April 30th, July 31st, October 31st, and January 31st) to begin on the effective date of the permit. Duplicate copies of DMR's signed and certified as required by Part 6.11 and all other reports required by Part 6 (Reporting Requirements), shall be submitted to the Director at the following address:

Arkansas Department of Environmental Quality
Enforcement Section, Water Division
5301 Northshore Drive
North Little Rock, AR 72118

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

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 DMR. Such increased frequency shall also be indicated on the DMR.

5.7. **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.

5.8. **Record Contents**

Records and monitoring information shall include:

- 5.8.1. The date, exact place, time and methods of sampling or measurements, and preservatives used, if any;
- 5.8.2. The individuals(s) who performed the sampling or measurements;
- 5.8.3. The date(s) analyses were formed;
- 5.8.4. The individual(s) who performed the analyses;
- 5.8.5. The analytical techniques or methods used; and
- 5.8.6. 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, any substances or parameters at any location.

PART 6 REPORTING REQUIREMENTS

6.1. Planned Changes

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

- 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 Part 122.29(b).
- 6.1.2. The alternation or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40CFR Part 122.42 (a)(1).

6.2. Transfers

Facilities authorized under this permit that undergo a change in ownership, facility name, or signatory authorization (i.e., a new cognizant official, responsible person, etc.) must submit a Permit Transfer form to the Director. A Permit Transfer form can be obtained from the General Permits Section of the Water Division at the following website: http://www.adeq.state.ar.us/water/branch_permits/general_permits/

For an ownership change, the permit transfer form must be submitted a minimum of 30 days prior to the date the transfer to the new operator will take place. The new owner must comply with the existing permit for the facility during the interim period. A Disclosure Form will be required.

6.3. Monitoring Reports

Monitoring results shall be reported quarterly and in the form specified in Part 5.5. Discharge Monitoring Reports must be submitted even if no discharges occur during the reporting period.

6.4. Twenty-four Hour Report

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

- 6.4.1.1. A description of the noncompliance and its cause;
- 6.4.1.2. 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
- 6.4.1.3. Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.

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

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

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

6.5. **Other Noncompliance**

The permittee shall report all instances of noncompliance not reported under Part 6.3 and 6.4 at the time monitoring reports are submitted. The reports shall contain the information listed in Part 6.4.1.

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

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

- 6.6.1. That any activity has occurred or will occur which would result in the discharge, in a routine or frequent basis, of any toxic pollutant 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).
- 6.6.2. 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 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).

6.7. **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 coverage under 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.

6.8. **Duty to Reapply**

This permit will expire 5 years from the effective date. If this permit is not re-issued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act and remain in force and effect. If permit coverage was granted prior to the expiration date, permit coverage is automatically continued until the earliest of:

- 6.8.1. Reissuance or replacement of this permit, at which time the operator must comply with the conditions of the new permit to maintain authorization to discharge, and the operator is required to notify the Department of his/her intent to be covered under this permit no later than the effective date of the renewal permit;
- 6.8.2. Submittal of a Notice of Termination;
- 6.8.3. Issuance of an individual permit for the facility’s discharges; or
- 6.8.4. A formal permit decision by the ADEQ to not re-issue this general permit, at which time the facility must seek coverage under an individual permit or other alternate permits.

6.9. Signatory Requirements

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

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:

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

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:

- (i) The chief executive officer of the agency, or
- (ii) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

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. 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 Part 2 and APC&EC Regulation No. 6, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department of Pollution and Ecology. As required by the Regulations, the name and address of any permit applicant or permittee, permit applications, permits and effluent data shall not be considered confidential.

6.11. **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 3.2. and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

PART 7 DEFINITIONS

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

“**Act**” means the Clean Water Act, Public Law 95-217 (33.U.S.C. 1251 et seq.) as amended.

“**Administrator**” means the Administrator of the U.S. Environmental Protection Agency.

“**Aggregate**” means hard materials such as sand, gravel, and crushed stone, used for mixing with cementing or bituminous material to form concrete, mortar, or asphalt, or used alone as in railroad ballast, road base, landscaping rock, or graded fill.

“**AP&CEC**” means the Arkansas Pollution Control and Ecology Commission.

“**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.

“**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 Regulation No. 2, as amended, (regulation establishing water quality standards for surface waters of the State of Arkansas.)

“**Bypass**” means the intentional diversion of waste streams from any portion of a treatment facility.

“**Daily Maximum**” discharge limitation means the highest allowable “daily discharge” during the calendar month. For Fecal Coliform Bacteria (FCB) report the daily maximum as a 7-day geometric mean in colonies per 100 ml.

“**Department**” means the Arkansas Department of Environmental Quality (**ADEQ**).

“**Dredge**” means to mine with an underwater suction machine.

“**Grab sample**” means an individual sample collected in less than 15 minutes in conjunction with an instantaneous flow measurement.

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 monitoring results shall be summarized and reported on DMR forms submitted quarterly no later than the last day of the following month (i.e. April 30th, July 31st, October 31st, and January 31st) to begin on the effective date of the permit. Where the monitoring requirement for an effluent characteristic is quarterly, semi-annually, or annually, the Discharge Monitoring Reports shall be submitted no later than the last day of the month following the reporting period.

“**Monthly**” is defined as a calendar month or any portion of a calendar month for monitoring requirement frequency of once per month or more frequently.

“Monthly average” means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month. For Fecal Coliform Bacteria (FCB) report the monthly average see 30-day average below.

“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.

“Operator” for the purpose of this permit, means any person (an individual, association, partnership, corporation, municipality, state or federal agency) who has the primary management and ultimate decision-making responsibility over the operation of a facility or activity. The operator is responsible for ensuring compliance with all applicable environmental regulations and conditions.

“Outfall” means a point source at the point where process water and stormwater leaves a pond which is equipped with a measuring device and discharges to a receiving water.

“Point source” means any discernible, confined and discrete conveyance from which pollutants are or may be discharged. Point source discharges of stormwater result from structures which increase the imperviousness of the ground or which acts to collect runoff, with runoff being conveyed along the resulting drainage or grading pattern.

“Process water” means any water that is generated during the crushing and/or cleaning of quarried materials and cleaning of gravel. Process water does not include stormwater or quarry dewatering water unless such waters are commingled with process water. Process water discharges shall include wastewater generated from process-related activities such as truck washing, and all dry-weather discharges from processing plants. Wastewater from pumping of mine pits containing stormwater only is not considered as process water.

“Quarry dewatering water” means any water that is impounded or collects in a quarry, and is pumped, drained, or otherwise removed from the pit by the efforts of the operator. Quarry dewatering water includes wet pit overflows caused solely by direct rainfall and ground water seepage.

“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.

“Stormwater” means storm water runoff, snow melt runoff, and surface runoff and drainage.

“Total Suspended Solids (TSS)”: the amount of solid material suspended in water, commonly expressed as a concentration, in terms of mg/l.

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

“When Discharging” means when the pond is naturally discharging or being dewatered after sufficient settling has occurred. A period of discharge may continue for multiple days with the sample being required within 24 hours of the discharge event. Samples are only required to be taken at the designated monitoring frequency.

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

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

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

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

The term “ppm” shall mean part per million.

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

The term "10-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable recurrence interval of once in ten years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, or equivalent regional or rainfall probability information developed there from