

**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.),

Landfills Located within the State of Arkansas

are authorized to construct and discharge uncontaminated stormwater from sedimentation ponds 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 ARG16, 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: March 1, 2025

Expiration Date: February 28, 2030

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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 the construction of sedimentation ponds used to treat uncontaminated stormwater from landfills and the discharge from those ponds of uncontaminated stormwater from landfills to Waters of the State, upon demonstration that eligibility requirements are met.

1.2.1 Landfills are required to have sedimentation ponds to control uncontaminated stormwater runoff from areas of fill with daily or intermediate cover and areas of fill with daily or intermediate cover that commingle stormwater with closed areas of the landfill as defined in Part 8. Leachate generated at any active working face shall be directed into the waste mass through proper run-on/run-off controls or other methods to prevent commingling with stormwater discharged under this permit. Construction of landfill cells in accordance with the facility's individual landfill permit, and where the disturbance from that construction is completely drained through one or more outfalls permitted by this permit, is also allowed (See Part 1.10). The following criteria shall be met:

1.2.1.1 Sedimentation ponds have been designed and constructed with a storage capacity to handle runoff from at least a 25-year, 24-hour storm event; except that Class 4 Landfill sedimentation ponds shall be designed and constructed with a storage capacity to handle runoff from at least a 10-year, 24-hour storm event; and

1.2.1.2 In order for the ponds to maintain the required storage capacity stated in Part 1.2.1.1, operational procedures at the landfill shall include a requirement that sedimentation ponds be dewatered as soon as possible after a storm event and after sufficient settling to ensure that no effluent limitations will be exceeded.

1.2.2 Permit coverage is not required for properly closed and certified areas of the landfill if the stormwater runoff from the closed area does not commingle with stormwater runoff from areas of fill with daily or intermediate cover.

1.2.3 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.

1.2.4 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 **Leachate is specifically prohibited from entering the sedimentation ponds and shall not be discharged to Waters of the State.** In an event that any leachate commingles with stormwater, the stormwater shall be handled as leachate and treated as such.
- 1.3.2 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).
- 1.3.3 Any facility that discharges directly into an Extraordinary Resource Water (ERW), Ecologically Sensitive Waterbody (ESW), or Natural and Scenic Waterway (NSW), collectively Outstanding Resource Waters (ORW) as defined in APC&EC Rule 2. Direct dischargers to an ORW require coverage under an individual permit. Any facility which discharges within five (5) stream miles of an ORW will be considered for an individual permit or for additional upgraded design or operational features.
- 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 rules.

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 (ARG160000) expiring on February 28, 2025:

A recertification NOI, an updated Best Management Practices (BMP) plan (if the facility is within 5 miles of a waterbody that is on the most recent 303(d) list for a turbidity/siltation impairment or an ORW), 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 the 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 the date coverage is desired.

1.4.1.4 Notices of Intent and other required documents shall be submitted by electronic application using DEQ ePortal (or any successor system):

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

<https://seek.ee.arkansas.gov>

Applicants may apply for a waiver from electronic reporting if unable to use the electronic submittal 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 Part 7.8 of this 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 If a treatment system (including sedimentation ponds) is being constructed, the construction requirements as detailed in Part 1.4.4 of this permit;

1.4.2.3 A Best Management Practices (BMP) Plan;

1.4.2.4 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;

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

1.4.2.6 A permit fee as allowed by APC&EC Rule 9.404(C).

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; and
 - 1.4.3.8 A site map showing site topography and all outfalls.
- 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 The sedimentation pond shall be protected from physical damage by a one hundred (100) year flood and should remain fully operational and accessible during a twenty-five (25) year flood in accordance with Section 51.2 of the Ten State Standards;
 - 1.4.4.3 There should be a minimum separation of four (4) feet between the bottom of the pond and the maximum ground water elevation in accordance with Section 93.22 of the Ten State Standards;
 - 1.4.4.4 There should be a minimum separation of two (2) feet between the top of the liner and bedrock (as adapted from APC&EC Rule 22.431), except in the areas of the St. Joe and Boone formations, where a minimum separation of ten (10) feet will be required between the top of the liner and the highest point of the bedrock or pinnacles (as adapted from APC&EC Rule 22.425);
 - 1.4.4.5 Dikes and pond bottoms shall be compacted to at least 95 percent Standard Proctor Density to form a stable structure in accordance with Section 93.411 and Section 93.421 of the Ten State Standards;
 - 1.4.4.6 Inner and outer dike slopes shall not be steeper than 1 vertical to 3 horizontal (1:3) in accordance with Section 93.413 of the Ten State Standards;
 - 1.4.4.7 Inner slopes should not be flatter than 1 vertical to 4 horizontal (1:4) in accordance with Section 93.414 of the Ten State Standards;
 - 1.4.4.8 Minimum freeboard shall be two (2) feet in accordance with Section 93.415 of the Ten State Standards;
 - 1.4.4.9 Dikes shall have a covered layer of at least four (4) inches of fertile topsoil to promote establishment of an adequate vegetative cover wherever riprap is not utilized. Erosion control on the interior dike slopes may be necessary for ponds which are subject to severe wave action in accordance with Section 93.417 of the Ten State Standards;

- 1.4.4.10 The sedimentation pond must have a pond bottom liner with a permeability of less than 1×10^{-7} cm/sec (1×10^{-5} cm/sec for Class 4 facilities) and a thickness of at least one (1) foot or equivalent before the start of operation in accordance with Section 93.422 of the Ten State Standards;
- 1.4.4.11 A pond level gauge shall be provided in accordance with Section 93.56 of the Ten State Standards;
- 1.4.4.12 The outfall structure must be designed in accordance with Section 55 of the Ten State Standards;
- 1.4.4.13 An additional fee will be required based on APC&EC Rule 9.402(A).
- 1.4.4.14 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.

1.5 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 applicant's 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/>); such applicants may apply for temporary waivers (up to five years) pursuant to 40 C.F.R. § 127.15(b);
- 1.5.1.2 The applicant is from an area where available computer access or computer capability is limited; such applicants may apply for temporary waivers (up to five years) pursuant to 40 C.F.R. § 127.15(b); or
- 1.5.1.3 The applicant is from a religious community that chooses not to use certain modern technologies; such applicants may apply for permanent waivers pursuant to 40 C.F.R. § 127.15(c).
- 1.5.2 In order to apply for a waiver from electronic reporting, the applicant must submit the required information outlined in 40 C.F.R. §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 a 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 ARG160000 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 C.F.R. § 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 shall be submitted by electronic application using DEQ ePortal (or any successor system):

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

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

1.10 Construction Stormwater

- 1.10.1 The permittee is not required to obtain separate Construction Stormwater General Permit (ARR150000) coverage to build new disposal cells or other construction events as long as:

1.10.1.1 All stormwater discharges resulting from construction is routed through the sedimentation pond(s) and the outfall is permitted through this general permit;

1.10.1.2 The BMP Plan (See Part 3.3.1) must be updated with any new construction related additional considerations. At minimum, the BMP Plan shall include updates to address the minimum requirements of APC&EC Rule 6.203(B).

PART 2 EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The following effluent limitations are applicable for the discharge of uncontaminated stormwater from landfill sedimentation ponds.

| <u>Effluent Characteristics</u> | <u>Discharge Limitations</u> ² | <u>Monitoring Requirements</u> | |
|---------------------------------|--|--------------------------------|---------------|
| | Concentration (mg/l, unless otherwise specified) | Frequency ³ | Sample Type |
| | Daily Max. | | |
| Flow (MGD) | Report | 2/week (when discharging) | instantaneous |
| Chemical Oxygen Demand (COD) | 75 | 1/month (when discharging) | grab |
| Total Suspended Solids (TSS) | 100 | 1/month (when discharging) | grab |
| Oil and Grease (O&G) | 15 | 1/month (when discharging) | grab |
| pH ¹ | <u>6.0 s.u. - 9.0 s.u.</u> | 1/month (when discharging) | grab |

¹ pH shall be measured within fifteen (15) minutes of sampling.

² In the event a discharge occurs as a result of precipitation greater than the 25-year, 24-hour storm event (or precipitation greater than the 10-year 24-hour storm event for Class 4 landfills), any exceedance of technology-based limitations (i.e. limitations for COD and TSS) may be established as an upset provided that the conditions in Part 5.5 of the permit are met.

³ The grab sample shall be taken during the first 30 minutes of the discharge, if practicable. If the collection of a grab sample during the first 30 minutes is impracticable, the sample must be collected as soon as practicable, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

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.

PART 3 OTHER CONDITIONS

3.1 Operator Requirements

The operator of the treatment system shall be licensed as at least Basic Industrial by the State of Arkansas in accordance with APC&EC Rule 3.

The permittee shall provide, on the NOI, the licensed wastewater operator that will be operating and maintaining the system. If the licensed operator changes, the permittee must provide DEQ with the information on the new licensed wastewater operator within thirty (30) days of the change.

3.2 Stormwater Associated with Construction Activity

This General Permit does not authorize stormwater discharges associated with construction activity as defined in 40 C.F.R. § 122.26(b)(14)(x) or 40 C.F.R. § 122.26(b)(15) which are not routed through the sedimentation pond(s). See Part 1.11 for discussion regarding compliance during construction of disposal cells.

3.3 Best Management Practices

The permittee shall use BMPs to help reduce the amount of contaminated runoff from a facility into Waters of the State. While DEQ does not require any particular BMPs be used at a facility, BMPs shall be in places to ensure that turbidity and suspended solids are minimized, silt /sediment transport is minimized, and leachate does not enter the sedimentation pond or Waters of the State and to minimize turbidity and sedimentation to Waters of the State.

3.3.1 The permittee shall prepare and implement a BMP Plan that will:

- 3.3.1.1 Provide sediment control to ensure compliance with the suspended solids limitation of this permit;
- 3.3.1.2 Prevent the spillage or loss of fluids, oil, grease, gasoline, etc. from vehicle and equipment maintenance and repair activities and thereby prevent contamination of stormwater from these substances;
- 3.3.1.3 Provide documentation of quarterly inspections of any structures that function to prevent stormwater pollution or to remove pollutants from stormwater and of the facility in general to ensure that the BMP Plan is continually implemented and effective; and
- 3.3.1.4 Include a diagram of the facility showing the location(s) of outfall(s), and the location of any structures or other mechanisms intended to prevent pollution of stormwater or to remove pollutants from stormwater;
- 3.3.1.5 For Stormwater Discharges Associated with Construction – The BMP plan shall be updated before initiating construction events and as often as needed to address items required by APC&EC Rule 6.203(B) and 40 C.F.R. § 450.21(a–f).

3.3.2 The permittee shall conduct quarterly inspections. Inspection shall include a minimum of:

- 3.3.2.1 Date of inspection;
- 3.3.2.2 Date of last measureable rainfall event;
- 3.3.2.3 Date of last time facility discharged; and
- 3.3.2.4 List of BMPs inspected and if changes to BMPs were made;

3.3.3 The permittee shall prepare and fully implement the BMP Plan no later than thirty (30) days after the date of coverage under this general permit is granted.

3.3.4 DEQ Review

3.3.4.1 When requested by the Director or their designee, the permittee shall make the BMP Plan available for DEQ review.

3.3.4.2 The Director or their designee may notify the permittee at any time that the BMP Plan is deficient and require correction of the deficiency.

3.3.4.3 The permittee shall correct any BMP deficiency identified by the Director or his/her designee within thirty (30) days of receipt of notification and shall certify to DEQ that the correction has been made and implemented.

3.3.5 Administrative Procedures

3.3.5.1 A copy of the BMP Plan shall be maintained at the facility and shall be available for inspection by representatives of DEQ.

3.3.5.2 A log of quarterly inspections required by this permit shall be maintained at the facility and shall be available for inspection by representatives of DEQ. The log shall contain, at a minimum, the records listed in 1.9.2 for each of the inspections performed for the last four (4) years. Each quarterly entry shall be signed by the person performing the inspection.

3.3.5.3 The permittee shall provide training for any personnel required to implement the BMP Plan and shall retain documentation of such training at the facility. This documentation shall be available for inspection by representatives of DEQ.

3.4 Monitoring frequency reduction

3.4.1 After three (3) consecutive months of discharge and no violations are reported for COD and TSS, the required monitoring frequency may be reduced to once/quarter upon request and receipt of written permission from DEQ. The monitoring reduction will be valid until the effective date of the next renewal permit.

3.4.2 After three (3) consecutive months of discharge and no violations are reported for O&G, the required monitoring frequency may be reduced to once/quarter upon request and receipt of written permission from DEQ. The monitoring reduction will be valid until the effective date of the next renewal permit.

3.4.3 After three (3) consecutive months of discharge and the monitoring frequencies in Parts 3.4.1 and 3.4.2 have been granted, Flow 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.

PART 4 GENERAL CONDITIONS

4.1 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.

4.2 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.

4.3 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 C.F.R. §§ 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.

4.4 Toxic Pollutants

Notwithstanding Part 4.3, 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.

4.5 Civil and Criminal Liability

Except as provided in permit conditions on “Bypassing” (Part 5.4), and “Upsets” (Part 5.5), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

4.6 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.

4.7 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.

4.8 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.

4.9 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 C.F.R. §§ 122.64 and 124.5(d), as adopted in APC&EC Rule 6 and the provisions of APC&EC Rule 8.

4.10 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.

4.11 Re-opener Clause

In accordance with 40 C.F.R. § 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.

4.12 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:

4.12.1 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;

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

4.12.3 Issuance of an individual permit, or other general permit, for the facility's discharges;

4.12.4 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

4.12.5 Notification from DEQ that the permittee is no longer covered under this permit.

PART 5 OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

5.1 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.

5.2 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.

5.3 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.

5.4 Bypass of Treatment Facilities

5.4.1 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 5.4.2 and 5.4.3.

5.4.2 Notice.

5.4.2.1 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.

5.4.2.2 Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part 7.4 (twenty-four hour reporting).

5.4.3 Prohibition of bypass.

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

bypass, unless:

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

5.4.3.1.2 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

5.4.3.1.3 The permittee submitted notices as required by Part 5.4.2.

5.4.3.2 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.

5.5 Upset Conditions

5.5.1 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 5.5.2 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.

5.5.2 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:

5.5.2.1 An upset occurred and that the permittee can identify the specific cause(s) of the upset;

5.5.2.2 The permitted facility was at the time being properly operated;

5.5.2.3 The permittee submitted notice of the upset as required by Part 7.5.2; and

5.5.2.4 The permittee complied with any remedial measures required by Part 5.3.

5.5.3 Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5.6 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 C.F.R. § 503, 40 C.F.R. § 257, and 40 C.F.R. § 258.

5.7 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 6 MONITORING AND RECORDS

6.1 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.

6.2 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.

6.3 Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 C.F.R. § 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.

6.4 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.

6.5 Reporting of Monitoring Results

40 C.F.R. § 127.11(a)(1) and 40 C.F.R. § 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 C.F.R. § 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 SEEK Implementation Supervisor of the Office of Water Quality at (501) 682-0047. 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

6.6 Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 C.F.R. § 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.

6.7 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.

6.8 Record Contents

Records and monitoring information shall include:

- 6.8.1 Name and model of equipment;
- 6.8.2 Calibration date and time;
- 6.8.3 The individual who performed the calibration(s);
- 6.8.4 The date, exact place, time and methods of sampling or measurements;
- 6.8.5 The individual(s) who performed the sampling or measurements;
- 6.8.6 The date(s) analyses were performed;
- 6.8.7 The individual(s) who performed the analyses;
- 6.8.8 The analytical techniques or methods used; and
- 6.8.9 The measurements and results of such analyses.

6.9 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:

- 6.9.1 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;
- 6.9.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 6.9.3 Inspect at reasonable times any facilities, equipment (including monitoring and control

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

- 6.9.4 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 7 REPORTING REQUIREMENTS

7.1 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:

- 7.1.1 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 C.F.R. § 122.29(b).
- 7.1.2 The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 C.F.R. § 122.42(a)(1).

7.2 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.adeg.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.

7.3 Monitoring Reports

Monitoring results shall be reported at the intervals and in the form specified in Part 6.5. Discharge Monitoring Reports must be submitted even when no discharge occurs during the reporting period.

7.4 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.

7.5 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:

- 7.5.1 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:

7.5.1.1 A description of the noncompliance and its cause;

7.5.1.2 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

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

7.5.2 The following must be reported within 24 hours:

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

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

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

7.5.3 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.

7.6 Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Parts 7.3 and 7.4 at the time monitoring reports are submitted. The reports shall contain the information listed at Part 7.4.

7.7 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:

7.7.1 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 C.F.R. § 401.15 which is not limited in the permit, if that discharge will exceed the highest of the “notification levels” described in 40 C.F.R. § 122.42(a)(1).

7.7.2 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 C.F.R. § 401.15 which is not limited in the permit, if that discharge will exceed the highest of the “notification levels” described in 40 C.F.R. § 122.42(a)(2).

7.8 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.

7.9 Signatory Requirements

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

7.9.1 All permit applications shall be signed as follows:

- 7.9.1.1 For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
- 7.9.1.1.1 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
 - 7.9.1.1.2 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.
- 7.9.1.2 For a partnership or sole proprietorship: by a general partner or proprietor, respectively; or
- 7.9.1.3 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:
- 7.9.1.3.1 The chief executive officer of the agency, or
 - 7.9.1.3.2 A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- 7.9.2 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:
- 7.9.2.1 The authorization is made in writing by a person described above;
 - 7.9.2.2 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
 - 7.9.2.3 The written authorization is submitted to the Director.
- 7.9.3 Changes to authorization. If an authorization under Part 7.9.2 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 7.9.2 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.

7.9.4 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.”

7.10 Availability of Reports

Except for data determined to be confidential under 40 C.F.R. § 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.

7.11 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 4.2 under the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

7.12 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.

7.13 Anticipated Non-compliance

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

PART 8 DEFINITIONS

All definitions contained in Section 502 of the Clean Water Act and 40 C.F.R. § 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 **“Best Management Practices”** are activities, practices, maintenance procedures, and other management practices designed to prevent or reduce the pollution of waters of the State. BMPs may include structural devices or nonstructural practices.
- 8.7 **“Bypass”** means the intentional diversion of waste streams from any portion of a treatment facility, as defined at 40 C.F.R. § 122.41(m)(1)(i).
- 8.8 **“Closed Area”** means that part of the landfill unit that has been covered with a certified final cover system (including full vegetation) and approved by DEQ.
- 8.9 **“Contaminated Stormwater”** means stormwater which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater as defined in in this permit. Some specific areas of a landfill that may produce contaminated stormwater include (but are not limited to): the open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas.
- 8.10 **“Daily Discharge”** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.
 - 8.10.1 **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.
 - 8.10.2 **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.
- 8.11 **“Daily Maximum”** discharge limitation means the highest allowable "daily discharge" during the calendar month.
- 8.12 **“DEQ” or “Division”** means the Arkansas Department of Energy and Environment – Division of Environmental Quality.
- 8.13 **“Director”** means the Director of the Division of Environmental Quality.
- 8.14 **“Grab sample”** means an individual sample collected in less than 15 minutes in conjunction with an instantaneous flow measurement.
- 8.15 **“Landfill”** means a discrete area of land or an excavation that is permitted by the Division under these regulations and receives solid waste for disposal, and that is not a land application unit, surface impoundment, injection well or waste pile, as those terms are defined under 40 C.F.R. § 257.2.

- 8.16 “Landfill Wastewater”** means all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, uncontaminated stormwater, contaminated ground water, and wastewater from recovery pumping wells. Landfill wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated stormwater and contact washwater from washing truck, equipment, and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.
- 8.17 “Leachate”** means a liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible material removed from such waste.
- 8.18 “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.
- 8.19 “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 6.5 of this permit.
- 8.20 “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.
- 8.21 “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.
- 8.22 “NOI”** means Notice of Intent to be covered by this permit.
- 8.23 “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.
- 8.24 “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).
- 8.25 “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.
- 8.26 “Total Maximum Daily Load” or “TMDL”** means the sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for non-point sources and natural background, and margin of safety (MOS). 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 plus MOS. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.
- 8.27 “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.

- 8.28 “Uncontaminated Stormwater”** means stormwater which does not come in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater that is defined in this permit. Uncontaminated storm water includes storm water which flows off the cap, cover, intermediate cover, and/or final cover of the landfill.
- 8.29 Units of Measure:**
- 8.29.1 **“mg/l”** milligrams per liter or parts per million (ppm)
 - 8.29.2 **“MGD”** million gallons per day
 - 8.29.3 **“s.u.”** standard units
- 8.30 “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.
- 8.31 “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.
- 8.32 “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.