

**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 (Arkansas Code Annotated § 8-4-101 *et seq.*), and the Clean Water Act (33 U.S.C. § 1251 *et seq.*),

Onsite Wastewater Treatment Facilities for Domestic Wastewater located within the State of Arkansas

are authorized to construct, install, and discharge to all receiving waters, except those facilities and discharges which are excluded in Part 1.2.2 of this general permit, in accordance with effluent limitations, monitoring requirements, and other conditions set forth in this permit.

After properly filing a Notice of Intent (NOI), and other required documentation under Part 1.3, and proceeding through required public notification processes, facilities that are eligible for coverage under this general permit will receive a Notice of Coverage (NOC) with a tracking number starting with ARG55 and a copy of this general permit. The NOC includes DEQ's determination that a facility is covered under this general permit and may specify applicable requirements outlined in this permit, such as modified sampling frequencies for certain parameters or the inclusion of monitoring for additional parameters to those requiring regular monitoring.

Effective Date: July 1, 2024
Expiration Date: June 30, 2029

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Issue Date

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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 and installation of onsite wastewater treatment facilities provided that the system design has been approved by DEQ and that the system has been approved by the Arkansas Department of Health (ADH). Each onsite wastewater treatment facility shall be designed or equipped so that effluent discharged by the system will be in compliance with effluent limitations set forth in Part 2. DEQ will maintain a list of evaluated and approved treatment system designs on the General Non-Stormwater Permits webpage:

https://www.adeg.state.ar.us/water/permits/npdes/nonstormwater/p_list-of-acceptable-systems.aspx

- 1.2.1** This general permit also covers discharges from onsite wastewater treatment facilities that are constructed or installed as described above.
- 1.2.2** Onsite wastewater treatment facilities covered include only those facilities generating less than 1500 gallons per day of treated domestic wastewater.
- 1.2.3** 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.
- 1.2.4** Facilities must provide a licensed Class II or higher municipal wastewater operator responsible for the operation and maintenance of the system.

1.3 Exclusions

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

- 1.3.1** Any facility that discharges into a water body listed pursuant to Section 303(d) of the Clean Water Act where the pollutant of concern is present in the discharge and the requirements of the permit are inadequate to provide sufficient reduction of the listed pollutant (e.g. a new source or new discharge if the discharges would cause or contribute to the water quality impairment).
- 1.3.2** Any facility that discharges into an Extraordinary Resource Water (ERW), Ecologically Sensitive Waterbody (ESW), or Natural and Scenic Waterway (NSW) as defined in APC&EC Rule 2.
- 1.3.3** 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.

- 1.3.4** Discharges from a facility that the Director determines is, or is reasonably expected to be, contributing to a violation of a water quality standard or is operating in violation of APC&EC Rule 2, as amended.
- 1.3.5** Systems with multiple discharges;
- 1.3.6** Facilities requiring Financial Assurance in accordance with Arkansas Code Annotated § 8-4-203(b) (homeowners are exempt from Financial Assurance requirements);
- 1.3.7** Any facility that receives wastewater other than domestic wastewater, as defined in Part 8 of the permit, unless DEQ determines that the requirements of the permit are adequate to address all potential pollutants from the non-domestic wastewater and the approved non-domestic wastewater is listed on the NOC;

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 (ARG550000) expiring on June 30, 2024:

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

- 1.4.1.2** For new discharges:

A complete 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** Unless the conditions of 1.5 have been satisfied, Notices of Intent and other required documents must be submitted by electronic application using DEQ's electronic submittal system (ePortal or any successor system):

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

[Use the form finder on ePortal to search for:](#)

“ARG550000 Recertification Notice of Intent for Onsite Wastewater Treatment Systems” (existing dischargers seeking to recertify coverage) or;

“ARG (NPDES non-stormwater general permit) Notice of Intent” (new dischargers)

- 1.4.1.4** All notices of intent for coverage under this general permit must be signed and certified in accordance with the Part 7.8 of the permit.

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

- 1.4.2.1** A Notice of Intent (NOI) containing, at a minimum, the following information:
- 1.4.2.1.1** The legal name and address of the applicant;
 - 1.4.2.1.2** The facility location (street address or legal description);
 - 1.4.2.1.3** Name and telephone number of the facility contact;
 - 1.4.2.1.4** Outfall number and location along with coordinates;
 - 1.4.2.1.5** Name of receiving water(s);
 - 1.4.2.1.6** Actual or projected wastewater flow (gallons per day);
 - 1.4.2.1.7** Type of treatment system;
 - 1.4.2.1.8** Class II or higher wastewater operator name and license number;
- 1.4.2.2** For new dischargers or facilities with a change in outfall location or treatment system only:
- 1.4.2.2.1** Written approval from the ADH (i.e. EHP-19 Form). See the ADH Onsite Wastewater website for details regarding ADH requirements:
<https://www.healthy.arkansas.gov/programs-services/topics/onsite-wastewater>
and
 - 1.4.2.2.2** A site map depicting the entrance to the facility, the location of the treatment system, and the location of the outfall;
- 1.4.2.3** For new dischargers only, an initial permit fee as stated in APC&EC Rule 9 (per APC&EC Rule 9.404(B), homeowners are exempt);
- 1.4.2.4** For existing dischargers recertifying coverage only:
- A copy of the most recent Maintenance Report Form, certified by a Class II or higher licensed Wastewater Operator.
- 1.4.2.5** 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;
- 1.4.2.6** A Disclosure Statement as required by APC&EC Rule 8.204, if applicable (homeowners are exempt from disclosure statement requirements).
- 1.4.3** No permit coverage will be issued (new, modification, or renewal) until all DEQ fees have been paid.

1.5 Waivers from Electronic Reporting

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

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

1.5.1.2 Available computer access or computer capability is limited; or

1.5.1.3 The applicant is a religious community that chooses not to use certain modern technologies pursuant to 40 C.F.R. § 127.15(c)(1).

1.5.2 In order to apply for a waiver from electronic reporting, the applicant must submit the required information outlined in 40 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 System Modification for an Existing Permittee

If an existing permittee needs to modify, construct, or install a treatment system, then the permittee is required to submit the information identified in Part 1.4.1 to DEQ thirty (30) days prior to the proposed activity. Any modification to the treatment system will be subject to the same public review as described in Part 1.7. Replacement of like-kind equipment does not constitute a modification.

1.7 NOI Review and Public Notification Process

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

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

the applicant to revise the NOI. If determined appropriate by DEQ, the permittee will be granted coverage under this general permit upon written notification by DEQ.

Comments on a specific facility coverage notice will only be considered if they are in regard to a specific facility's NOI. Comments on the contents of the General Permit ARG550000 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.

1.8 Requiring an Individual NPDES Permit

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

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

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

1.8.1.3 The Division does not renew this general permit; or

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

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

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

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

1.8.1.6.2 The size of the discharge;

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

1.8.1.6.4 Other relevant factors.

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

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

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

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

1.9 Terminating Coverage

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

1.9.1.1 all discharges authorized by this permit are eliminated; or

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

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

- 1.9.3** The NOT may be submitted by electronic application using DEQ's electronic submittal system (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 Approval for New Treatment Systems

- 1.10.1** To obtain approval for an onsite wastewater treatment system that is not on the current list of approved systems on DEQ's web site (linked in Part 1.2 of this general permit), the following items must be submitted to DEQ for review:

1.10.1.1 NSF testing data (a.k.a. National Sanitation Foundation Testing); and

1.10.1.2 Plans, specifications, and design calculations signed and stamped by a Professional Engineer (P.E.) licensed in the State of Arkansas.

- 1.10.2** Systems may be approved for general use or on a site-specific basis.

1.10.2.1 Systems approved for general use will be added to list referenced in Part 1.2 of the permit.

1.10.2.2 Systems approved on a site-specific basis may be subject to additional requirements specified on the NOC.

PART 2
EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

OUTFALL 001 – The permittee is authorized to discharge from Outfall 001 – treated domestic wastewater. Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>		<u>Monitoring Requirements</u>	
	Concentration (mg/l, else specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max.		
Flow (GPD) ¹	Report	Report	once/year	estimate ²
Biochemical Oxygen Demand (BOD ₅)	10	15	once/year	grab
Total Suspended Solids (TSS)	15.0	22.5	once/year	grab
Dissolved Oxygen (DO)	6.0 (Inst. Min.)		once/year	grab
Fecal Coliform Bacteria (FCB) ³	(colonies/100 ml)		once/year	grab
	200	400		
pH ⁴	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/year	grab
If applicable: ⁵				
Total Phosphorus (TP) ⁶	Report	Report	once/year	grab
Total Nitrogen (TN) ^{6,7}	Report	Report	once/year	grab
Specified on NOC ⁸	Specified on NOC	Specified on NOC	Specified on NOC	Specified on NOC

1. Flow must be reported in units of gallons per day (GPD).

2. Defined in Part 7 of this general permit.

3. For FCB, the Monthly Avg. limit is a Monthly Geometric Mean, and the Daily Max. limit is a 7-day Geometric Mean.

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

5. Conditional reporting requirements will be specified on the facility's NOC, if applicable.

6. If the facility discharges to a waterbody listed in the most recent 305(b) report as Category 3 due to insufficient data to complete the nutrient assessment, the permittee must monitor and report TP and TN.

7. Total Nitrogen is the sum of Total Kjeldahl Nitrogen and Nitrate + Nitrite Nitrogen.

8. Determined on a case-by-case by DEQ.

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

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

- 3.1.1** The operator of the treatment system shall be licensed as at least Class II Municipal 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 Class II or higher wastewater operator within thirty (30) days of the change.

- 3.1.2** Sampling can be performed by any qualified individual, not necessarily the Class II or higher operator contracted by the permittee.

3.2 Maintenance Reports

- 3.2.1** The system must be checked at a minimum of four times a year using the maintenance report form available on DEQ's website, at the link below, by a licensed Class II or higher wastewater operator.

Maintenance Report Form:

https://www.adeg.state.ar.us/water/permits/npdes/nonstormwater/pdfs/arg550000/treatment_system_evaluation.pdf

- 3.2.2** The Maintenance Report Form shall be certified by the Class II or higher wastewater operator.
- 3.2.3** Records of these checks shall be maintained by the permittee and be available to DEQ upon request. At a minimum, the system check shall include the following items:
- 3.2.3.1** An assessment of the system components (including but not limited to electrical pumps, screens, weirs, chlorination, UV lamps, etc.);
 - 3.2.3.2** An assessment of the discharge route;
 - 3.2.3.3** An assessment of proper servicing of the grease interceptor, if equipped;
 - 3.2.3.4** An assessment of proper working order of the aerator, if equipped; and
 - 3.2.3.5** An assessment of the depth of the sludge within the treatment system.

3.3 Best Management Practices

- 3.3.1** Best Management Practices (BMPs), as defined in Part 8.6, must be implemented for the facility to prevent or reduce the pollution of waters of the State from stormwater runoff, spills or leaks, sludge or waste disposal, or drainage from raw sewage. The permittee must amend the BMPs whenever there is a change in the facility or a change in the operation of the facility.
- 3.3.2** BMPs include the Maintenance Reports required in Part 3.2 of the permit.

- 3.3.3** BMPs include removal of accumulated sludge from the treatment system as needed, in accordance with Part 5.6 of the permit.
- 3.3.4** BMPs may also include preventing or limiting the introduction of certain chemicals and items into the treatment system. The permittee shall consult the owner's manual for the treatment system for guidelines on chemicals and items that should be kept out of the treatment system.

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 NPDES Permit. Any values reported in the required monitoring reports which are in excess of the effluent limitations specified in Part 2 shall constitute evidence of violation of such effluent limitations 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, 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. Any false or materially misleading representation or concealment of information required to be reported by the provisions of this permit or applicable state and federal statutes or regulations which defeats the regulatory purposes of the permit may subject the permittee to criminal enforcement pursuant to the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.).

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 to 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, rules, 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 permittee of the responsibility to comply with any other applicable federal, state, or local law, 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 is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part 5.4.2 and Part 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 at least ten days before the date of the bypass, if possible.

5.4.2.2 Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part 7.4.

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 installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventative 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 5.4.3.1.

5.5 Upset Conditions

5.5.1 Effect of an upset

An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations, if the requirements of Part 5.5.2 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is a final administrative action subject to judicial review.

5.5.2 Conditions necessary for demonstration of upset

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

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 7.4; 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 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. 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 consulting laboratory.

6.3 Penalties for Tampering

The Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-103(a)(2)(B), provides that any person who purposely or knowingly falsifies, tampers with, or renders inaccurate any monitoring device, method, or record required to be maintained under the Act shall be guilty of a felony and upon conviction thereof shall be subject to imprisonment for not more than five (5) years or a fine of not more than fifty thousand dollars (\$50,000) or by both such fine and imprisonment.

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

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

6.5 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 such monitoring shall be included in the calculation and reporting of the data in the summary report. Such increased frequency shall also be indicated in the summary report.

6.6 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 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.

6.7 Record Contents

Records and monitoring information shall include:

- 6.7.1** Name and model of equipment;
- 6.7.2** Calibration date and time;
- 6.7.3** The individual who performed the calibration(s);
- 6.7.4** The date, exact place, time and methods of sampling or measurements, and preservatives used, if any;
- 6.7.5** The individual(s) who performed the sampling or measurements;
- 6.7.6** The date(s) and time analyses were performed;
- 6.7.7** The individual(s) who performed the analyses;
- 6.7.8** The analytical techniques or methods used; and
- 6.7.9** The measurements and results of such analyses.

6.8 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:

- 6.8.1** 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;
- 6.8.2** Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 6.8.3** Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- 6.8.4** 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 7 REPORTING REQUIREMENTS

7.1 Planned Changes

The permittee shall give notice to the Director as soon as possible but no later than 30 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 6.4. Discharge Monitoring Reports must be submitted even when no discharge occurs during the reporting period.

7.4 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:

7.4.1 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:

7.4.1.1 A description of the noncompliance and its cause;

7.4.1.2 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

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

7.4.2 The following must be reported within 24 hours:

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

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

7.4.2.3 Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part 2 to be reported within 24 hours.

7.4.3 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.

7.5 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.

7.6 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:

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

7.6.2 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 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).

7.7 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 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 (Part 6.7). Information shall be submitted in the form, manner and time frame requested by the Director.

7.8 Signatory Requirements

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

7.8.1 All permit applications shall be signed as follows:

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

7.8.1.1.1 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

7.8.1.1.2 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.

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

7.8.1.3 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:

7.8.1.3.1 The chief executive officer of the agency; or

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

7.8.2 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:

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

7.8.2.2 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

7.8.2.3 The written authorization is submitted to the Director.

7.8.3 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.”

7.9 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 Regulations and Rules, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.

7.10 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 Section 6.2 under the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

7.11 Other Information

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

PART 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 **“APC&EC”** means the Arkansas Pollution Control and Ecology Commission.
- 8.2 **“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.
- 8.3 **“Best Management Practices (BMPs)”** means activities, practices, maintenance procedures, and other management practices designed to prevent or reduce the pollution of waters of the State; includes treatment technologies, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw sewage; may include structural devices or nonstructural practices.
- 8.4 **“Bypass”** means the intentional diversion of waste streams from portion of a treatment facility, as defined at 40 C.F.R. § 122.41(m)(1)(i).
- 8.5 **“Clean Water Act (CWA)”** means the Federal Water Pollution Control Act, Public Law 95-217 (33 U.S.C. § 1251 et seq.) as amended.
- 8.6 **“Daily Discharge”** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.
 - 8.6.1 **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.
 - 8.6.2 **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.
- 8.7 **“Daily maximum”** means the highest allowable “daily discharge” during the calendar month.
- 8.8 **“DEQ”** or **“Division”** means the Arkansas Department of Energy and Environment – Division of Environmental Quality.
- 8.9 **“Director”** means the Director of the Division of Environmental Quality.
- 8.10 **“Domestic wastewater”** means wastewater consisting only of discharges from sanitary conveniences and plumbing fixtures such as toilets, urinals, lavatories, bathtubs and showers, drinking fountains, dishwashers, and washing machines.
- 8.11 **“Estimate Flow Measurement”** means an approximate judgment or calculation, as of the amount of the discharge (flow). Flow shall be estimated each time effluent samples are taken. If a flow meter, flume, or weir isn’t available, then there are several methods available to estimate flow rate that the permittee can do with commonly available tools, such as stopwatches, rulers, and buckets (Timed Volume).
- 8.12 **“Fecal Coliform Bacteria (FCB) Sample”** means a sample consisting of one effluent grab portion collected during a 24-hour period at peak loads; for FCB, report the 7-Day Average as the geometric mean of all “daily discharges” within a calendar week and the Monthly Average as the geometric mean of all “daily discharges” within a calendar month, in colonies per 100 ml.
- 8.13 **“Grab sample”** means an individual sample collected in less than 15 minutes.
- 8.14 **“Monthly average”** means the highest allowable average of “daily discharge” 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.

- 8.15 **“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.
- 8.16 **“NOI”** means Notice of Intent to be covered by this permit.
- 8.17 **“Onsite Wastewater Treatment Facility”** means a single system of treatment tanks and/or renovation facilities used for the treatment of domestic wastewater, exclusive of industrial wastes, serving only a single building, commercial facility such as an office building, or industrial plant or institution.
- 8.18 **“Permittee”** means any person (any state agency, municipality, governmental subdivision of the state or the United States, public or private corporation, individual, partnership, association, or other entity) who has the primary management and decision-making responsibility over a permitted operation, facility, or activity. The permittee is responsible for ensuring compliance with all applicable environmental regulations and conditions. The permittee is the entity named as such on an individual permit or the entity covered by a general permit.
- 8.19 **“Pollutant(s) of concern”** means pollutants that are anticipated in the effluent at a facility of this nature including, but not limited to, those listed in Part 2 of this permit; pollutants which a facility must monitor as part of a Waste Load Allocation (WLA) due to a Total Maximum Daily Load (TMDL).
- 8.20 **“Process Wastewater”** means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.
- 8.21 **“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.
- 8.22 **“Total Maximum Daily Load” or “TMDL”** means the sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for non-point sources and natural background. If receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any non-point sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.
- 8.23 **“Total Nitrogen”** means the sum of Total Kjeldahl Nitrogen and Nitrate + Nitrite Nitrogen.
- 8.24 **Units of Measure:**
- 8.24.1 **“col/100 ml”**: colonies per 100 milliliters. For the purpose of demonstrating compliance with permit limits and conditions, DEQ considers results in MPN/100 ml (Most Probable Number per 100 milliliters) equivalent to col/100 ml. Results in MPN/100 ml may be reported as col/100 ml.
- 8.24.2 **“GPD”**: gallons per day
- 8.24.3 **“mg/l”**: milligrams per liter or parts per million (ppm)
- 8.24.4 **“s.u.”**: standard units
- 8.25 **“Upset”** means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operations.
- 8.26 **“Visible sheen”** the presence of a film or sheen upon or a discoloration of the surface of the discharge; a sheen can also be from a thin glistening layer of oil on the surface of the discharge.
- 8.27 **“Waters of the State”** means all streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and

underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state.