

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

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

Operator of Facilities with Stormwater Discharges Associated With Construction Activity

is authorized to discharge to all receiving waters except as stated in Part I.B.11 (Exclusions).

For facilities that are eligible for coverage under this General Permit (GP), the Department sends a cover letter (Notice of Coverage with tracking permit number which starts with ARR15) and a copy of the permit to the facility. The cover letter includes the Department's determination that a facility is covered under the GP and may specify alternate requirements outlined in the permit.

The responses to comments related to this permit are available as a separate document on the Department's website.

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PART I PERMIT REQUIREMENTS

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SECTION A: DEFINITIONS

1. "**ADEQ**" or "**Department**" is referencing the Arkansas Department of Environmental Quality. The Department is the governing authority for the National Pollutant Discharge Elimination System program in the state of Arkansas.
2. "**Arkansas Pollution Control and Ecology Commission**" shall be referred to as APCEC throughout this permit.
3. "**Automatic Coverage**" indicates those sites that are defined as a small construction site or a site that is less than five (5) acres but part of a larger common plan.
4. "**Best Management Practices (BMPs)**" schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. According to the EPA BMP manual the use of hay-bales in concentrated flow areas is not recommended as a best management practice.
5. "**Commencement of Construction**" the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.
6. "**Contaminated**" means a substance the entry of which into the MS4, Waters of the State, or Waters of the United States may cause or contribute to a violation of Arkansas water quality standards.
7. "**Control Measure**" as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the State.
8. "**Construction Site**" an area upon which one or more land disturbing construction activities occur that in total will disturb one acre or more of land, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan such that the total disturbed area is one acre or more.
9. "**CWA**" the Clean Water Act or the Federal Water Pollution Control Act.
10. "**Dedicated Portable Asphalt Plant**" a portable asphalt plant that is located on or contiguous to a construction site that provides asphalt only to the construction site on which the plant is located or adjacent to. The term does not include facilities that are subject to the asphalt emulsion effluent guideline limitations at 40 CFR Part 443.
11. "**Dedicated Portable Concrete Plant**" a portable concrete plant that is located on or contiguous to a construction site and that provides concrete only to the construction site on which the plant is located on or adjacent to.
12. "**Detention Basin**" a detention basin is an area where excess stormwater is stored or held temporarily and then slowly drains when water levels in the receiving channel recede. In essence, the water in a detention basin is temporarily detained until additional room becomes available in the receiving channel.
13. "**Director**" the Director, Arkansas Department of Environmental Quality, or a designated representative.
14. "**Discharge**" when used without qualification means the "discharge of a pollutant".
15. "**Discharge of Stormwater Associated with Construction Activity**" as used in this permit, refers to a discharge of

pollutants in stormwater runoff from areas where soil disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

16. "**Discharge-Related Activities**" as used in this permit, include: activities that cause, contribute to, or result in stormwater point source pollutant discharges, including but not limited to: excavation, site development, grading and other surface disturbance activities; management of solid waste and debris; and measures to control stormwater including the construction and operation of BMPs to control, reduce or prevent stormwater pollution.

17. "**Disturbed area**" the total area of the site where any construction activity is expected to disturb the ground surface. This includes any activity that could increase the rate of erosion, including, but not limited to, clearing, grubbing, grading, excavation, demolition activities, haul roads, and areas used for staging. Also included, are stockpiles of topsoil, fill material and any other stockpiles with a potential to create additional runoff.

18. "**Eligible**" qualified for authorization to discharge stormwater under this general permit.

19. "**Erosion**" the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

20. "**Facility**" or "**Activity**" any NPDES "point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

21. "**Final Stabilization**":

- A. All soil disturbing activities at the site have been completed and either of the two following criteria are met:
 - 1) A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 80% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or
 - 2) Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
- B. When background native vegetation will cover less than 100% of the ground (e.g., arid areas, beaches), the 80% coverage criteria is adjusted as follows: if the native vegetation covers 50% of the ground, 80% of 50% ($0.80 \times 0.50 = 0.40$) would require 40% total cover for final stabilization. On a beach with no natural vegetation, no stabilization is required.
- C. For individual lots in residential construction, final stabilization means that either:
 - 1) The homebuilder has completed final stabilization as specified above, or
 - 2) The homebuilder has established temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization.
- D. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land, staging areas for highway construction, etc.), final stabilization may be accomplished by returning the disturbed land to its pre-construction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer

strips immediately adjacent to “water of the United States”, and areas which are not being returned to their pre-construction agricultural use must meet the final stabilization criteria in A, B, or C above.

22. "**Infrastructure**" streets, drainage, curbs, utilities, etc.
23. "**Impaired Water**" a water body listed in the current, approved Arkansas 303(d) list.
24. "**Landscaping**" improving the natural beauty of a piece of land (i.e. entrance of subdivision) through plantings or altering the contours of the ground.
25. "**Large and Medium Municipal Separate Storm Sewer System**" all municipal separate storm sewer systems that are either:
 - A. Located in an incorporated place with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census: or
 - B. Located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal, separate storm sewers that are located in the incorporated places, townships or towns within such counties; or
 - C. Owned or operated by a municipality other than those described in paragraphs (i) or (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.
26. "**Large Construction Site**" Construction activity including clearing, grading and excavation, **except** operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres. (Please see Part I.B.14 for partial waivers.)
27. "**Larger Common Plan of Development**" a contiguous (sharing a boundary or edge; adjacent; touching) area where multiple and distinct construction activities may be taking place at different times on different schedules under one plan. Such a plan might consist of many small projects (e.g. a common plan of development for a residential subdivision might lay out the streets, house lots, and areas for parks, schools and commercial development that the developer plans to build or sell to others for development.) All these areas would remain part of the common plan of development or sale. The following items can be used as guidance for deciding what might or might not be considered a “Common Plan of Development or Sale.” The “plan” in a common plan of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. You must still meet the definition of operator in order to be required to get permit coverage, regardless of the acreage you personally disturb.

If a smaller project (i.e., less than 1 acre) is part of a large common plan of development or sale (e.g., you are building a residential home on a ½ acre lot in a 40 acre subdivision or are putting in a fast food restaurant on a ¾ acre pad that is part of a 20 acre retail center) permit coverage is required. Under 40 CFR 122.26(b)(2)(vi), smaller parts of a larger common plan of development are automatically authorized under this general permit and should follow the conditions of a site with automatic coverage set forth in this permit (see Part I.B.6.A).
28. "**NOC**" Notice of Coverage
29. "**NOI**" Notice of Intent to be covered by this permit.

30. "**NOT**" Notice of Termination.

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

In addition, for purposes of this permit and determining who is an operator, "owner" refers to the party that owns the structure being built. Ownership of the land where construction is occurring does not necessarily imply the property owner is an operator (e.g., a landowner whose property is being disturbed by construction of a gas pipeline or a landowner who allows a mining company to remove dirt, shale, clay, sand, gravel, etc. from a portion of his property). Likewise, if the erection of a structure has been contracted for, but possession of the title or lease to the land or structure is not to occur until after construction, the would-be owner may not be considered an operator (e.g., having a house built by a residential homebuilder).

32. "**Outfall**" a point source where stormwater leaves the construction site.

33. "**Owner**" the owner or operator of any "facility or activity" subject to regulation under the NPDES program. In addition, for purposes of this permit and determining who is an operator, "owner" refers to the party that owns the structure being built. Ownership of the land where construction is occurring does not necessarily imply the property owner is an operator (e.g., a landowner whose property is being disturbed by construction of a gas pipeline). Likewise, if the erection of a structure has been contracted for, but possession of the title or lease to the land or structure is not to occur until after construction, the would-be owner may not be considered an operator (e.g. having a house built by a residential homebuilder).

34. "**Physically Interconnected**" that one municipal separate storm sewer system is connected to a second municipal separate storm sewer system in such a way that it allows for direct discharges into the second system.

35. "**Point Source**" any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

36. "**Qualified Local Program**" is a municipal program for stormwater discharges associated with construction sites that has been formally approved by the Department.

37. "**Qualified personnel**" a person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact stormwater quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of stormwater discharges from the construction activity.

38. "**Regulated Small Municipal Separate Storm Sewer System**" all municipal separate storm sewer systems that are either:

- A. Located within the boundaries of an "urbanized area" with a population of 50,000 or more as determined by the latest Decennial Census by the Bureau of Census; or
- B. Owned or operated by a municipality other than those described in paragraph A and that serve a jurisdiction with a population of at least 10,000 and a population density of at least 1,000 people per square mile; or
- C. Owned or operated by a municipality other than those described in paragraphs A and B and that contributes substantially to the pollutant loadings of a "physically interconnected" municipal separate storm sewer system.

39. "**Retention Basin**" a basin that is designed to hold the stormwater from a rain event and allow the water to infiltrate through the bottom of the basin. A retention basin also stores stormwater, but the storage of the stormwater would be on a more permanent basis. In fact, water often remains in a retention basin indefinitely, with the exception of the volume lost to evaporation and the volume absorbed into the soils. This differs greatly from a detention basin, which typically drains after the peak of the storm flow has passed, sometimes while it is still raining.
40. "**Runoff Coefficient**" the fraction of total rainfall that will appear at the conveyance as runoff.
41. "**Sediment**" material that settles to the bottom of a liquid.
42. "**Sediment Basin**" a basin that is designed to maintain a 10 year-24 hour storm event for a minimum of 24-hours in order to allow sediment to **settle** out of the water.
43. "**Small Construction Site**" Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance.
44. "**Stormwater**" stormwater runoff from rainfall, snow melt runoff, and surface runoff and drainage.
45. "**Stormwater Associated with Construction Activity**" the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to construction activity.
46. "**Stormwater Pollution Prevention Plan (SWPPP or SWP3)**" a plan that includes site map(s), an identification of construction/contractor, activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants (BMPs).
47. "**Temporary Sediment Controls**" controls that are installed to control sediment runoff from the site. These could be silt fencing, rock check dams, etc.
48. "**Total Maximum Daily Load**" or "**TMDL**" 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.
49. "**Uncontaminated**" can not exceed the water quality standards as set forth in APCEC Regulation 2.
50. "**Urbanized Area**" the areas of urban population density delineated by the Bureau of the Census for statistical purposes and generally consisting of the land area comprising one or more central place(s) and the adjacent densely settled surrounding area that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile as determined by the latest Decennial Census by the Bureau of Census.

SECTION B: COVERAGE UNDER THIS PERMIT

Introduction

This Construction General Permit (CGP) authorizes stormwater discharges from large and small construction activities that result in a total land disturbance of equal to or greater than one acre, where those discharges enter surface waters of the State or a municipal separate storm sewer system (MS4) leading to surface waters of the State subject to the conditions set forth in this permit. This permit also authorizes stormwater discharges from any other construction activity designated by ADEQ where ADEQ makes that designation based on the potential for contribution to an excursion of a water quality standard or for significant contribution of pollutants to waters of the State. This permit replaces the permit issued in 2003. The goal of this permit is to minimize the discharge of stormwater pollutants from construction activity. The Operator should make sure to read and understand the conditions of the permit. A copy of the General Stormwater Construction Permit is available on the ADEQ web site at http://www.adeg.state.ar.us/water/branch_npdes/stormwater/construction/construction.htm. You may also obtain a hard copy by contacting the ADEQ's General Permits Section at (501) 682-0623.

1. **Permitted Area.** If a large or small construction activity is located within the State of Arkansas, the operator may be eligible to obtain coverage under this permit.
2. **Eligibility.** Permit eligibility is limited to discharges from “large” and “small” construction activity, or as otherwise designated by ADEQ. This general permit contains eligibility restrictions, as well as permit conditions and requirements. You may have to take certain actions to be eligible for coverage under this permit. In such cases, you must continue to satisfy those eligibility provisions to maintain permit authorization. If you do not meet the requirements that are a pre-condition to eligibility, then resulting discharges constitute unpermitted discharges. By contrast, if you eligible for coverage under this permit and do not comply with the requirements of the general permit, you may be in violation of the general permit for your otherwise eligible discharges.
 - A. This general permit authorizes discharges from construction activities as defined in 40 CFR 122.26(a), 40 CFR 122.26(b)(14)(x), and 40 CFR 122.26(b)(15)(i).
 - B. This permit also authorizes stormwater discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, borrow areas) provided:
 - 1) The support activity is directly related to a specific construction site that is required to have NPDES permit coverage for discharges of stormwater associated with the construction activity;
 - 2) The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports;
 - 3) Pollutant discharges from support activity areas are minimized in compliance with conditions of this permit; and
 - 4) discharges from the support activity areas must be identified in a stormwater pollution prevention plan stating appropriate controls and measures for the area.
 - C. Other activities may be considered for this permit at the discretion of the Director as defined in 40 CFR 122.26(b)(15)(ii).
3. **Responsibilities of the Operator.** Permittees with operational control are responsible for compliance with all applicable terms and conditions of this permit as it relates to their activities on the construction site, including protection of endangered species and implementation of BMPs and other controls required by the SWPPP. Receipt of this general

permit does not relieve any operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

4. **Where to submit.** The operator shall submit a complete and signed NOI and SWPPP to the Department at the following address:

Arkansas Department of Environmental Quality
Discharge Permits Section
5301 Northshore Drive
North Little Rock, AR 72118-5317

Or by electronic mail (Complete documents (NOI and SWPPP) must be submitted in PDF format) to:

Water-permit-application@adeq.state.ar.us ;

NOTE: Notice of Coverage (NOC) will **NOT** be issued until payment has been received by ADEQ.

5. **Requirements for Qualifying Local Program (QLP).** The Department reviews and approves the QLP programs to ensure that they meet or supersede both state and federal requirements outlined in this permit and 40 CFR 122.44(s). ADEQ will review the QLP program at least every 5 years for recertification. If the Department approves a QLP, then the QLP requirements must at the minimum meet the Department's requirements. This would include all templates and forms.

If the small construction site is within the jurisdiction of a QLP, the operator of the small construction site is authorized to discharge stormwater associated with construction activity under QLP permit requirements only.

List of Qualifying Local Programs: A list of municipalities with Qualifying Local Programs is available at http://www.adeq.state.ar.us/water/branch_npdes/stormwater/ms4.htm. At this time only the City of Hot Springs is meeting the ADEQ minimum requirements.

6. **Requirements for Coverage.**

- A. **Automatic Coverage.** An operator of each site with automatic coverage may discharge under this general permit without submitting a NOI, SWPPP and fee. Please note that all the permit conditions set forth must be followed. The Operator is responsible for ensuring that the site is in compliance with any changes or updates of this general permit, by either contacting ADEQ or reviewing the ADEQ website

http://www.adeq.state.ar.us/water/branch_npdes/stormwater/construction/construction.htm .

- B. **Large Construction Sites.** An operator of a large construction site discharging under this general permit must submit the following items at least two weeks prior to commencement of construction:

- 1) A Notice of Intent (NOI) in accordance with the requirements of Part I.B.7 of this permit.
- 2) A complete Stormwater Pollution Prevention Plan (SWPPP) in accordance with the requirements of Part II.A of this permit.
- 3) An initial permit fee must accompany the NOI under the provisions of APCEC Regulation No. 9. Subsequent annual fees will be billed by the Department until the operator has requested a termination of coverage by submitting a Notice of Termination (NOT). Failure to remit the required permit fee may be grounds for the Director to deny coverage under this general permit.
- 4) Per Part I.B.14 of the permit, any single lot that are less than five (5) acres but part of a larger common plan

greater than five (5) acres, are waived from the requirements of a large site and may be permitted under automatic coverage.

Permitted Ongoing Project:

If you previously did receive authorization to discharge for your project under the 2003 CGP and you wish to obtain coverage under this permit, you must submit only an NOI within 60 days of the issuance date of this permit and update the existing SWPPP in accordance with Part II of this permit.

C. Coverage within a QLP

An operator of a site with automatic coverage, as defined in this permit, shall comply with the requirements of the QLP which has jurisdiction over the site.

7. Notice of Intent (NOI) Requirements

- A. **NOI Form.** Large Construction site operators who intend to seek coverage for stormwater discharge under this general permit must submit a complete and accurate ADEQ NOI form to the Department at least two weeks prior to coverage under this permit. The NOI form **must** be the current version obtained from the stormwater webpage indicated above in Part I.B.

If the NOI is deemed incomplete, the Department will notify the applicant with regard to the deficiencies by a letter, email, or phone within ten (10) business days of receipt of NOI. If the operator does not receive a notification of deficiencies from ADEQ's receipt of the NOI, the NOI is deemed complete. If the applicant does not provide the Department with the requested deficiencies within the deadline set by the Department, then the Department will return the NOI, fee and SWPPP back to the applicant.

- B. **Contents of the NOI.** The NOI form contains, at a minimum, the following information:

- 1) Operator (Permittee) information (name, address, telephone and fax numbers, E-mail address)
- 2) Whether the operator is a federal, state, private, public, corporation, or other entity
- 3) Application Type: New or renewal
- 4) Invoice mailing information (name, address, and telephone and fax numbers)
- 5) Project Construction site information (name, county, address, contact person, direction to site, latitude and longitude for the entrance of the site or the endpoints for linear project (in degrees, minutes, and seconds), estimated construction start date and completion date through site final stabilization, estimate of the total project acreage and the acreage to be disturbed by the operator submitting the NOI, type of the project (subdivision, school, etc), whether the project is part of a larger common plan of development.)
- 6) Discharge information (name of the receiving stream, ultimate receiving stream, name of municipal storm sewer system)
- 7) Endangered Species information
- 8) Previous/Current permit information
- 9) The Certification statement and signature of a qualified signatory person in accordance with 40 CFR 122.22, as adopted by reference in APCEC Regulation No. 6
- 10) The certification of the facility corporation
- 11) Other information (location of the SWPPP).

- C. **Notice of Coverage (NOC).** Unless notified by the Director to the contrary, dischargers who submit a NOI in accordance with the requirements of this permit are authorized to discharge stormwater from construction sites under the terms and conditions of this permit two weeks after the date the NOI is deemed complete by ADEQ. If the NOC has not been received by the permittee two weeks after the date the NOI is deemed complete by ADEQ, the NOI should be posted until the NOC is received. Upon review of the NOI and other available information, the Director may deny coverage under this permit and require submittal of an application for an individual NPDES permit.

8. Posting Notice of Coverage (NOC).

- A. **Large Sites: NOC Posting for Large Construction Sites.** The posting for large construction sites shall be obtained from the Department only after the permittee has met the NOI, permit fee and complete SWPPP submittal to the Department for the coverage.
- B. **Automatic Coverage Sites.** The Automatic Coverage NOC for small sites and a single site less than five (5) acres but part of a larger common plan, as defined in Part I.A, can be obtained from the Water Division's Construction Stormwater webpage. Posting a NOC without a SWPPP is a violation of this permit.
- C. **Linear Projects.** If the construction project is a linear construction project (e.g., pipeline, highway, etc.), the notice must be placed in a publicly accessible location near where construction is actively underway and moved as necessary.

Please note, this permit does not provide the public with any right to trespass on a construction site for any reason, including inspection of a site; nor does this permit require that the permittee allow members of the public access to a construction site.

- 9. Applicable Federal, State or Local Requirements.** The operator must ensure that the stormwater controls implemented at the site are consistent with all applicable federal, state, or local requirements. Additionally, an operator who is operating under approved local erosion and sediment plans, grading plans, local stormwater permits, or stormwater management plans shall submit signed copies of the Notice of Intent to the local agency (or authority) upon the local agency's request.

10. Allowable Non-Stormwater Discharges.

- A. The following non-stormwater discharges that are combined with stormwater during construction may be authorized by this permit. Non-stormwater discharges must be addressed in the stormwater pollution prevention plan.
- 1) Fire fighting activities;
 - 2) Fire hydrant flushings;
 - 3) Water used to wash vehicles (where detergents or other chemicals are not used) or control dust in accordance with Part II.A.4.I.2;
 - 4) Potable water sources including uncontaminated waterline flushings;
 - 5) Landscape Irrigation ;
 - 6) Routine external building wash down which does not use detergents or other chemicals;
 - 7) Pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled materials have been removed) and where detergents or other chemicals are not used;
 - 8) Uncontaminated air conditioning, compressor condensate (See Part I.B.12 of this permit);
 - 9) Uncontaminated springs, excavation dewatering and groundwater (See Part I.B.12 of this permit);
 - 10) Foundation or footing drains where flows are not contaminated with process materials such as solvents (See Part I.B.12 of this permit);

11. Limitations on Coverage (Exclusions). The following stormwater discharges associated with construction activity are not covered by this permit:

- A. **Post Construction Discharge.** Stormwater discharges associated with construction activities that originate from the site after construction activities have been completed, the site has undergone final stabilization, and the permit has been terminated.
- B. **Discharges Mixed with Non-Stormwater.** Stormwater discharges that are mixed with sources of non-stormwater other than those identified in Part I.B.10.
- C. **Discharges Covered by another Permit.** Stormwater discharges associated with construction activity that are covered under an individual or an alternative general permit may be authorized by this permit after an existing permit expires provided the expired permit did not establish numeric effluent limitations for such discharges.
- D. **Discharges into Receiving Waters with an Approved TMDL.** Discharges from a site into receiving waters for which there is an established total maximum daily load (TMDL) allocation (www.adeq.state.ar.us/water/branch_planning/default.htm) for Turbidity, Oil & Grease, and/or other pollutants at the discretion of the Director are not eligible for coverage under this permit unless the permittee develops and certifies a stormwater pollution prevention plan (SWPPP) that is consistent with the assumptions and requirements in the approved TMDL. To be eligible for coverage under this general permit, operators must incorporate into their SWPPP any conditions applicable to their discharges necessary for consistency with the assumptions and requirements of the TMDL within any timeframes established in the TMDL. If a specific numeric wasteload allocation has been established that would apply to the project's discharges, the operator must incorporate that allocation into its SWPPP and implement necessary steps to meet that allocation. Please note that the Department will be reviewing this information. If it is determined that the project will discharge to a TMDL, then the Department may require additional BMPs.
- E. **Discharges into Impaired Receiving Waters (303(d) List).** Discharges from a site into a receiving waters listed as impaired under Section 303(d) of the Clean Water Act (www.adeq.state.ar.us/water/branch_planning/default.htm) for Turbidity, Oil & Grease and/or other pollutants at the discretion of the Director, should incorporate into the SWPPP any additional BMPs needed to sufficiently protect water quality. The SWPPP should include a proposal for monitoring to determine if the BMPs and controls are effective. Please note that the Department will be reviewing this information. If it is determined that the project will discharge to an impaired water body, then the Department may require additional BMPs.
- F. **Endangered and Threatened Species and Critical Habitat Protection.** Stormwater discharges from construction sites that are likely to adversely affect a listed endangered or threatened species or its critical habitat must contact the U.S. Fish and Wildlife Service (USFWS) at (501) 513-4470 or www.fws.gov/arkansas-es. Discharges which are not in compliance with the Endangered Species Act (ESA) can **not** be covered under this permit.

In order to obtain coverage, the applicant must follow the process required by the USFWS in order to determine the project's compliance with the ESA. This automatic process can be found on the USFWS website at the following address: www.fws.gov/arkansas-es. The certification provided by the process must be included in the project's Stormwater Pollution Prevention Plan. If at some point during the process, the submittal of information to the USFWS is required, then the incomplete checklist should be submitted to the Department along with the letter of correspondence that was submitted to the USFWS.

12. Trench and Ground Water Control. There shall be no turbid discharges to surface waters of the state resulting from dewatering activities. If trench or ground waters contain sediment, it must pass through a sediment settling pond or other equally effective sediment control device, prior to being discharged from the construction site. Alternatively, sediment may be removed by settling in place or by dewatering into a sump pit, filter bag, or comparable practice. Ground water dewatering which does not contain sediment or other pollutants is not required to be treated prior to discharge. However, care must be taken when discharging ground water to ensure that it does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.

13. Buffer Zones.

An undisturbed buffer zone as stated below shall be maintained at all times. Exceptions from this requirement for areas, such as water crossings, limited water access, and restoration of the buffer are allowed if the permittee fully documents in the SWPPP the circumstances and reasons for the buffer zone encroachment. Additionally, this requirement is not intended to interfere with any other ordinance, rule or regulation, statute or other provision of law.

- A. For construction projects where clearing and grading activities will occur, the SWPPP must provide at least twenty-five (25) feet of buffer zone, as measured horizontally from the top of the bank to the disturbed area, from any named or unnamed streams, creeks, rivers, lakes or other water bodies.
- B. The Department may also require up to fifty (50) feet of buffer zone, as measured from the top of the bank to the disturbed area, from established TMDL water bodies, streams listed on the 303 (d)-list, an Extraordinary Resource Water (ERW), Ecologically Sensitive Waterbody (ESW), Natural and Scenic Waterway (NSW), and/or any other uses at the discretion of the Director.
- C. Linear projects will be evaluated individually by the Department to determine buffer zone setbacks.

14. Waivers from Permit Coverage. The Director may waive the otherwise applicable requirements of this general permit for stormwater discharges from construction activities under the terms and conditions described in this section.

- A. Waiver Applicability and Coverage. Based upon 40 CFR Part 122.26.b.15.i.A, operators of small construction activities may apply for and receive a waiver from the requirements to obtain this permit.
- B. No Stormwater Leaving the Site. If all of the stormwater from the construction activity is captured on-site under any size storm event and allowed to evaporate, soak into the ground on-site, or is used for irrigation, a permit is not needed.
- C. TMDL Waivers. This waiver is available for sites with automatic coverage if the ADEQ has established or approved a TMDL that addresses the pollutant(s) of concern and has determined that controls on stormwater discharges from small construction activity are not needed to protect water quality. The pollutant(s) of concern include sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. Information on TMDLs that have been established or approved by ADEQ is available from ADEQ online at www.adeq.state.ar.us/water/branch_planning/default.htm.
- D. Discharges into Impaired Receiving Waters (303(d) List). This waiver is available for sites with automatic coverage if the ADEQ has listed the waters in 303(d) list that addresses the pollutant(s) of concern and has determined that controls on stormwater discharges from small construction activity are not needed to protect water quality. The pollutant(s) of concern include sediment (such as total suspended solids, turbidity or siltation) and any other pollutant

that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. Information on 303(d) that have been established by ADEQ is available from ADEQ online at www.adeq.state.ar.us/water/branch_planning/default.htm

- E. Sites part of the Larger Common Plan. Any single lot less than 5 acres that is part of larger common plan may be considered as a small construction site. As long as the operator has complied with all conditions of this permit without submitting an NOI in accordance with 40 CFR 122.28(b)(2)(v). This waiver is applicable if the operator has only one lot in the larger common plan or multiple lots in which construction will not begin within 24 months of the prior construction.

15. Continuation of the Expired General Permit. If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act and remain in force and effect. If you were granted permit coverage prior to the expiration date, you will automatically remain covered by the continued permit until the earliest of:

- Reissuance or replacement of this permit, at which time the operator must comply with the conditions of the new permit to maintain authorization to discharge and, the operator is required to notify the Department of his/her intent to be covered under this permit within 60 days after the effective date of the renewal permit ; or
- Submittal of a Notice of Termination; or
- Issuance of an individual permit for the project's discharges; or
- A formal permit decision by ADEQ to not reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit

Small site Operators are responsible for ensuring that the site is in compliance with any changes or updates of this general permit, by reviewing the ADEQ website at:

http://www.adeq.state.ar.us/water/branch_npdes/stormwater/construction/construction.htm .

16. Notice of Termination (NOT). All construction activities that disturbed soil are complete, the site has reached final effective stabilization (100% stabilization with 80% density), all stormwater discharges from construction activities authorized by this permit are eliminated and all temporary sediment controls are removed and properly disposed, the operator of the facility may submit a complete Notice of Termination (NOT) to the Director. Along with the NOT, pictures that represent the entire site should be submitted for review. Final stabilization is not required if the land is returned to its pre-construction agriculture use. Operators of small construction sites are not required to submit NOTs for their construction sites. However, final stabilization is required on all sites. If a Notice of Termination is not submitted when the project is completed, the operator will be responsible for annual fees.

17. Responsibilities of the Operator of a Larger Common Plan of Development for a Subdivision.

- A. The operator is ultimately responsible for the runoff from the perimeter of the entire development. Regardless for the reason of the runoff, the operator is responsible for ensuring sufficient overall controls of the development.
- B. The operator shall not terminate the permit coverage until the following conditions have been met:
- 1) After all construction including landscaping and lot development has been completed; and
 - 2) All lots are sold and developed.

The following exceptions to this requirement can apply:

- a. less than 100% sold and developed at the discretion of the Director, or
 - b. Separation of the larger common plan if twenty-four (24) months have passed with no construction activity.
 - c. All lots are developed and there are no temporary common controls for subdivision outfalls, i.e. sediment basins, large sediment traps, check dams, etc.
- 3) If lots are sold then re-sold to a third party then permit coverage needs to be obtained by each of the operators while they have ownership of the lots. The second owner is responsible to obtain the same certification from the third owner, i.e. the certification must pass from owner to owner.
- C. The operator shall not terminate permit coverage until the operators of all the individual lots within the larger common plan are notified of their permitting requirements under this general permit. In this case, the signed certification statements from each operator of individual lots must be maintained in the stormwater pollution prevention plan for the large common plan. A copy of the signed certifications must be submitted to ADEQ with the NOT. The certification shall be as follows:

“I, _____, operator of an individual lot #_____, block #_____ of _____ subdivision, certify under penalty of law that I was notified by the operator of the larger common plan of the stormwater permitting requirements for my construction site(s). I understand prior to commencement of any construction activity I have to prepare and comply with a SWPPP and post the Construction Site Notice. I understand that prior to the sale of this lot to another party; I must notify the new owner of ADEQ requirements and obtain this certification from the new owner.”

Signature _____

- D. The following examples are provided as clarification:

- 1) If a small portion of the original common plan of development remains undeveloped and there has been a period of time (i.e., more than 24 months) where there are no ongoing construction activities (i.e., all areas are either undisturbed or have been finally stabilized), you may re-evaluate the original project based on the acreage remaining from the original “common plan.” If less than five but more than one acre remains to build out the original “common plan”, coverage under the large permit may not be required. However, you will need to comply with the terms and conditions for Small Construction Sites in the Construction General Permit. If less than one acre remains of the original common plan, your individual project may be treated as a part of a less than one acre development and no permit would be required.
- 2) If you have a long-range master plan of development where some portions of the master plan are conceptual rather than a specific plan of future development and the future construction activities would, if they occur at all, happen over an extended period of time (i.e., more than 24 months), you may consider the “conceptual” phases of development to be separate “common plans” provided the periods of construction for the physically interconnected phases will not overlap.
- 3) Where discrete construction projects within a larger common plan of development or sale are located ¼ mile or more apart and the area between the projects is not being disturbed, each individual project can be treated as a separate plan of development or sale provided any interconnecting road, pipeline or utility project that is part of the same “common plan” is not concurrently being disturbed. For example, an interconnecting access road or pipeline were under construction at the same time, they would generally be considered as a part of a single “common plan” for permitting purposes.
- 4) If the operator sells all the lots in the subdivision to one or more multi-lot homebuilder(s), provisions must be made to obtain stormwater permit coverage by one of the following options:
 - a. The permit may be transferred from the first “operator” to the new/second “operator”.

b. A new, separate permit may be obtained by the second “operator”.

NOTE: If a new permit is to be obtained, then it must be obtained before the first/original permit is terminated.

5) If the operator retains ownership of any lots in the subdivision, the operator shall maintain permit coverage for those lots under the original permit. The operator shall modify the Stormwater Pollution Prevention Plan (SWPPP) by stating which lots are owned and marking the lots on the site map. If there are one (1) or two (2) lots remaining and the total acreage is less than five (5) acres, the original permit could be terminated and those lots could be covered as a small site.

18. Change in Operator. For stormwater discharges from large construction sites where the operator changes, including instances where an operator is added after the initial NOI has been submitted, the new operator must ensure that a permit transfer form is received by the Department at least two (2) weeks prior to the operator beginning work at the site.

19. Late Notifications. A discharger is not precluded from submitting an NOI in accordance with the requirements of this part after the dates provided in Part I.B.6 of this permit. In such instances, the Director may bring an enforcement action for failure to submit an NOI in a timely manner or for any unauthorized discharges of stormwater associated with construction activity that have occurred on or after the dates specified in this permit.

20. Failure to Notify. The operator of a construction site who fails to notify the Director of their intent to be covered under this permit, and who potentially discharges pollutants (sediment, debris, etc.) to waters of the State without an NPDES permit, is in violation of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

21. Maintenance. Determination of the acreage of disturbance does not typically include disturbance for routine maintenance activities on existing roads where the line and grade of the road is not being altered, nor does it include the paving of existing roads. Maintenance activities (returning to original conditions) are not regulated under this permit unless one or more acres of underlying and/or surrounding soil are cleared, graded, or excavated as part of the operation.

22. Releases in Excess of Reportable Quantities.

A. The discharge of hazardous substances or oil in the stormwater discharge(s) from a facility shall be prevented or minimized in accordance with the applicable stormwater pollution prevention plan for the facility. This permit does not relieve the operator of the reporting requirements of 40 CFR Parts 110, 117 and 302. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reporting quantity established under either 40 CFR 110, 40 CFR 117, or 40 CFR 302, occurs during a 24-hour period, the following action shall be taken:

- 1) Any person in charge of the facility is required to notify the National Response Center (NRC) (800-424-8802) in accordance with the requirements of 40 CFR 110, 40 CFR 117, or 40 CFR 302 as soon as he/she has knowledge of the discharge;
- 2) The operator shall submit within five (5) calendar days of knowledge of the release a written description of the release (including the type and estimate of the amount of material released), the date that such release occurred, and the circumstances leading to the release, and steps to be taken in accordance with Part II.B.13 of this permit to the ADEQ.
- 3) The stormwater pollution prevention plan described in Part II.A of this permit must be modified within fourteen (14) calendar days of knowledge of the release to:
 - a. Provide a description of the release and the circumstances leading to the release; and

b. The date of the release;

2. Additionally, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

B. Spills. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

23. Attainment of Water Quality Standards

The operator must select, install, implement and maintain control measures at the construction site that minimize the discharge of turbidity and/or oil and grease and/or other pollutants at the discretion of the Director as necessary to protect water quality. In general, except in situations explained in below, the stormwater controls developed, implemented, and updated to be considered stringent enough to ensure that your discharges do not cause or contribute to an excursion above any applicable water quality standard.

At any time after authorization, the ADEQ may determine that the stormwater discharges may cause, have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. If such a determination is made, ADEQ will require the permittee to:

- A. Develop a supplemental BMP action plan describing SWPPP modifications to address adequately the identified water quality concerns and submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or
- B. Cease discharges of pollutants from construction activity and submit an individual permit application.

All written responses required under this part must include a signed certification consistent with Part II.B.9.

PART II STANDARD CONDITIONS

Information in **Part II** is organized as follows:

Section A: Stormwater Pollution Prevention Plans:

1. Deadlines for Plan Preparation and Compliance
2. Signature, Plan Review, Plan Availability, and NOC
3. Keeping Plans Current
4. Contents of Stormwater Pollution Prevention Plan
5. Contractors
6. Inspectors
7. Plan Certification

Section B: Standard Permit Conditions:

1. Retention of Records
2. Duty to Comply
3. Penalties for Violations of Permit Conditions
4. Continuance of Expired General Permit
5. Need to Halt or Reduce Activity Not a Defense
6. Duty to Mitigate
7. Duty to Provide Information
8. Other Information
9. Signatory Requirements
10. Certification
11. Penalties for Falsification of Reports
12. Penalties for Tampering
13. Oil and Hazardous Substance Liability
14. Property Rights
15. Severability
16. Transfers
17. Proper Operation and Maintenance
18. Inspection and Entry
19. Permit Actions
20. Re-Opener Clause
21. Local Requirements

SECTION A: STORMWATER POLLUTION PREVENTION PLANS (SWPPP).

The operator must prepare a stormwater pollution prevention plan (the plan/SWPPP) before permit coverage. At least one SWPPP must be developed for each construction project or site covered by this permit. The SWPPP must follow the order outlined in Part II.A.4-7 below. This basic ADEQ format is available through the Department's website http://www.adeg.state.ar.us/water/branch_npdes/stormwater/construction/construction.htm. Other formats may be used at the discretion of the Director **if** the format has been approved by the Department prior to use. The operator must implement the SWPPP as written from initial commencement of construction activity until final stabilization is complete, with changes being made as deemed necessary by the permittee, local, state or federal officials. The plan shall be prepared in accordance with good engineering practices, by qualified personnel and must:

- Identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges from the construction;
- Identify, describe and ensure the implementation of Best Management Practices (BMPs), with emphasis on initial site stabilization, which are to be used to reduce pollutants in stormwater discharges from the construction site;
- Be site specific to what is taking place on a particular construction site;
- Ensure compliance with the terms and conditions of this permit; and
- Identify the responsible party for on-site SWPPP implementation.

1. Deadlines for Plan Preparation and Compliance.

A. Large Construction Sites

The plan shall be completed and submitted for review, along with a NOI and initial permit fee 2 weeks prior to commencement of construction activities. Submittals of updates to the plan during the construction process are required only if requested by the Director.

B. Automatic Coverage Sites

The plan shall be completed prior to the commencement of construction activities and updated as appropriate. Submittal of NOI, permit fee and SWPPP is not required.

C. Existing Permittees

Existing permittees, that were permitted prior to the issuance of this renewal permit, are required to update their plan as appropriate to come into compliance with the requirements contained in Part II.A.4 within **sixty (60) days** from the effective date of this permit.

2. Signature, Plan Review, Plan Availability and NOC.

- A. The plan shall be signed by the operator in accordance with Part II.B.9 and be retained on-site at the construction site during normal business hours (8:00 A.M. – 5:00 P.M.). The operator shall keep the complete updated SWPPP on-site.
- B. The operator shall make plans available, upon request, to the Director, the EPA, or a State or local agency reviewing sediment and erosion plans, grading plans, or stormwater management plans, or, in the case of a stormwater discharge associated with construction activity which discharges through a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system.

- C. The Director, or authorized representative, may notify the operator at any time that the plan does not meet one or more of the minimum requirements of this Part. Within seven (7) business days of such notification from the Director, (or as otherwise provided by the Director), or authorized representative, the operator shall make the required changes to the plan and submit to the Director a written certification that the requested changes have been made. The Department may request re-submittal of the SWPPP to confirm that all deficiencies have been adequately addressed. The Department may also take appropriate enforcement action for the period of time the operator was operating under a plan that did not meet the minimum requirements of this permit.
- D. The operator must post the NOC near the main entrance of the construction site and visible to the public. The NOC will indicate the location of the SWPPP.
3. **Keeping Plans Current.** The operator shall amend the plan within seven (7) business days or whenever there is a change in design, construction, operation, or maintenance at the construction site which has a significant effect on the potential for the discharge of pollutants to the Waters of the State that has not been previously addressed in the SWPPP. The plan should also be modified if a determination has been made through inspections, monitoring (if required), *or* investigation by the operator, local, state, or federal officials that the discharges are causing or contributing to water quality violation or the plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified in stormwater discharges from the construction site.
4. **Contents of the Stormwater Pollution Prevention Plan.** The stormwater pollution prevention plan shall include the following items:
- A. **Site Description.** Each plan shall provide a description of the following:
- 1) Pre-construction topographic view;
 - 2) A description of the nature of the construction activity and its intended use after the NOT is filed (i.e., residential subdivision, shopping mall, etc.);
 - 3) A description of the intended sequence of major activities which disturb soils for major portions of the site (e.g. grubbing, excavation, grading, infrastructure installation, etc.);
 - 4) Estimates of the total area of the site (including off-site borrow and fill areas) and the total area of the site that is expected to be disturbed by excavation, grading or other activities; and
 - 5) An estimate of the runoff coefficient of the site for pre- and post-construction activities and existing data describing the soil or the quality of any discharge from the site.
- B. **Responsible Parties.** The SWPPP must identify (as soon as this information is known) all parties (i.e., General Contractors, Landscapers, Project Designers, and Inspectors) responsible for particular services they provide to the operator to comply with the requirements of the SWPPP for the project site, and areas over which each party has control. If these parties change over the life of the permit, or new parties are added, then the SWPPP should be updated to reflect these changes.
- C. **Receiving Waters.** The SWPPP must identify the nearest receiving water(s), or if the discharge is to a municipal separate storm sewer, the name of the operator of the municipal system, the ultimate receiving water(s)
- D. **Documentation of Permit Eligibility Related to the 303 (d) list and Total Maximum Daily Loads (TMDL).** The SWPPP should include information on whether or not the stormwater discharges from the site enter a water body that is on the most recent 303 (d) list or with an approved TMDL. If the stormwater discharge does enter a water body that is on the most recent 303(d) list or with an approved TMDL, then the SWPPP should address the following items:
- 1) Identification of the pollutants that the 303 (d) list or TMDL addresses, specifically whether the 303 (d) list or

TMDL addresses sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation);

- 2) Identification of whether the operator's discharge is identified, either specifically or generally, on the 303 (d) list or any associated assumptions and allocations identified in the TMDL for the discharge; and
- 3) Measures taken by the operator to ensure that its discharge of pollutants from the site is consistent with the assumptions and allocations of the TMDL.

If the Department determines during the review process that the proposed project will be discharging to a receiving water that is on the most recent 303 (d) list or with an approved TMDL, then the Department will notify the applicant to include additional Best Management Practices in the SWPPP.

E. Attainment of Water Quality Standards After Authorization.

- 1) The permittee must select, install, implement, and maintain BMPs at the construction site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. In general, except in situations explained below, the SWPPP developed, implemented, and updated to be considered as stringent as necessary to ensure that the discharges do not cause or contribute to an excursion above any applicable water quality standard.
- 2) At any time after authorization, the Department may determine that the stormwater discharges may cause, have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. If such a determination is made, the Department will require the permittee to:
 - a. Develop a supplemental BMP action plan describing SWPPP modifications to address adequately the identified water quality concerns and submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or
 - b. Cease discharges of pollutants from construction activity and submit an individual permit application.
- 3) All written responses required under this part must include a signed certification (Part II.B.10)

F. Endangered Species. The SWPPP must contain information on endangered and threatened species, including whether any endangered species are in proximity of the stormwater discharge and BMP's to be constructed to control stormwater runoff. The letter of consent from the USF&W, as stated in Part I.B.11.F must be included with the SWPPP along with the name and telephone number of the person or agency which was contacted to obtain the information.

G. Site Map. The SWPPP must contain a legible site map complete to scale, showing the entire site, that identifies, at a minimum, the following:

- 1) Direction of stormwater flow (i.e., use arrows to show which direction stormwater will flow) and approximate slopes anticipated after major grading activities;
- 2) Delineate on the site map areas of soil disturbance and areas that will not be disturbed under the coverage of this permit;
- 3) Location of major structural and nonstructural controls identified in the plan;
- 4) Location of main construction entrance and exit;
- 5) Location where stabilization practices are expected to occur;
- 6) Locations of off-site materials, waste, borrow area, or equipment storage area;
- 7) Location of areas used for concrete wash-out;
- 8) Location of all surface water bodies (including wetlands);

- 9) Locations where stormwater is discharged to a surface water and/or municipal separate storm sewer system if applicable,
- 10) Locations where stormwater is discharged off-site (should be continuously updated);
- 11) Areas where final stabilization has been accomplished and no further construction phase permit requirements apply.

H. Stormwater Controls. Each plan shall include a description of appropriate controls and measures that will be implemented at the construction site. The plan will clearly describe for each major activity identified in the project description control measures associated with the activity and the schedule during the construction process that the measures will be implemented. Perimeter controls for the site must be installed after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site. Perimeter controls must be actively maintained until final stabilization of those portions of the site upward of the perimeter control. Temporary perimeter controls must be removed after final stabilization and properly disposed. The description and implementation of controls shall address the following minimum components:

- 1) Initial Site Stabilization, Erosion, and Sediment Controls. The SWPPP must address, at a minimum, the following:
 - a. For larger common plans, only streets, drainage, utility areas, areas needed for initial construction of streets (e.g., borrow pits, parking areas, etc.) and areas needed for stormwater structures may be disturbed initially. Upon stabilization of the initial areas, additional areas may be disturbed.
 - b. The construction-phase erosion (such as site stabilization) and sediment controls (such as check dams) should be designed to retain sediment on-site to the extent practicable.
 - c. All control measures must be properly selected, installed, and maintained in accordance with the manufacturer's specifications, good engineering, and construction practices. If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the permittee must replace or modify the control for site situations.
 - d. If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts (e.g., fugitive sediment in street could be washed into storm sewers by the next rain and/or pose a safety hazard to users of public streets). This permit does not give the authority to trespass onto other property; therefore this condition should be carried out along with the permission of neighboring land owners to remove sediment.
 - e. Sediment must be removed from sediment traps (if used please specify what type) or sedimentation ponds when design capacity has been reduced by 50%.
 - f. Litter, construction debris, and construction chemicals exposed to stormwater shall be prevented from becoming a pollutant source for stormwater discharges (e.g., screening outfalls picked up daily).
 - g. Off-site material storage areas (also including overburden and stockpiles of dirt, borrow areas, etc.) used solely by the permitted project are considered a part of the project and shall be addressed in the SWPPP.
- 2) Stabilization practices. The SWPPP must include, at a minimum, the following information:
 - a. Description and Schedule: A description of initial, interim, and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed areas are stabilized. Stabilization practices may include: mulching, temporary seeding, permanent seeding, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, and preservation of mature vegetation and other appropriate measures.
 - b. Description of buffer areas: The Department requires that a buffer zone be established between the top of stream bank and the disturbed area. The SWPPP must contain a description of how the site will maintain

buffer zones. For construction projects where clearing and grading activities will occur, SWPPP must provide at least twenty-five (25) feet of buffer zone from any named or unnamed streams, creeks, rivers, lakes or other water bodies. The plan must also provide at least fifty (50) feet of buffer zone from established TMDL water bodies, streams listed on the 303 (d)-list, an Extraordinary Resource Water (ERW), Ecologically Sensitive Waterbody (ESW), Natural and Scenic Waterway (NSW), and/or other uses at the discretion of the Director. If the site will be disturbed within the recommended buffer zone, then the buffer zone area must be stabilized as soon as possible. Exceptions from this requirement for areas, such as water crossings, limited water access, and restoration of the buffer are allowed if the permittee fully documents in the SWPPP the circumstances and reasons for the buffer zone encroachment. Additionally, this requirement is not intended to interfere with any other ordinance, rule or regulation, statute or other provision of law. Please note that above-grade clearing that does not disturb the soil in the buffer zone area does not have to comply with buffer zone requirements.

- c. **Records of Stabilization:** A record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated shall be included in the plan.
 - d. **Deadlines for Stabilization:** Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than fourteen (14) days after the construction activity in that portion of the site has temporarily or permanently ceased, except:
 - (1) Where the initiation of stabilization measures by the fourteenth (14th) day after construction activity temporarily or permanently ceases is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.
 - (2) Where construction activity will resume on a portion of the site within twenty-one (21) days from when activities ceased (e.g. the total time period that construction activity is temporarily ceased is less than twenty-one (21) days), then stabilization measures do not have to be initiated on that portion of the site by the fourteenth (14th) day after construction activity temporarily ceased.
- 3) **Structural Practices.** A description of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable. Structural practices should be placed on upland soils to the degree attainable. The installation of these devices may be subject to Section 404 of the Clean Water Act. Such practices may include but are not limited to:
- silt fences (installed and maintained)
 - earthen dikes to prevent run-on
 - drainage swales to prevent run-on
 - check dams
 - subsurface drains
 - pipe slope drains
 - storm drain inlet protection
 - rock outlet protection
 - sediment traps
 - reinforced soil retaining systems
 - gabions
 - temporary or permanent sediment basins.

A combination of erosion and sediment control measures is encouraged to achieve maximum pollutant removal. Adequate spillway cross-sectional area and re-enforcement must be provided for check dams, sediment traps, and sediment basins.

a. Sediment Basins.

- (1) For common drainage locations that serve an area with ten (10) or more acres (including run-on from other areas) draining to a common point, a temporary or permanent sediment basin that provides storage based on either the smaller of 3600 cubic feet per acre, or a size based on the runoff volume of a 10 year, 24 hour storm, shall be provided where attainable (so as not to adversely impact water quality) until final stabilization of the site. In determining whether installing a sediment basin is attainable, the operator may consider factors such as site soils, slope, available area on site, etc. Proper hydraulic design of the outlet is critical to achieving the desired performance of the basin. The outlet should be designed to drain the basin within twenty-four (24) to seventy-two (72) hours. (A rule of thumb is one square foot per acre for a spillway design.) The 24-hour limit is specified to provide adequate settling time; the seventy-two (72)-hour limit is specified to mitigate vector control concerns. If a pipe outlet design is chosen for the outfall, then an emergency spillway is required. If “non-attainability” is claimed, then an explanation of non-attainability shall be included in the SWPPP. Where a sediment basin is not attainable, smaller sediment basins and/or sediment traps shall be used. Where a sediment basin is un-attainable, vegetative buffer strips or other suitable controls which are effective are required for all side slopes and down slope boundaries of the construction area. The plans for removal of the sediment basin should also be included with the description of the basin in the SWPPP.
- (2) For drainage locations serving an area less than ten (10) acres, sediment traps, silt fences, or equivalent sediment controls are required for all side slope and down slope boundaries of the construction area unless a sediment basin providing storage based on either the smaller of 3600 cubic feet per acre, or a size based on the run off volume of a 10 year, 24 hour storm is provided. (A rule of thumb is one square foot per acre for a spillway.) However, in order to protect the waters of the state, the Director, at their discretion, may require a sediment basin for any drainage areas draining to a common point.

b. Velocity Dissipation Devices.

Velocity dissipation devices must be placed at discharge locations, within concentrated flow areas serving two or more acres, and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (i.e., no significant changes in the hydrological regime of the receiving water). Please note that the use of hay-bales is not recommended in areas of concentrated flow.

I. Other Controls.

- 1) No solid materials, including building materials, shall be discharged to waters of the State.
- 2) Off-site vehicle tracking of sediments and the generation of dust shall be minimized through the use of a stabilized construction entrance and exit and/or vehicle tire washing.
- 3) For lots that are less than one (1) acre in size an alternative method may be used in addition to a stabilized construction entrance. An example of an alternative method could be daily street sweeping. This could allow for the shortening of the construction entrance.
- 4) The plan shall ensure and demonstrate compliance with applicable State or local waste disposal, temporary and permanent sanitary sewer or septic system regulations.
- 5) No liquid concrete waste shall be discharged to waters of the State. Appropriate controls to prevent the discharge of concrete washout waters must be implemented if concrete washout will occur on-site.
- 6) No contaminants from fuel storage areas, hazardous waste storage and truck wash areas shall be discharged to

waters of the State. Methods for protecting these areas shall be identified and implemented. These areas should not be located near a water body, if there is a water body on or near the project.

- J. Non-stormwater discharges. Sources of non-stormwater listed in Part I.B.10 of this permit that are combined with stormwater discharges associated with construction activity must be identified in the plan. This list should be site specific non-stormwater discharges.
- K. Post-Construction Stormwater Management. The operator is required to provide a description of measures that will be installed during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable. The installation of these devices may be subject to Section 404 (Corps of Engineers) of the Clean Water Act. This permit only addresses the installation of stormwater management measures, and not the ultimate operation and maintenance of such structures after the construction activities have been completed and the site has undergone final stabilization. However, post-construction stormwater BMPs that discharge pollutants from a point source once construction is completed may need authorization under a separate ADEQ NPDES permit. Such practices may include but are not limited to:
- infiltration of runoff onsite
 - flow attenuation by use of open vegetated swales and natural depressions
 - stormwater retention structures
 - stormwater detention structures (including wet ponds)
 - sequential systems, which combine several practices

A goal of at least 80 % removal of total suspended solids from these flows which exceed predevelopment levels should be used in designing and installing stormwater management controls (where practicable). Where this goal is not met, the operator shall provide justification for rejecting each practice listed above based on site conditions.

- L. Applicable State or Local Programs. The SWPPP must be updated as necessary to reflect any revisions to applicable federal, state, or local requirements that affect the stormwater controls you implement at your site.
- M. Inspections.

Inspections should be conducted by qualified personnel (provided by the operator). Inspections must include all areas of the site disturbed by construction activity and areas used for storage of materials that are exposed to precipitation. Inspectors must look for evidence of, or the potential for, pollutants entering the stormwater conveyance system. Erosion and sedimentation control measures must be observed to ensure proper operation. Discharge locations must be inspected to determine whether erosion control measures are effective in preventing significant impacts to waters of the State, where accessible. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site must be inspected for evidence of off-site sediment tracking. Inspections may not be required if the lot(s) within a larger common plan is/are sufficiently stabilized. The operator must ensure that no sediment will leave the lot(s) that are stabilized. These lots must be identified within the SWPPP and show what date they were stabilized. If the operator is unable to ensure this, then inspections must continue.

- 1) **Inspection Frequency.** Inspections must be conducted in accordance with one of the following schedules listed below. The schedule **must be specified** in the Stormwater Pollution Prevention Plan (SWPPP).
- a. At least once every 7 calendar days, or
 - b. At least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater (a

rain gauge must be maintained on-site).

- 2) **Inspection Form.** The ADEQ inspection form should be used for all inspections. The inspection form should include any erosion/sediment controls that are being used on the site. The form is available on the Departments website www.adeg.state.ar.us. If a different form is used it must at a minimum contain the following information:
 - a. Inspector Name and Title
 - b. Date of Inspection
 - c. Amount of Rainfall and Days Since Last Rain Event (only applicable to Part II.A.4.M.1.b)
 - d. BMPs used on-site
 - e. If the BMPs are in working order and if Maintenance is required (when scheduled and completed)
 - f. Location and Dates When Major Construction Activities Begin, Occur or Cease
 - g. Report Signature of Inspector

Additional information may be added to the inspection report at the permittees discretion.

- 3) **Inspection Records.** The report shall be retained as part of the stormwater pollution prevention plan for at least three (3) years from the date the site is finally stabilized. The report shall be signed and have a certification statement in accordance with the requirements of this permit.
 - 4) **Winter Conditions.** Inspections will not be required at construction sites where snow cover exists over the entire site for an extended period, and melting conditions do not exist. Regular inspections, as required by this permit, are required at all other times as specified in this permit.
- N. ***Maintenance.*** A description of procedures to maintain vegetation, erosion and sediment control measures and other protective measures in good, effective operating condition shall be outlined in the plan. Any repairs that are needed based on an inspection shall be completed within three (3) business days of discovery or as otherwise directed by state or local officials. However, if conditions do not permit large equipment to be used, a longer time frame is allowed if the condition is thoroughly documented on the inspection form. Maintenance for manufactured controls must be done at a minimum of the manufacture's specifications. Maintenance for non-manufactured controls, i.e. check dams, sediment traps, must be done upon 50% capacity.

5. **Contractors.**

For each measure identified in the plan, the stormwater pollution prevention plan must clearly identify the contractor(s) that will implement the measure. If additional contractors are added to the project, then the list of contractors should be updated accordingly in the SWPPP.

6. **Inspectors.**

The stormwater pollution prevention plan must clearly identify the person or persons that will be conducting the inspections of all stormwater controls. If additional inspectors are added to the project, then the list of inspectors should be updated accordingly in the SWPPP.

7. **Plan Certification.**

The Stormwater Pollution Prevention Plan (SWPPP) Certification must be signed by either the operator or the cognizant official identified on the Notice of Intent. All documents required by the permit and other information requested by the Director shall be signed by operator or by a duly authorized representative of the operator (Please see Part II.B.10 below

for certification).

SECTION B: STANDARD PERMIT CONDITIONS

1. **Retention of Records.**

- A. The operator shall retain records of all stormwater pollution prevention plans, all inspection reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit for a period of at least three years from the date the Notice of Termination letter is signed by the Department. This period may be extended by request of the Director at any time.
- B. The operator shall retain a signed copy of the stormwater pollution prevention plan required by this permit at the construction site from the date of project initiation to the date of final stabilization.

2. **Duty to Comply.** The operator 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; permit termination, revocation and re-issuance, or modification; or denial of a permit renewal application.

3. **Penalties for Violations of Permit Conditions.** The Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended) 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 criminal penalty 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. **Continuance of the Expired General Permit.** An expired general permit continues in force and effect until a new general permit is issued. If this permit is not re-issued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act and remain in force and effect. If you were granted permit coverage prior to the expiration date, you will automatically remain covered by the continued permit until the earliest of:

- A. Re-issuance or replacement of this permit, at which time you must comply with the conditions of the new permit, within 60 days after issuance, to maintain authorization to discharge; or
- B. Your submittal of a Notice of Termination; or
- C. Issuance of an individual permit for the project's discharges; or
- D. A formal permit decision by the ADEQ to not re-issue this general permit, at which time you must seek coverage under an individual permit.

5. **Need to Halt or Reduce Activity Not a Defense.** It shall not be a defense for an operator 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.

6. **Duty to Mitigate.** The operator shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has reasonable likelihood of adversely affecting human health or the environment.

7. **Duty to Provide Information.** The operator shall furnish to the Director, an authorized representative of the Director, the

EPA, a State or local agency reviewing sediment and erosion plans, grading plans, or stormwater management plans, or in the case of a stormwater discharge associated with industrial activity which discharges through a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system, within a reasonable time, any information which is requested to determine compliance with this permit.

8. **Other Information.** When the operator becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Director, he or she shall promptly submit such facts or information.

9. **Signatory Requirements.** All Notices of Intent, reports, or information submitted to the Director or the operator of a regulated small, medium, or large municipal separate storm sewer system shall be signed and certified.

A. All Notices of Intent shall be signed as follows:

1) For a corporation: by a responsible corporate officer. For purposes of this section, a responsible corporate officer means:

- a. A president, 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
- b. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;

3) For a municipality, State, Federal or other public agency: By either a principal executive or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

- a. The chief executive officer of the agency; or
- b. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

B. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1) The authorization is made in writing by a person described above and submitted to the Director;

2) The authorization specifies either an individual or a person 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, or position of equivalent responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

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

10. 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 such as Inspection Form 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."

Note: For this permit only, "this document" refers to the Stormwater Pollution Prevention Plan, "attachments" refers to the site map and inspection forms, and "system" is referencing the project site.

- 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 penalties specified in Part II.B.3 of this permit and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).
- 12. 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 twenty five thousand dollars (\$25,000) or by both such fine and imprisonment.
- 13. Oil and Hazardous Substance Liability.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties to which the operator is or may be subject under Section 311 of the Clean Water Act or Section 106 of CERCLA.
- 14. 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, any invasion of personal rights, or any infringement of Federal, State, or local laws or regulations.
- 15. Severability.** The provisions of this permit are severable. If any provisions of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provisions to other circumstances and the remainder of this permit shall not be affected thereby.
- 16. Transfers.** This permit is not transferable to any person except after notice to the Director. A transfer form must be submitted to the ADEQ as required by this permit.
- 17. Proper Operation and Maintenance.** The operator shall at all times:
 - A. Properly operate and maintain all control (and related appurtenances) which are installed or used by the operator to achieve compliance with the conditions of this permit. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by an operator only when the operation is necessary to achieve compliance with the conditions of the permit.

- B. Provide an adequate operating staff which is duly qualified to carry out operation, inspection, maintenance, and testing functions required to insure compliance with the conditions of this permit.

18. Inspection and Entry. The operator shall allow the Director, the EPA, or an authorized representative, or, in the case of a construction site which discharges to a municipal separate storm sewer, an authorized representative of the municipal operator of the separate sewer system receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

- A. Enter upon the operator's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- C. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment);

19. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following;

- A. Violation of any terms or conditions of this permit;
- B. Obtaining this permit by misrepresentation or failure to fully disclose all relevant facts;
- C. A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
- E. Failure of the operator to comply with the provisions of ADEQ Regulation No. 9 (Fee Regulation). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to terminate this permit under the provisions of 40 CFR 122.64 and 124.5(d), as adopted by reference in ADEQ Regulation No. 6, and the provisions of ADEQ Regulation No. 8.

20. Re-Opener Clause.

- A. If there is evidence indicating potential or realized impacts on water quality due to any stormwater discharge associated with industrial activity covered by this permit, the operator of such discharge may be required to obtain an individual permit or an alternative general permit in accordance with Part I.B.22 of this permit, or the permit may be modified to include different limitations and/or requirements.
- B. Permit modification or revocation will be conducted in accordance with the provisions of 40 CFR 122.62, 122.63, 122.64 and 124.5, as adopted by reference in ADEQ Regulation No. 6.

21. Local Requirements. All dischargers must comply with the lawful requirements of municipalities, counties, drainage districts, and other local agencies regarding any discharges of stormwater to storm drain systems or other water sources under their jurisdiction, including applicable requirements in municipal stormwater management programs developed to comply with the ADEQ permits. Dischargers must comply with local stormwater management requirements, policies, or guidelines including erosion and sediment control.

**FACT SHEET
AND SUPPLEMENTARY INFORMATION
FOR DRAFT GENERAL PERMIT ARR150000
STORMWATER RUNOFF ASSOCIATED WITH CONSTRUCTION SITES
IN ARKANSAS**

Information in this part is organized as follows:

1. Background
2. Regulatory Background
3. Permit Coverage
 - a. Notice of Intent to be covered
 - b. Individual Permits
4. Discharge Characterization
5. Technology Requirements
6. Water Quality Requirements
7. BMP Requirements and Basis
8. Inspections
9. Other Conditions
10. Sources
11. Reaffirmation of Permit Coverage

1. BACKGROUND

On November 1, 2003, General Stormwater Permit No. ARR150000 became effective with an expiration date of October 31, 2008. ADEQ recognizes that it should have a replacement permit in place at that time. ADEQ is proposing to issue a three-year permit. This will enable coordination with a national regulation the EPA is currently developing for the construction and development industry. This national regulation, called the Effluent Limitations Guideline for the Construction and Development Industry, is under development and will not be completed until after the current Construction Stormwater Permit expires. Once finalized, ADEQ will be required to incorporate the provisions of this Effluent Guideline in the Construction General Stormwater Permits.

This is a renewal of the General Construction Stormwater permit. Upon renewal, the Department decided to add additional permit requirements and clarify the overall permit. The proposed major changes are as follows:

- A. The phrase "Owners or Operators" has been removed and replaced with the phrase "Operator."
- B. The following phrase has been removed from the cover page "in accordance with monitoring requirements, and other conditions set forth in Parts I and II herein."
- C. Medium sites have been removed. There are now two sizes for construction sites: Small (1-5 Acres) and Large (5 or more Acres).
- D. The following definitions have been added: ADEQ, Agricultural stormwater runoff, Arkansas Pollution Control and Ecology Commission, Automatic Coverage, Construction Site, Contaminated, Detention Basin, Disturbs, Erosion, Infrastructure, Impaired Water, Landscaping, Larger Common Plan of Development, Qualified Local Program, Qualified Personnel, Retention Basins, Sediment and Sediment Basins, Uncontaminated.
- E. Part I.B.3 Responsibility of the Operator has been added.
- F. Part I.B.4 Where to submit information has been added for clarification.
- G. Part I.B.5 was added to allow for Qualifying Local Program (QLP) to be added. A QLP would be authorized to permit small construction sites within their jurisdiction
- H. Part I.B.6 has been updated to clarify the requirements for coverage, such as clarifying the requirement that a complete SWPPP, in accordance with Part II. A, be submitted prior to issuance of permit and clarifying the stormwater permitting exemption for smaller construction sites that disturb less than one acre that are not part of a larger common plan of development.

- I. Part I.B.8 has been added to include posting requirements for the sites.
- J. Part I.B.9 has been added to verify that the local authorities have the authority to request project information.
- K. Part I.B.10 has been moved from Part I.C.1 (Allowable Non-Stormwater Discharges).
- L. Part I.B.11 has been moved from Part I.B.3 (Limitations on Coverage).
- M. Part I.B.11.E has been updated to address the requirements for construction sites that discharge into an impaired receiving stream that is on the 303(d) list.
- N. Part I.B.11.F has been updated to clarify endangered species requirements.
- O. Part I.B.12. (Trench and Ground Water Control) has been added.
- P. Part I.B.13 (Buffer Zones) has been added.
- Q. Part I.B.14 (Notice of Termination (NOT)) was updated to only allow termination of permit coverage after 100% of all the construction activities are complete and the site has reached final stabilization.
- R. Part I.B.15 (Responsibilities of the Operator of a Larger Common Plan of Development for a Subdivision) has been added to clarify the conditions that must be met before an operator can terminate permit coverage for a larger common plan or subdivision.
- S. Part I.B.21 (Maintenance) was added to clarify the difference in maintenance activities and construction activities.
- T. Part II.A. was revised to include a SWPPP template or order requirement.
- U. Part II.A.3 was modified to include a requirement that changes to the SWPPP must be made within seven (7) business days. In addition, the section was updated to clarify the instances when a SWPPP modification would be required.
- V. Part II.A.4 was reorganized.
- W. Part II.A.4.A (Site Description) has been updated to include additional requirements for the site description.
- X. Part II.A.4.B (Responsible Parties) has been added to identify those working on the site that should be contacted.
- Y. Part II.A.4.D TMDL information and requirements have been moved from Part II.A.4.f.
- Z. Part II.A.4.E Attainment of water quality standards after authorization has been moved from Part II.A.4.g.
- AA. Part II.A.4.F Endangered species requirements have been moved from Part II.A.4.a.vii.
- BB. Part II.A.4.G (Site Map) has been moved from Part II.A.4.a.v and expanded to include additional requirements.
- CC. Part II.A.4.G.4 was added to require that the site map indicate construction entrances and exits.
- DD. Part II.A.4.G.6 was added to require that the site map contained in the SWPPP show “Locations of off-site materials, waste, borrow area, or equipment storage area.”
- EE. Part II.A.4.G.7 was added to include the site map to show concrete washout areas.
- FF. Part II.A.4.G.11 was added to require that the site map contained in the SWPPP show the “Areas where final stabilization has been accomplished and no further construction phase permit requirements apply.”
- GG. Part II.A.4.H Stormwater controls has been moved from Part II.A.4.b and expanded to include additional requirements.
- HH. Part II.A.4.H.1 has been updated to include to language for clearing a larger common plan and maintenance requirements for control measures.
- II. Part II.A.4.H.2.b has been added to include clarification on buffer zones for streams, creeks, rivers and lakes.
- JJ. Part II.A.4.H.2.d has been added to require that there be a record of stabilization for the major activities taking place on the site.
- KK. Part II.A.4.H.2.e has been added to indicate that there are time requirements for stabilization.
- LL. Part II.A.4.H.3.a.(1) has been updated to provide clarification on sediment basins.
- MM. Part II.A.4.H.3.b has been moved from Part II.4.b.ii.B. It has also been updated to include all drainage areas to a common point greater than or equal to ten (10) acres must have a sediment basin.
- NN. Part II.A.4.I.2 has been updated to include the use of a stabilized construction entrance/exit for off-site tracking of sediment minimization.
- OO. Part II.A.4.I.5 has been added to require concrete washout controls.
- PP. Part II.A.4.I.6 has been added to require fuel storage areas, hazardous waste storage and truck wash areas be addressed in the written portion of the SWPPP.
- QQ. Part II.A.4.J has been moved from Part II.A.5 (Non-stormwater discharges).
- RR. Part II.A.4.K has been moved from Part II.A.4.b.ii (Post-Construction Stormwater Management).

- SS. Part II.A.4.L has been moved from Part II.A.4.c (Approved State or Local Plans).
- TT. Part II.A.4.M (Inspections) has been updated to require a rain gauge on-site to ensure inspections are conducted at the required intervals and inspections every seven days or within 24 hours of 1/2 inch of rainfall or more.
- UU. Part II.A.4.M.2 has been added to require that all site inspections conducted use the ADEQ inspection form or contain the minimum requirements.
- VV. Part II.A.4.M.3 has been added to clarify permit requirements where snow cover exists and snow is not melting.
- WW. Part II.A.4.N (Maintenance) has been moved from Part II.A.4.d and modified to allow three business days for maintenance on controls.
- XX. Part II.A.5, the contractor certification has been removed from the permit.
- YY. Part II.A.6 has been added to include a requirement that the inspector for the site be identified.
- ZZ. Part II.A.7 (Plan Certification) has been added to clarify that the certification must be included with the SWPPP.
- AAA. Part II.B.9.A.1.b has been revised to include updated language with respect to federal regulation.
- BBB. Part II.B.21 has been added to authorize dischargers to comply with local requirements.
- CCC. The Notice of Intent (NOI) form has been revised.
- DDD. The Notice of Coverage (NOC) Postings have been revised.

2. Regulatory Background

The federal stormwater regulations contained in 40 CFR 122.26 require NPDES permit coverage for small (1 – 5 acre) and large (greater than 5 acre) construction sites.

3. Permit Coverage

Facilities covered by this general permit include those facilities which engage in construction activities greater than one (1) acre in size or less than one (1) acre that is part of a larger common plan.

A. This general permit shall not apply to activities:

- 1) That originate from the site after construction activities have been completed and the site has undergone final stabilization.
- 2) Discharges that are mixed with sources of non-stormwater.
- 3) Stormwater discharges from construction sites that the Director has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard.
- 4) Stormwater discharges from construction sites if the discharge or clearing activities are likely to adversely affect a listed endangered or threatened species or its critical habitat.
- 5) Discharges which are not in compliance with the Endangered Species Act (ESA).
- 6) Discharges to receiving waters listed as impaired on the 303(d) list, of which the SWPPP and selected BMPs do not sufficiently protect water quality.

B. Notice of Intent (NOI)

- 1) Large Construction Sites (greater than 5 acres)

Written notification from new dischargers shall be submitted to the Department at least two (2) weeks prior to the proposed discharge. Unless the applicant is notified otherwise by the Director within two (2) weeks of the notification being deemed complete, authority to discharge under this general permit will become effective.

- 2) Sites with Automatic Coverage

Small site and sites that are less than one (1) acre but part of a larger common plan are automatically covered under the provisions of this general permit. All conditions set forth in Part II.A should be followed and the site should be clearly posted with the Site Notice.

3) The Notice of Intent (NOI) contains the following information:

- a. Operator (Permittee) information (name, address, telephone and fax numbers, E-mail address)
- b. Whether the operator is a federal, state, private, public, corporation, or other entity
- c. Application Type: New or renewal
- d. Invoice mailing information (Name, address, and telephone and fax numbers)
- e. Project Construction site information (Name, county, address, contact person, direction to site, latitude and longitude for the entrance of the site or the endpoints for lineal project (in degrees, minutes, and seconds), estimated construction start date and completion date through site final stabilization, estimated of the total project acreage and the acreage to be disturbed by the operator submitting the NOI to the nearest ½ acres, type of the project (subdivision, school, etc), project part of a larger common plan of development
- f. Discharge information (Name of the receiving stream, ultimate receiving stream, name of municipal storm sewer system)
- g. Previous/Current permit information
- h. The Certification statement and signature of a qualified signatory person in accordance with 40 CFR 122.22, as adopted by reference in APCEC Regulation No. 6
- i. The certification of the facility corporation
- j. Other information (location of the SWPPP).

C. Termination of a Qualifying Local Program:

- 1) **Termination Approval.** A Qualifying Local Program may be terminated by either the Department or the municipality. Upon termination of Department approval of a Qualifying Local Program, any construction site must meet the requirements of this permit.
- 2) **Expiration Approval.** Department approval of a Qualifying Local Program will expire with this general permit. Any municipality desiring to continue Department approval of their program must reapply by 6 weeks after the effective date of the permit. The Division will determine if the program may continue as an approved Qualifying Local Program.

D. Individual Permits

The ADEQ may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b)(3). These criteria include:

- 1) the discharge(s) is a significant contributor of pollution,
- 2) the discharger is not in compliance with the terms and conditions of the general permit,
- 3) a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source,
- 4) effluent limitation guidelines are subsequently promulgated for the point sources covered by the general permit,
- 5) a Water Quality Management Plan containing requirements applicable to such point sources is approved, or
- 6) the requirements listed in 40 CFR 122.28(a) and identified in the previous paragraphs are not met.

4. Discharge Characterization

Stormwater runoff is caused due to soil disturbing activities, stormwater runoff from construction sites have the potential to be heavily laden with silt, sediment, and debris. This runoff is then discharged to creeks, rivers, lakes, ponds, municipal stormwater drainage systems, etc.

5. Technology Requirements

National guidelines establishing BPT, BCT, and BAT standards have not been promulgated for stormwater discharges from construction activities. In accordance with 40 CFR 122.44(k) and 40 CFR 122.44 (s), the general permit includes requirements for the development and implementation of Stormwater Pollution Prevention Plans (SWPPPs) along with Best Management Practices (BMPs).

6. Water Quality Requirements

In accordance with 40 CFR 122.44(d), the general permit must include any requirements necessary to achieve State Water Quality Standards as established under Section 303 of the Clean Water Act. Discussed below are the requirements based on State Water Quality Standards.

- A. Discharges to waters for which there is a total maximum daily load (TMDL) allocation are not eligible for coverage under this permit unless you develop and certify a stormwater pollution prevention plan (SWPPP) that is consistent with the assumptions and requirements in the approved TMDL. To be eligible for coverage under this general permit, operators must incorporate into their SWPPP any conditions applicable to their discharges necessary for consistency with the assumptions and requirements of the TMDL within any timeframes established in the TMDL. If a specific numeric wasteload allocation has been established that would apply to the project's discharges, the operator must incorporate that allocation into its SWPPP and implement necessary steps to meet that allocation.
- B. Discharges that the Department, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. Where such a determination is made prior to authorization, the Department may notify you that an individual permit application is necessary in accordance with Part I.B.4. However, the Department may authorize coverage under this permit after inclusion of appropriate controls and implementation procedures in the SWPPP designed to bring the discharge into compliance with water quality standards.

7. BMP Requirements and Basis

Numeric discharge limits are not imposed by this general permit. The permit language is included to ensure that those seeking coverage under this general permit select, install, implement, and maintain BMPs at their construction site that will be adequate and sufficient to meet water quality standards for all pollutants of concern. The ADEQ has determined that BMPs, when properly selected, installed, implemented, and maintained do provide effluent quality that can meet WQS based on 40 CFR 122.44(k).

8. Inspections

Monitoring requirements are not imposed by this general permit in accordance with the stormwater federal regulations contained in 40 CFR 122.26. However, inspections of the permitted area are required every 7 days or once every 14 days and within 24 hours after a ½ inch of rainfall.

9. Other Conditions

A. Geographic Area and Covered Facilities

The general permit, when issued, will authorize stormwater discharges from construction activities throughout the State of Arkansas to all receiving waters. The permit will be applicable only to facilities which have direct discharges to waters of the State and are therefore subject to the requirements of Section 301 and 402 of the Clean Water Act.

B. Eligibility and Authorization

An operator engaged in construction activity greater than 1 acre in size in the State of Arkansas is eligible for coverage under this general permit.

C. Expiration Date

This general permit will expire three (3) years from the original effective date of the permit.

10. Sources.

The following sources were used to draft this permit:

- A. 40 CFRs 122 and 125.
- B. APCEC Regulation No. 2.
- C. APCEC Regulation No. 6.
- D. APCEC Regulation No. 8.
- E. APCEC Regulation No. 9.
- F. Ohio EPA permit #OHC000002.
- G. U.S. EPA Stormwater web page.
- H. State of Arizona Permit #AZG2003-001 and Notice of Intent.
- I. Iowa Waste Reduction Center/University of Northern Iowa document #IAC 567-64.13.
- J. Colorado Stormwater discharge permit #COR-030000.
- K. Missouri State Operating General Permit #MO-R101000.
- L. Montana Department of Environmental Quality Permit #MTR100000.
- M. Georgia Soil and Water Conservation Commission Permit #GAR100001, GAR100002, & GAR100003.
- N. Definitions from <http://www.projectbrays.org/detention.html>
- O. Stakeholders meetings held 01/15/2008 & 02/12/2008.
- P. EPA BMP Manual

11. Reaffirmation of Permit Coverage.

- A. Large Sites: Any permittee with coverage under this general permit at the time of expiration will continue to have coverage until a renewal general permit is effective. A tracking number can not be issued after the expiration date to new discharges. Therefore, the Department urges new dischargers to submit a complete application as soon as possible, but no later than 2 weeks prior to the expiration date of this permit. Upon issuance of a new or different general permit for all of the stormwater discharges covered by this permit, the permittee is required to notify the Department of their intent to be covered under this new permit within 60 days after the effective date. All permittees must submit a new NOI after the renewal permit effective date, even if the Department has an existing NOI on file for the discharge.
- B. Automatic Coverage Sites: Operators of a site with automatic coverage are responsible for ensuring that the site is in compliance with any changes or updates of this general permit, by either contacting ADEQ or reviewing the ADEQ website: http://www.adeq.state.ar.us/water/branch_npdes/stormwater/construction/construction.htm .