

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

In accordance with the provisions of the Arkansas Water 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.),

**Owners or operators of Facilities Discharging Storm Water Associated With  
Construction Activity Located in the State of Arkansas**

are authorized to discharge

to all receiving waters

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I and II herein.

This permit shall become effective on November 1, 2003.

This permit and the authorization to discharge shall expire at midnight, October 31, 2008.

Signed this 30<sup>th</sup> day of September, 2003.

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Martin Maner, P.E.  
Chief, Water Division  
Arkansas Department of Environmental Quality

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## **PART I**

### **PERMIT REQUIREMENTS**

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

**Section A:** Permit Requirements Summary Flowchart

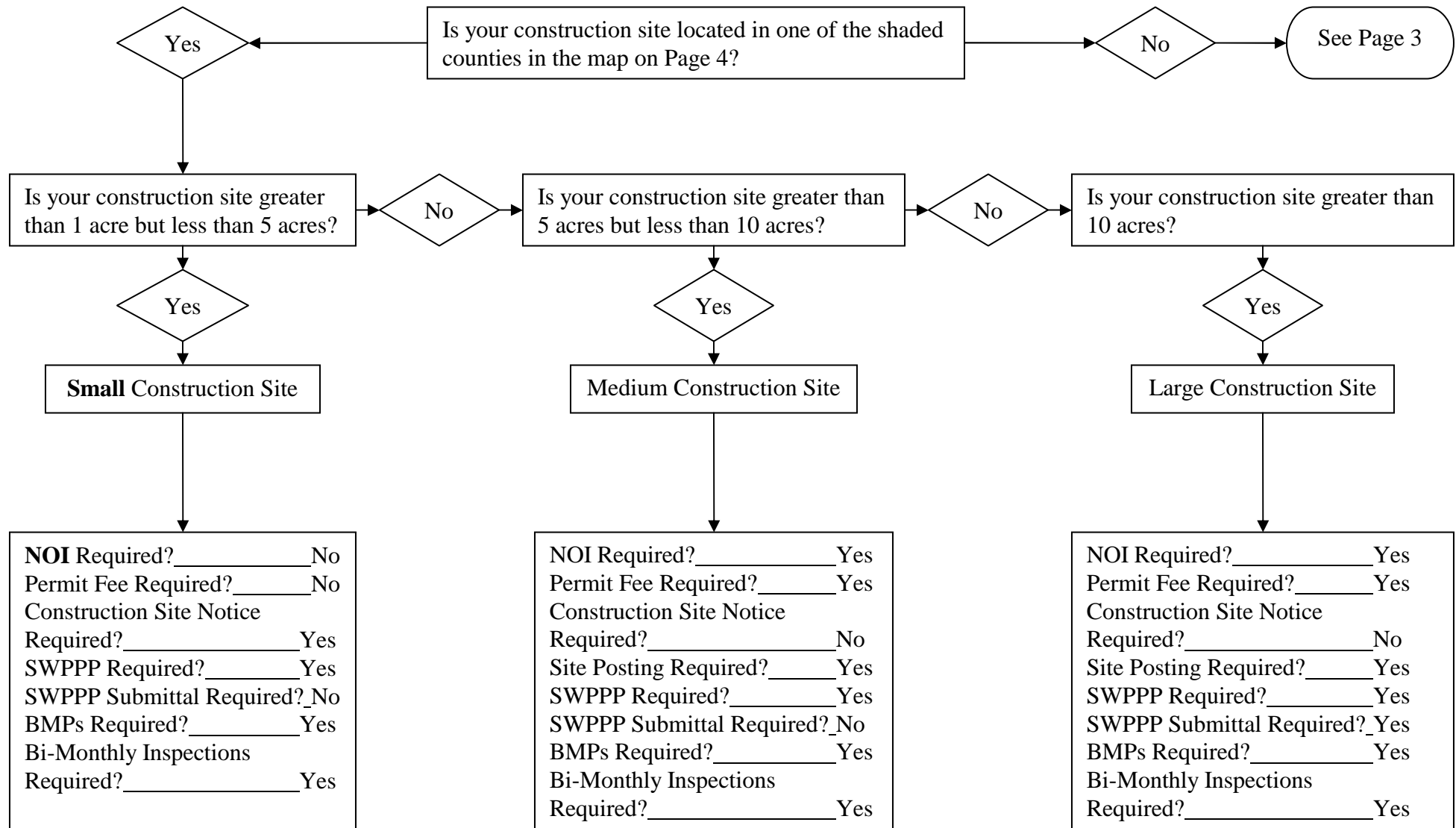
**Section B:** Coverage Under this Permit:

1. Permit Area
2. Eligibility
3. Limitations on Coverage
4. Requiring an Individual NPDES Permit or an Alternative General Permit
5. Waivers from Permit Coverage
6. Authorization
7. Notice of Intent Requirements
8. Notice of Termination Requirements

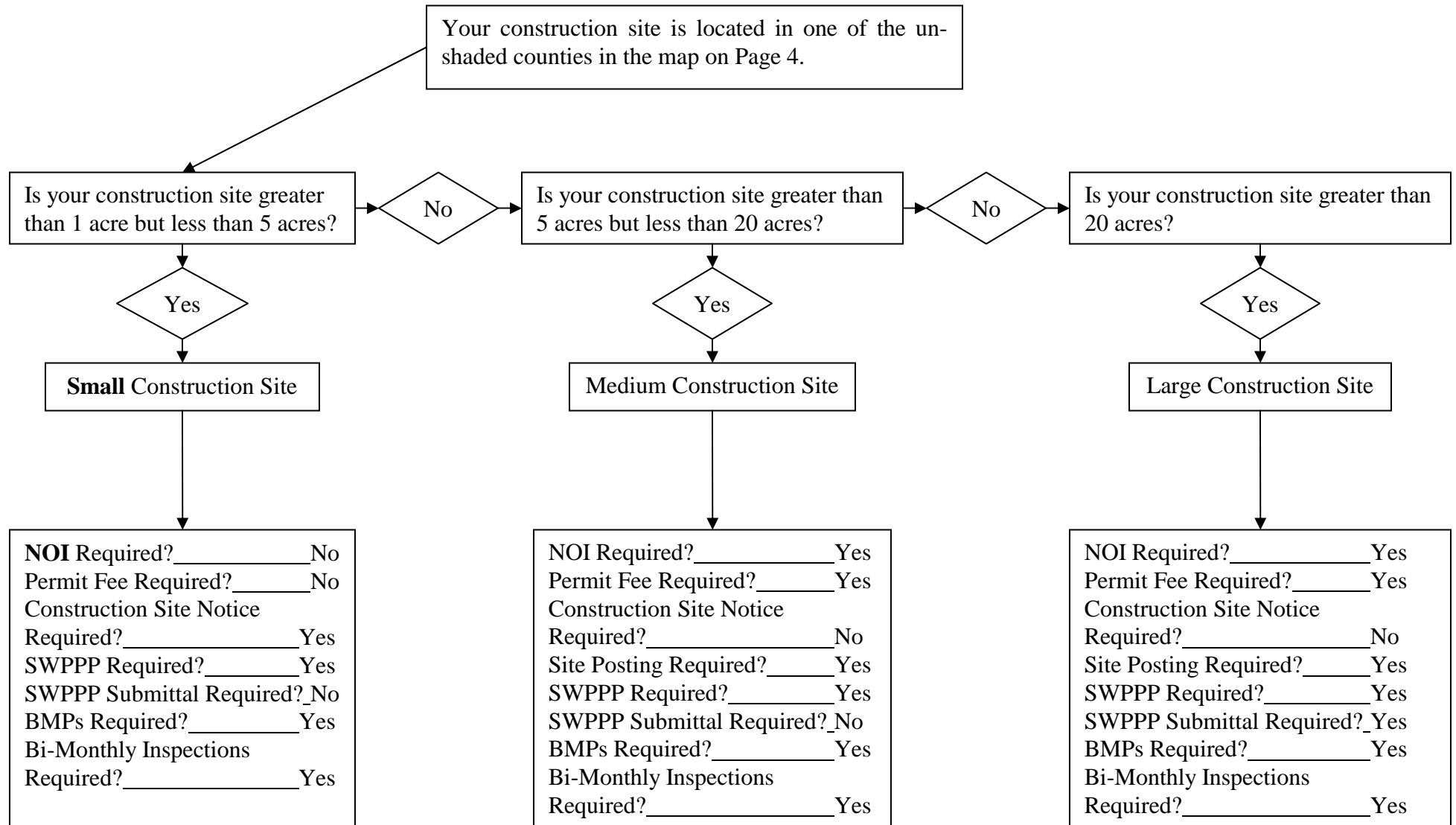
**Section C:** Other Requirements:

1. Prohibition of Non-Storm Water Discharges
2. Releases in Excess of Reportable Quantities
3. Responsibilities of Operators

## SECTION A: PERMIT REQUIREMENTS SUMMARY FLOWCHART



**SECTION A: PERMIT REQUIREMENTS SUMMARY FLOWCHART (CONT.)**



**SECTION A: PERMIT REQUIREMENTS SUMMARY FLOWCHART (CONT.)**



*Map Created by Water Division Planning Section, 2003*

Marcus C. Devine, Director

## SECTION B: COVERAGE UNDER THIS PERMIT

1. **Permit Area.** This general permit includes all areas within the State of Arkansas.
2. **Eligibility.**
  - a. Except for storm water discharges identified under Part I.B.3 below, this permit shall authorize all discharges of storm water from the following construction sites (henceforth referred to as storm water discharges from construction activities) occurring after the effective date of this permit (including discharges occurring after the effective date where the construction activity commenced before the effective date):
    - i. **Large Construction Sites:** any construction activity that meets one of the following two definitions:
      - A. Construction sites that will result in the disturbance (e.g., clearing, grading, excavating, etc.) of **ten (10)** or more acres of total land area or less than **ten (10)** acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb **ten (10)** acres or more located in the following counties:

Baxter	Garland	Newton	Sharp
Benton	Hot Spring	Perry	Stone
Boone	Howard	Pike	Van Buren
Carroll	Independence	Polk	Washington
Clark	Izard	Pope	White
Cleburne	Johnson	Pulaski	Yell
Conway	Lawrence	Randolph	
Crawford	Logan	Saline	
Faulkner	Madison	Scott	
Franklin	Marion	Searcy	
Fulton	Montgomery	Sebastian	
      - B. Construction sites that will result in the disturbance (e.g., clearing, grading, excavating, etc.) of **twenty (20)** or more acres of total land area or less than **twenty (20)** acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb **twenty (20)** acres or more located in the following counties:



Arkansas	Crittenden	Jefferson	Nevada
Ashley	Cross	Lafayette	Ouachita
Bradley	Dallas	Lee	Phillips
Calhoun	Desha	Lincoln	Poinsett
Chicot	Drew	Little River	Prairie
Clay	Grant	Lonoke	Sevier
Cleveland	Greene	Miller	St. Francis
Columbia	Hempstead	Mississippi	Union
Craighead	Jackson	Monroe	Woodruff

ii. **Medium Construction Sites:** any construction activity that meets one of the following two definitions:

- A. Construction sites that will result in the disturbance (e.g., clearing, grading, excavating, etc.) of greater than **five (5)** acres and less than **ten (10)** acres of total land area or less than **five (5)** acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb **five (5)** acres or more, but less than ten (10) acres, located in one of the counties identified in Part I.B.2.a.i.A above.
- B. Construction sites that will result in the disturbance (e.g., clearing, grading, excavating, etc.) of greater than **five (5)** acres and less than **twenty (20)** acres of total land area or less than **five (5)** acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb **five (5)** acres or more, but less than twenty (20) acres, located in one of the counties identified in Part I.B.2.a.i.B above.

iii. **Small Construction Sites:** any construction activity that meets the following definition:

- A. Construction sites that will result in the disturbance (e.g., clearing, grading, excavating, etc.) of greater than or equal to **one (1)** acre and less than **five (5)** acres of total land area or less than **one (1)** 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 **one (1)** acre or more, but less than five (5) acres.

- (1) Road, pipeline, and utility maintenance activities 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.

- b. This permit also authorizes storm water discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, borrow areas) provided:

- i. The support activity is directly related to a construction site that is required to have NPDES permit coverage for discharges of storm water associated with the construction activity;
- ii. 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; and
- iii. Appropriate controls and measures are identified in a storm water pollution prevention plan covering the discharges from the support activity areas.

3. **Limitations on Coverage.** The following storm water discharges associated with construction activity are not covered by this permit:

- a. Storm water discharges associated with construction activity that originate from the site after construction activities have been completed and the site has undergone final stabilization.
- b. Discharges that are **mixed with** sources of **non-storm** water. (See Part I.C.1.a on page 16)
- c. Storm water discharges from facilities with an existing NPDES individual or general permit for storm water discharges or which are issued a permit in accordance with Part I.B.4 of this permit. Such discharges 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. Storm water 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.
- e. 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 storm water 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.
- f. 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.

- g. Storm water 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**\*.

\*For a **list of endangered or threatened species**, contact the Arkansas Natural Heritage Commission at (501) 324-9619 or [www.naturalheritage.com](http://www.naturalheritage.com) or the U.S. Fish and Wildlife Service at (501) 324-5643 [www.fws.gov](http://www.fws.gov).

- h. Discharges which are not in compliance with the Endangered Species Act (ESA). In order to obtain coverage, the applicant must certify to meeting one of the following criteria.

**The criteria are as follows:**

- i. The storm water discharge(s), and the construction and implementation of Best Management Practices (BMPs) to control storm water runoff, are not likely to adversely affect species or critical habitat for a listed species; or
- ii. The applicant's activity has received previous authorization under section 7 or section 10 of the Endangered Species Act and that authorization addressed storm water discharges and/or BMPs to control storm water runoff (e.g. developer included impact of the entire project in consultation over a wetlands dredge and fill permit under Section 7 of the Endangered Species Act); or
- iii. The applicant's activity was considered as part of a larger, more comprehensive assessment of impacts on endangered and threatened species under section 7 or section 10 of The Endangers Species Act that which accounts for storm water discharges and BMPs to control storm water runoff (e.g., where an area wide habitat conservation plan and section 10 permit is issued which addresses impacts from construction activities including those from storm water, or a National Environmental Policy Act (NEPA) review is conducted which incorporates ESA section 7 procedures); or
- iv. Consultation under section 7 of the Endangered Species Act is conducted for the applicant's activity which results in either a no jeopardy opinion or a written concurrence on a finding of a no likelihood of adverse effects: or
- v. The applicant's activity was considered as part of a larger, more comprehensive site-specific assessment of impacts on endangered and threatened species by the owner or other operator of the site and that owner or operator certified eligibility under item (1), (2), (3), or (4) above (e.g., owner was able to certify no adverse impacts for the project as a whole under item (1), so the contractor can the certify under item (5)).

The State of Arkansas notes that it is **requiring all** applicants to follow directions to ensure protection of the **listed species and critical habitat** when applying for permit coverage. Those directions require that applicants assess the impacts of their "storm water discharges" and "BMPs to control storm water run off" on listed species and critical habitat that are located in "proximity" to

those discharges and BMPs are planned or are to be constructed. This definition reflects the purpose of this permit which regulates storm water discharges and measures (i.e., BMPs) to control those discharges.

**4. Requiring an Individual NPDES Permit.**

- a. The Director may require any person authorized by this permit to apply for and obtain an individual NPDES permit. Any interested person may petition the Director to take action under this paragraph.
- b. The Director may require any owner or operator authorized to discharge under this permit to apply for an individual NPDES permit only if the owner or operator has been notified in writing that a permit application is required.
  - i. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the owner or operator to file the application, and a statement that on the effective date of the individual NPDES permit as it applies to the individual owner or operator, coverage under this general permit shall automatically terminate.
  - ii. The Director may grant additional time to submit the application upon request of the applicant.
  - iii. Coverage under this permit will be terminated if an owner or operator fails to submit the Individual NPDES permit application in a timely manner as required by the Director.
- c. Any owner or operator authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. The owner or operator shall submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request to the Director. The request may be granted by issuance of any individual permit if the reasons cited by the owner or operator are adequate to support the request. However, the permittee **must comply with this permit until** an individual permit is issued.
- d. When an individual NPDES permit is issued to a discharger otherwise subject to this permit, the applicability of this permit to the individual NPDES owner or operator is automatically terminated on the effective date of the individual permit. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, the applicability of this permit to the individual NPDES owner or operator remains in effect, unless otherwise specified by the Director.

**5. Waivers from Permit Coverage.** The Director may waive the otherwise applicable requirements of this general permit for storm water discharges from some small construction activities (e.g., sites disturbing between one and five acres of total land area) under the terms and conditions described in this section.

- a. Waiver Applicability and Coverage. Operators of small construction activities may apply for and receive a waiver from the requirements to obtain authorization under this general permit where:

- i. The calculated **rainfall erosivity (R) factor** for the entire period of the construction project is less than five (5);
  - ii. The operator submits a signed waiver certification form, supplied by the Director, certifying that the construction activity will commence and be completed within a period when the value of the calculated rainfall erosivity (R) factor is less than five (5); and
  - iii. The waiver certification form is submitted to the Department **at least 48 hours before** construction activity begins.
- b. Activities Extending Beyond the Waiver Period. If a construction activity extends beyond the approved waiver period due to circumstances beyond the control of the operator, the operator **must either:**
- i. Recalculate the rainfall erosivity (R) factor using the original start date and the new projected ending date, and if the R factor is still under five (5), **submit a new** waiver certification form at least 48 hours before the end of the original waiver period; or
  - ii. **Develop and implement** a storm water pollution prevention plan in accordance with the requirements **of Part II** of this permit **at least 48 hours before** the end of the approved waiver period.

**6. Authorization.**

- a. Large Construction Sites
- i. An owner or operator of a large construction site must submit a Notice of Intent (NOI) and a Storm Water Pollution Prevention Plan (SWPPP) in accordance with the requirements of Part I.B.7 of this permit in order for storm water discharges from large construction sites to be authorized to discharge under this general permit. **An initial permit fee of \$200.00 must accompany the NOI under the provisions of ADEQ Regulation No.9. Subsequent annual fees of \$200.00 per year will be billed by the Department.** Failure to remit the required permit fee may be grounds for the Director to deny coverage under this general permit.
  - ii. Where a new operator is selected after the submittal of an NOI under Part I.B.7, a new Notice of Intent **must** be submitted by the operator in accordance with Part I.B.7.a.iv.

- iii. Unless notified by the Director to the contrary, dischargers who submit a Notice of Intent in accordance with the requirements of this permit are authorized to discharge storm water from construction sites under the terms and conditions of this permit **two weeks after** the date the NOI is postmarked. 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.

b. Medium Construction Sites

- i. An owner or operator of a medium construction site must submit a Notice of Intent (NOI) in accordance with the requirements of Part I.B.7 of this permit in order for storm water discharges from medium construction sites to be authorized to discharge under this general permit. **An initial permit fee of \$200.00 must accompany the NOI under the provisions of ADEQ Regulation No.9. Subsequent annual fees of \$200.00 per year will be billed by the Department.** Failure to remit the required permit fee may be grounds for the Director to deny coverage under this general permit.
- ii. Where a new operator is selected after the submittal of an NOI under Part I.B.7, a new Notice of Intent **must** be submitted by the operator in accordance with Part I.B.7.a.iv.
- iii. Unless notified by the Director to the contrary, dischargers who submit a Notice of Intent in accordance with the requirements of this permit are authorized to discharge storm water from construction sites under the terms and conditions of this permit **two weeks after** the date the NOI is postmarked. 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.

c. Small Construction Sites

- i. In accordance with 40 CFR 122.28(b)(2)(v), the owner or operator of a small construction site, that meets the eligibility criteria set forth in this general permit and in 40 CFR 122.28 (a) and (b), may discharge under this general permit without submitting a NOI.
- ii. An owner or operator of a small construction site, as described in Part I.B.6.C.i above, is automatically authorized to discharge storm water related to construction activities under this general permit. **Submittal of an NOI or general permit fee is not required for coverage under this general permit.**

7. **Notice of Intent Requirements**

a. **Deadlines for Notification.**

i. Except as provided in Part I.B.7.a.iv and Part I.B.7.a.v individuals who intend to obtain coverage for storm water discharges from medium and large construction sites under this general permit, shall submit a Notice of Intent (NOI) in accordance with the requirements of this Part **at least two weeks prior** to the commencement of construction at any site that will result in the disturbance of **five (5)** or more acres of total land area.

ii. Large Construction

A. **Ongoing Projects:** Operators of ongoing large construction projects as of the effective date of this permit that received authorization to discharge for these projects under the 1998 construction general permit (ARR10A000 issued July 1, 1998) **must:**

- (1) **For the first 90 days** from the effective date of this permit (i.e., grace period), comply with the terms and conditions of the **previous** construction general permit they were previously authorized under; and
- (2) **Update** their storm water pollution prevention plan (SWPPP), **as necessary**, to **comply with** the requirements of Part II.A **within 90 days** of the effective date of this permit. (Submittal is not required.)

B. **New Projects:** Operators of large construction projects that commence construction after the effective date of this permit must:

- (1) Submit an NOI and a SWPPP to comply with the requirements of Part II.A at least **two weeks prior to** commencement of construction activities (i.e., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities). The SWPPP may be submitted for “pre-approval” two weeks prior to submittal of the NOI.

iii. Medium Construction

A. **Ongoing Projects:** Operators of ongoing medium construction projects as of the effective date of this permit that received authorization to discharge for these projects under the 1998 construction general permit (ARR10A000 issued July 1, 1998) **must:**

- (1) **For the first 90 days** from the effective date of this permit (i.e., grace period), comply with the terms and conditions of the **previous** construction general permit they were previously authorized under; and

- (2) **Update** their storm water pollution prevention plan (SWPPP), **as necessary**, to **comply with** the requirements of Part II.A **within 90 days** of the effective date of this permit.

B. **New Projects:** Operators of medium construction projects that commence construction after the effective date of this permit must:

- (1) Submit an NOI **two weeks prior to** commencement of construction activities (i.e., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities); and
- (2) Develop a SWPPP to comply with the requirements of Part II.A **prior to commencement** of construction activities.

iv. Small Construction

A. **Ongoing Projects:** Operators of ongoing small construction projects as of March 10, 2003 are automatically authorized to discharge storm water related to construction activities under this general permit and **must**:

- (1) Develop and implement a SWPPP to comply with the requirements of Part II.A within 90 days after the effective date of this permit (i.e., grace period). If the construction is completed and final stabilization achieved before the 90<sup>th</sup> day, development of a SWPPP is not required.
- (2) Complete a Construction Site Notice, located in Attachment A to this permit, within 90 days after the effective date of this permit. **The signed Construction Site Notice shall be posted at the construction site in a prominent place for public viewing (such as alongside a building permit).**

B. **New Projects:** Operators of small construction projects that commence construction after the effective date of this permit are automatically authorized to discharge storm water related to construction activities under this general permit and **must**:

- (1) **Develop and implement** a SWPPP to comply with the requirements of Part II.A **prior to commencement** of construction activities (i.e., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities).
- (2) Complete a Construction Site Notice, located in Attachment A to this permit, prior to commencement of construction activities. **The signed Construction Site Notice shall be posted at the construction site in a prominent place for public viewing (such as alongside a building permit).**



- v. **Change in Operator:** For storm water discharges from **large** and **medium** construction sites where the owner/operator changes, (including projects where an operator is selected after an NOI has been submitted under Part I.B.7.a above), a new NOI shall be submitted **at least two weeks prior to** the operator beginning work at the site; and
  - vi. **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.7.a 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 storm water associated with industrial activity that have occurred on or after the dates specified in Part I.B.7.a.
- b. Failure to Notify. Owners or operators of **large** or **medium** construction sites who fail to notify the Director of their intent to be covered under this permit, and who discharge pollutants to waters of the State without an NPDES permit, **are in violation** of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended)
- c. Contents of the Notice of Intent.
- i. The Notice of Intent form must be the form obtained from the ADEQ ([www.adeq.state.ar.us](http://www.adeq.state.ar.us)) unless written approval is received for an optional form.
  - ii. All Notices of Intent for coverage under this general permit must be signed in accordance with the provisions of 40 CFR 122.22, as adopted by reference in ADEQ Regulation No. 6, and Part II.B.9 of this permit, and submitted to the Department by **certified** mail.
  - iii. Owners and operators shall notify the Director upon permanent termination of discharge from their facilities. (See Part I.B.8)
- d. Where to Submit.
- i. Facilities which discharge storm water from medium and large construction sites must submit a complete signed original of the Notice of Intent to the Department at the following address. In addition, facilities which discharge storm water from a large construction site must also submit a complete SWPPP to the Department at the following address:  
  
NPDES Permits/Storm Water  
Department of Environmental Quality  
P.O. Box 8913  
Little Rock, AR 72219-8913
- e. Construction Site Posting for Medium and Large Construction Sites. The Storm Water Construction General Permit Certificate, a copy of the NOI confirmation letter, or other indication that storm water discharges from the site are covered under an NPDES permit, and a brief description (shall include permit number) of the project shall be posted at the

**construction site in a prominent place for public viewing (such as alongside a building permit).**

- f. Additional Notification. Facilities which are operating under approved State or local sediment and erosion plans, grading plans, local storm water permits, or storm water management plans, **in addition to** filing copies of the Notice of Intent in accordance with Part I.B.7, **shall submit** signed copies of the Notice of Intent to the State or local agency approving such plans in accordance with the deadlines in Part I.B.7 of this permit (or sooner if required by State or local rules).
- g. Reaffirmation of Permit Coverage. Upon re-issuance of a new general permit, the owner or operator must notify the Director of his/her intent to be covered by the new general permit in the following manner.
  - i. Submit an NOI consistent with the new general permit requirements **no later than 90 days** following the effective date of the new general permit.
- 8. Notice of Termination (NOT). Where a site has been finally stabilized and all storm water discharges from construction activities authorized by this permit are eliminated, the operator of the facility must submit a Notice of Termination to the Director at the address in Part I.B.7.d that is signed in accordance with Part II.B.9 of this permit. Final stabilization is not required if the land is returned to its pre-construction agriculture use. **If a Notice of Termination is not submitted when the project is completed, owners and contractors will be responsible for annual fees due.**

## SECTION C: OTHER REQUIREMENTS

### 1. Prohibition of Non-storm Water Discharges.

- a. All discharges covered by this permit shall be composed entirely of storm water except the following non-storm water discharges that are combined with storm water may be authorized by this permit:
  - i. Discharges from fire fighting activities; fire hydrant flushings; water used to wash vehicles (where detergents are not used) or control dust in accordance with Part II.A.4.b.iii.B; potable water sources including uncontaminated waterline flushings; irrigation drainage; routine external building wash down which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled materials have been removed) and where detergents are not used; uncontaminated air conditioning or compressor condensate; uncontaminated springs; uncontaminated ground water; foundation or footing drains where flows are not contaminated with process materials such as solvents; and uncontaminated excavation dewatering.
- b. Except as provided in Part I.C.1.a above, discharges of material other than storm water must be in compliance with an individual NPDES permit issued for the discharge.

### 2. Releases in Excess of Reportable Quantities.

- a. The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not relieve the owner or 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:
  - i. 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;
  - ii. The Owner or operator **shall submit** within **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, the circumstances leading to the release, and steps to be taken in accordance with Part I.C.10.a.iii of this permit to the ADEQ at the address provided in Part I.B.7.d of this permit.
  - iii. The storm water pollution prevention plan described in Part II.A of this permit **must** be modified **within 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;
- iv. 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. The modified plan **must be sent to this Department** for review.
- b. Spills. This permit does **not** authorize the discharge of hazardous substances or oil resulting from an on-site spill.

**3. Responsibilities of operators.**

- a. **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.**

## **PART II**

### **STANDARD CONDITIONS**

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

**Section A:** Storm Water Pollution Prevention Plans:

1. Deadlines for Plan Preparation and Compliance
2. Signature and Plan Review
3. Keeping Plans Current
4. Contents of Plan
5. Non-storm water discharges
6. Contractors

**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
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18. Inspection and Entry
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20. Re-Opener Clause

**Section C:** Definitions

## **SECTION A: STORM WATER POLLUTION PREVENTION PLANS (SWPPP).**

A storm water pollution prevention plan (the plan) shall be developed for each construction site covered by this permit. The plan shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the plan required under this part as a condition of this permit.

### **1. Deadlines for Plan Preparation and Compliance.**

#### **a. Large Construction Sites**

- i. The plan shall be completed and submitted for review along with an NOI to be covered under this permit and updated as appropriate. The plan may be submitted for “pre-approval” prior to submittal of an NOI. Submittals of updates to the plan during the construction process are required only if requested by the Director.

#### **b. Medium Construction Sites**

- i. The plan shall be completed prior to the submittal of an NOI to be covered under this permit and updated as appropriate.

#### **c. Small Construction Sites**

- i. The plan shall be completed prior to the commencement of construction activities and updated as appropriate.

### **2. Signature and Plan Review.**

- a. The plan shall be signed in accordance with Part II.B.9, and be retained on-site at the facility which generates the storm water discharge in accordance with Part II.B.7 (Retention of Records) of this permit.
- b. The owner or operator shall make plans available, upon request, to the Director, the EPA, or a State or local agency approving sediment and erosion plans, grading plans, or storm water management plans, or, in the case of a storm water 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 owner or operator at any time that the plan does not meet one or more of the minimum requirements of this Part. Within 7 days of such

notification from the Director, (or as otherwise provided by the Director), or authorized representative, the owner or operator shall make the required changes to the plan and submit to the Director a written certification that the requested changes have been made.

3. **Keeping Plans Current.** The owner or operator shall amend the plan whenever there is a change in design, construction, operation, or maintenance which has a significant affect on the potential for the discharge of pollutants to the waters of the State and which has not otherwise been addressed in the plan or if the plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part II.A.4.b of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity. Amendments to the plan may be reviewed by ADEQ in the same manner as Part II.A.2 above.
4. **Contents of Plan.** The storm water pollution prevention plan shall include the following items:
  - a. **Site Description.** Each plan shall provide a description of the following:
    - i. A description of the nature of the construction activity;
    - ii. A description of the intended sequence of major activities which disturb soils for major portions of the site (e.g. grubbing, excavation, grading);
    - iii. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading or other activities;
    - iv. An estimate of the runoff coefficient of the site after construction activities are completed and existing data describing the soil or the quality of any discharge from the site;
    - v. A site map indicating drainage patterns and approximate slopes anticipated after major grading activities, areas of soil disturbance, the location of major structural and nonstructural controls identified in the plan, the location where stabilization practices are expected to occur, surface waters (including wetlands), and locations where storm water is discharged to a surface water;
    - vi. The name of the 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), and the extent of wetland acreage at the site.
    - vii. Endangered Species: Information on endangered and threatened species including whether any endangered species are in proximity of the storm water discharge and BMPs to be constructed to control storm water runoff.
  - b. **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 Part II.A.4.a.ii appropriate control measures and the timing during the construction process that

the measures will be implemented. (For example, perimeter controls for one portion of the site **will 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 will be **actively maintained** until final stabilization of those portions of the site upward of the perimeter control. Temporary perimeter controls will be removed after final stabilization). The description and implementation of controls shall address the following minimum components:

i. Erosion and Sediment Controls.

A. Stabilization practices. A description of 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: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, and preservation of mature vegetation and other appropriate measures. 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. Except as provided in Parts II.A.4.b.i.A.(1) and (2) below, 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 14 days** after the construction activity in that portion of the site has temporarily or permanently ceased.

- (1) Where the initiation of stabilization measures by the 14<sup>th</sup> 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 21 days from when activities ceased, (e.g. the total time period that construction activity is temporarily ceased is less than 21 days) then stabilization measures do not have to be initiated **on that portion** of the site by the 14<sup>th</sup> day after construction activity temporarily ceased.
- (3) In arid regions (areas with an average annual rainfall of 0-10 inches) and semi-arid regions (areas with an average annual rainfall of 10-20 inches), where the initiation of stabilization measures by the 14<sup>th</sup> day after construction activity has been temporarily or permanently ceased is precluded by seasonal arid conditions, stabilization measures shall be initiated as soon as practicable thereafter.

B. Structural practices.

- (1) 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. Such practices may include:

- silt fences (installed **and maintained**)
- earth dikes
- drainage swales
- check dams
- subsurface drains
- pipe slope drains
- level spreaders
- storm drain inlet protection
- rock outlet protection
- sediment traps
- reinforced soil retaining systems
- gabions
- temporary or permanent sediment basins.

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.

- (2) For **common drainage locations** that serve an area with **10 or more disturbed acres** at one time, a **temporary or permanent** detention basin 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 until stabilization of the site. This does not apply to flows from offsite areas and flows from onsite areas and flows from onsite areas that are either undisturbed or have undergone final stabilization where such flows are diverted around the sediment basin. For drainage **locations** which serve **10 or more disturbed acres** at one time and where a temporary sediment basin based on either the smaller of 3600 cubic feet per acres, or a size based on the runoff volume of a 10 year storm, **is not attainable**, sediment traps, silt fences, or equivalent sediment controls **are required for all side slope and down** slope boundaries of the construction area.
- (3) For drainage locations serving **less than 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.

- ii. Storm Water Management. A description of measures that will be installed during the construction process to control pollutants in storm water 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 of the Clean Water Act. This permit only addresses the installation of storm water 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. Owners or operators are only **responsible for the installation and maintenance** of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with industrial activity have been eliminated from the site.

A. Such practices may include:

- infiltration of runoff onsite
- flow attenuation by use of open vegetated swales and natural depressions
- storm water retention structures
- storm water detention structures (including wet ponds)
- sequential systems, which combine several practices

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

B. Velocity dissipation devices (e.g., rock check dam, hay bales, etc.) shall be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive velocity flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

iii. Other Controls.

- A. Waste disposal. No solid materials, including building materials, shall be discharged to waters of the United States, except as authorized by a Section 404 permit.
- B. Off-site vehicle tracking of sediments and the generation of dust shall be minimized.
- C. The plan shall ensure and demonstrate compliance with applicable State or local waste disposal, sanitary sewer or septic system regulations.

c. Approved State or Local Plans.

- i. Facilities which discharge storm water associated with industrial activity from construction activities must include in their storm water pollution prevention plan procedures and requirements specified in applicable sediment and erosion site plans, site permits or storm

water management plans approved by State or local officials. Requirements specified in sediment and erosion plans, site permits or storm water management plans approved by State or local officials that are applicable to protecting surface water are, upon submittal of an NOI for coverage under this permit, incorporated by reference and are enforceable under this permit even if they are not specifically included in a storm water pollution prevention plan required under this permit. This provision does not apply to provisions of master plans, comprehensive plans, non-enforceable guidelines or technical guidance documents that are not identified in a specific plan or permit that is issued for the construction site.

- ii. Dischargers seeking alternative permit requirements shall submit an individual permit application in accordance with Part I.B.4 of this permit to the Director, along with a description of why requirements in approved State or local plans or permits should not be applicable as a condition of an NPDES permit.
- d. Maintenance. A description of procedures to maintain in good and effective operating condition vegetation, erosion and sediment control measures and other protective measures identified in the site plan.
- e. Inspections. Qualified personnel (**provided** by the **discharger**) shall inspect disturbed areas of the construction site, areas used for storage of materials that are exposed to precipitation that have not been finally stabilized, and structural control measures and locations where vehicles enter or exit the site at least **once every fourteen (14) calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater**. Where sites have been finally stabilized or during seasonal arid periods in arid areas (areas with an average rainfall of 0-10 inches) and semi-arid areas (areas with an average rainfall of 10-20 inches) such inspection shall be conducted at least once every month.
  - i. Disturbed areas and areas used for material storage that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the plan shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters. Locations where vehicles enter or exit the site shall be inspected for evidence of offsite sediment tracking.
  - ii. Based on the results of the inspection, the site description identified in the plan in accordance with Part II.A.4.a of this permit and pollution prevention measures identified in the plan in accordance with Part II.A.4.b of this permit shall be revised as appropriate, but in no case more than 7 calendar days following the inspection. Such modifications shall provide for timely implementation of any changes to the plan within 7 calendar days following the inspection.
  - iii. A report summarizing the scope of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance

with paragraph II.A.4.e.ii of the permit shall be made and retained as part of the storm water pollution prevention plan for at least three (3) years from the date the site is finally stabilized. The report shall be signed in accordance with Part II.B.9 of this permit.

- f. Documentation of Permit Eligibility Related to Total Maximum Daily Loads (TMDL). The SWPPP must include documentation supporting a determination of permit eligibility with regard to waters that have an established TMDL, including **either**:

- i. Information on whether storm water discharges from the site enter a water body with an approved TMDL;

**And**

- ii. A statement that the construction site's discharge is not identified in a TMDL applicable to that water body;

**Or**

- iii. Information on whether storm water discharges from the site enter a water body with an approved TMDL;
- iv. Identification of the pollutants that the TMDL addresses, specifically whether the TMDL addresses sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation);
- v. Identification of whether the operator's discharge is identified, either specifically or generally, in the TMDL and any associated assumptions and allocations identified for the discharge; and
- vi. 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.

- g. Attainment of Water Quality Standards After Authorization.

- i. 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 in Part II.A.4.g.ii below, the SWPPP developed, implemented, and updated consistent with Part II.A.4 is considered as stringent as necessary to ensure that the discharges do not cause or contribute to an excursion above any applicable water quality standard.
- ii. At any time after authorization, the Department may determine that the storm water 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;
- B. 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
- C. Cease discharges of pollutants from construction activity and submit an individual permit application according to Part I.B.4.

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

5. **Non-storm water discharges.** Except for flows from fire fighting activities, sources of non-storm water listed in Part I.C.1.a of this permit that are combined with storm water discharges associated with construction activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

6. **Contractors.**

- a. The storm water pollution prevention plan **must clearly identify** for each measure identified in the plan, **the contractor(s) that will implement** the measure. **All contractors identified** in the plan **must sign a copy** of the certification statement required by Part II.A.6.b below in accordance with Part II.B.9 of this permit. All certifications must be included in the storm water pollution prevention plan.
- b. **Certification statement.** All contractors identified in the storm water pollution prevention plan in accordance with Part II.A.6 of this permit shall sign a copy of the following certification statement before conducting any professional service at the site identified in the storm water pollution prevention plan:

"I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification."

The certification **must** include the name and title of the person providing the signature in accordance with Part II.B.9 of this permit; the **name, address, and telephone number** of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

## SECTION B: STANDARD PERMIT CONDITIONS

### 1. **Retention of Records.**

- a. The owner or operator shall retain records of all storm water pollution prevention plans and all 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 site is finally stabilized. This period may be extended by request of the Director at any time.
- b. The owner or operator shall retain a copy of the storm water 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 owner or 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; for permit termination, revocation and reissuance, or modification; or for 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 fine of not more than twenty five thousand dollars (\$25,000) or by both** such fine and imprisonment **for each day of such violation**. Any person who violates any provision of a permit issued under the Act may **also** be subject to **civil penalty** in such amount as the court shall find appropriate, not to exceed **ten thousand dollars (\$10,000) for each day** of such violation. The fact that any such violation may constitute a misdemeanor shall not be a bar to the maintenance of such civil action.

### 4. **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 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 a owner or 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 owner or 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 owner or operator shall furnish to the Director, an authorized representative of the Director, the EPA, a State or local agency approving sediment and erosion plans, grading plans, or storm water management plans, or in the case of a storm water 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 owner or 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:
    - i. For a corporation: by a responsible corporate officer. For purposes of this section, a responsible corporate officer means:
      - A. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
      - B. The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
    - ii. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
    - iii. 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:
- i. The authorization is made in writing by a person described above and submitted to the Director;
  - ii. 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
  - iii. 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 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."

**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.9 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 owner or operator from any responsibilities, liabilities, or penalties to which the owner or 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 or any invasion of personal rights, nor 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 new NOI must be submitted to the ADEQ as required in Part I.6.a.ii and Part I.6.b.ii of this permit.
17. **Proper Operation and Maintenance.** The owner or operator shall at all times:
  - a. Properly operate **and maintain all facilities and systems** of treatment and control (and related appurtenances) which are installed or used by the owner or operator to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a owner or 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, maintenance and testing functions required to insure compliance with the conditions of this permit.
18. **Inspection and Entry.** The owner or 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 owner or 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; or
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge; or
- 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 owner or operator to comply with the provisions of ADEQ Regulation No. 9 (Permit Fees). 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 storm water discharge associated with industrial activity covered by this permit, the owner or operator of such discharge may be required to obtain an individual permit or an alternative general permit in accordance with Part I.B.4 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.

## SECTION C: DEFINITIONS

**“Arid Areas”** means areas with an average rainfall of 0 to 10 inches.

**“Best Management Practices (BMPs)”** means 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.

**“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 United States.

**“Commencement of Construction”** means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

**“CWA”** means the Clean Water Act or the Federal Water Pollution Control Act.

**“Dedicated Portable Asphalt Plant”** means 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.

**“Dedicated Portable Concrete Plant”** means 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.

**“Director”** means the Director, Arkansas Department of Environmental Quality, or a designated representative.

**“Discharge”** when used without qualification means the “discharge of a pollutant”.

**“Discharge of Storm Water Associated with Construction Activity”** as used in this permit, refers to a discharge of pollutants in storm water 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 storm water directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

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

**“Eligible”** means qualified for authorization to discharge storm water under this general permit.

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

**“Final Stabilization”** means that:

- (i) 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 70% 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.
- (ii) When background native vegetation will cover less than 100% of the ground (e.g., arid areas, beaches), the 70% coverage criteria is adjusted as follows: if the native vegetation covers 50% of the ground, 70% of 50% ( $0.70 \times 0.50 = 0.35$ ) would require 35% total cover for final stabilization. On a beach with no natural vegetation, no stabilization is required.
- (iii) In arid and semi-arid areas only, all soil disturbing activities at the site have been completed and both the following criteria have been met:
  - (1) Temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years without active maintenance,
  - (2) The temporary erosion control measures are selected, designed, and installed to achieve 70% vegetative coverage within three years.
- (iv) 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.
- (v) 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 (i), (ii), or (iii) above.

**"Flow-Weighted Composite Sample"** means a composite sample consisting of a mixture of aliquot collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

**"Large and Medium Municipal Separate Storm Sewer System"** means all municipal separate storm sewer systems that are either:

- (i) 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
- (ii) 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
- (iii) 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.

**"Large Construction Sites"** mean any construction activity that meets one of the following two definitions:

- (i) Construction sites that will result in the disturbance of **ten (10)** or more acres of total land area or less than **ten (10)** acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb **ten (10)** acres or more located in the following counties:

Baxter	Garland	Newton	Sharp
Benton	Hot Spring	Perry	Stone
Boone	Howard	Pike	Van Buren
Carroll	Independence	Polk	Washington
Clark	Izard	Pope	White
Cleburne	Johnson	Pulaski	Yell
Conway	Lawrence	Randolph	
Crawford	Logan	Saline	
Faulkner	Madison	Scott	
Franklin	Marion	Searcy	
Fulton	Montgomery	Sebastian	

- (ii) Construction sites that will result in the disturbance of **twenty (20)** or more acres of total land area or less than **twenty (20)** acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb **twenty (20)** acres or more located in the following counties:

Arkansas	Crittenden	Jefferson	Nevada
Ashley	Cross	Lafayette	Ouachita
Bradley	Dallas	Lee	Phillips

Calhoun	Desha	Lincoln	Poinsett
Chicot	Drew	Little River	Prairie
Clay	Grant	Lonoke	Sevier
Cleveland	Greene	Miller	St. Francis
Columbia	Hempstead	Mississippi	Union
Craighead	Jackson	Monroe	Woodruff

**“Medium Construction Sites”** mean any construction activity that meets one of the following two definitions:

- (i) Construction sites that will result in the disturbance of greater than **five (5)** acres and less than **ten (10)** acres of total land area or less than **five (5)** acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb **five (5)** acres or more located in one of the counties identified in Part (i) of the Large Construction Site definition above.
- (ii) Construction sites that will result in the disturbance of greater than **five (5)** acres and less than **twenty (20)** acres of total land area or less than **five (5)** acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb **five (5)** acres or more located in one of the counties identified in Part (ii) of the Large Construction Site definition above.

**“NOI”** means Notice of Intent to be covered by this permit.

**“NOT”** means Notice of Termination.

**“Operator”** for the purpose of this permit and in the context of storm water associated with construction activity, means any party associated with a construction project that meets either of the following two criteria:

- (i) The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
- (ii) The party has day-to-day operational control of those activities at the project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).

**“Owner or Operator”** means the owner or operator of any “facility or activity” subject to regulation under the NPDES program.

**“Physically Interconnected”** means 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.

**"Point Source"** means 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 storm water runoff.

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

- (i) 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
- (ii) Owned or operated by a municipality other than those described in paragraph (i) 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
- (iii) Owned or operated by a municipality other than those described in paragraphs (i) and (ii) and that contributes substantially to the pollutant loadings of a "physically interconnected" municipal separate storm sewer system.

**"Runoff Coefficient"** means the fraction of total rainfall that will appear at the conveyance as runoff.

**"Semi-Arid Areas"** means areas with an average rainfall of 10 to 20 inches.

**"Small Construction Sites"** mean any construction activity that meets the following definition:

- (i) Construction sites that will result in the disturbance of greater than **one (1)** acre and less than **five (5)** acres of total land area or less than **one (1)** 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 **one (1)** acre or more.

**"Storm Water"** means storm water runoff, snow melt runoff, and surface runoff and drainage.

**"Storm Water Associated with Construction Activity"** means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to construction activity. Discharges of storm water from large construction sites, medium construction sites, and small construction sites, as defined in Part I.B.2, (henceforth referred to as storm water discharges from construction activities).

**"Storm Water Pollution Prevention Plan" or "SWPPP"** means a plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the storm water, and a description of measures or practices to control these pollutants.

**“Total Maximum Daily Load” or “TMDL”** means the sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for non-point sources and natural background. If a 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.

**“Urbanized Area”** means 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.



# **ATTACHMENT A**

# CONSTRUCTION SITE NOTICE

FOR THE  
Arkansas Department of Environmental Quality (ADEQ)  
Storm Water Program  
**NPDES GENERAL PERMIT NO. ARR150000**

The following information is posted in compliance with **Part I.B.7.a.iii** of the ADEQ General Permit Number **ARR150000** for discharges of storm water runoff from construction sites. Additional information regarding the ADEQ storm water program may be found on the internet at:

*[www.adeq.state.ar.us/water/branch\\_npdes/stormwater](http://www.adeq.state.ar.us/water/branch_npdes/stormwater)*

Permit Number	ARR150000
Contact Name and Phone Number:	
Project Description:  (Including estimated start date and projected end date, or date that disturbed soils will be stabilized.)	
Location of Storm Water Pollution Prevention Plan:	

For Construction Sites Authorized under **Part I.B.6.b** (Small Construction Sites Authorization) the following certification must be completed:

I \_\_\_\_\_ (Typed or Printed Name of Person Completing this Certification) certify under penalty of law that I have read and understand the eligibility requirements for claiming an authorization under Part I.B.2.a.iii of the ADEQ General Permit Number ARR150000. A storm water pollution prevention plan has been developed and implemented according to the requirements contained in Part I.B.7.a.iii of the permit. A copy of this signed notice is supplied to the operator of the MS4 if discharges enter a regulated small, medium, or large MS4 system as defined in Part II.C of the ADEQ General Permit Number ARR150000. I am aware there are significant penalties for providing false information or for conducted unauthorized discharges, including the possibility of fine and imprisonment for knowing violations.

\_\_\_\_\_  
Signature and Title

\_\_\_\_\_  
Date