

**RESPONSE TO COMMENTS
FINAL PERMITTING DECISION**

Permit No.: NPDES General Permit ARG640000 for Water Treatment Plants with a Wastewater Discharge

Prepared by: Faizan Khan

The following are responses to comments received by the Arkansas Department of Energy and Environment – Division of Environmental Quality (DEQ) regarding the draft permit number referenced above and are developed in accordance with regulations promulgated at 40 C.F.R. § 124.17, Arkansas Pollution Control & Ecology Commission (APC&EC) Rule 8 (Administrative Procedures), and Arkansas Code Annotated (A.C.A.) § 8-4-203(e)(2).

Introduction

The above permit was submitted for public comment on March 14, 2021. The public comment period ended on April 13, 2021.

This document contains a summary of the comments that DEQ received during the public comment period. A summary of the changes to the NPDES General Permit can be found on the last page of this document.

The following organizations sent eight (8) comments to DEQ during the public notice.

	<u>Commenter</u>	<u>Number of Comments Raised</u>
1.	Leslie R. Patterson II, P.E., R.S. – Hope Water & Light	4
2.	Colene Gaston – Beaver Water District (BWD)	4

Comment 1: This permit expires every 5 years on November 30th. HWL recommends that the existing permit continue to December 31, 2021 with the new Effective Date as January 1, 2022 and the new Expiration Date as December 31, 2026. Some changes that could occur in a renewed permit could easily get overlooked when something that you've done for 5-10 years a certain way gets changed. Effective dates on permits should be the first of a quarter and not the first of the 2nd or 3rd month of a quarter. Continuing to operate under the existing permit for one extra month is not going to hurt anything and will make things a whole lot easier for those having to comply.

Response: DEQ acknowledges the feedback regarding the permit's term cycle. In accordance with APC&EC Rule 6.201, in order to make it easier for permittees to keep track of the permit term and its requirements, the effective date of the draft renewal permit has been changed from December 1, 2021, to January 1, 2022, in the final permit. The expiration date of the draft renewal permit has been changed from November 30, 2026, to December 31, 2026, in the final permit. These updates have been reflected on the final permit cover page.

As a result, coverage for existing permittees under the current permit will continue until December 31, 2021, provided a recertification NOI is received no later than the expiration of the current permit, November 30, 2021. This change has been added to Part 1.4.3.1 of the renewal permit.

For current permittees with continued coverage under the current permit, the final discharge monitoring report (DMR) will continue until the end of the year. Therefore, the DMR with the monitoring period ending on December 31, 2021 will be covered under the current permit. DMRs beginning on January 1, 2022 will be subject to the requirements of the final renewal permit.

Comment 2: In Section 3.4, if the monitoring frequency stays as proposed, there is no need in requiring the most recent two years of samples for those that have previously qualified for reduced monitoring.

Response: The updated monitoring frequency requirements, as included in the renewal permit, will require the permittee to reapply for any existing monitoring frequency reductions during the permit recertification process. Please see DEQ's response to Comment 4 for a complete discussion on why this change was made.

During the permit recertification process, the permittee will have the chance to reapply for any existing monitoring frequency reductions, essentially requesting continuation of the current reduced monitoring. If the permittee answers yes to reapplying for existing monitoring frequency reductions, DEQ will review the permittee's recent discharge monitoring reports (DMRs) to verify if the qualifications for the reductions outlined in Part 3.4 are being met and, consequently, if the reductions may continue at the time of the recertification. Therefore, the permittee will not be required to provide sampling data separately,

but will be required to request continuation of any current monitoring frequency reductions during this and subsequent permit recertifications.

Additional language regarding the process of requesting continuation of monitoring frequency reductions has now been included in Part 3.4.5 of the final permit.

Comment 3: Section 1.4.3.1 - Request for Coverage for existing discharges, submittal of a recertification NOI no later than the expiration date of this general permit should have a grace period. It should be understood that all facilities want to be under the general permit and not create a non-compliance issue for failure to remember and cause a facility to not be allowed to stay under the general permit. Again, it is very easy to forget that the permit expires at the end of the 2nd Month of the 4th Quarter instead of at the end of the year. No matter when the permit expires, DEQ should send out a notification of not receiving a request for continued coverage and give at least 30 days to submit. A “Certificate of No Changes” process should be used for reinstatement.

Response: In accordance with A.C.A. § 8-4-203(m)(5)(B), final permit decisions for general permits are announced six-months prior to permit expiration dates offering ample time for submittal of recertification documents. DEQ’s process for recertification of NPDES general permit coverage includes providing all active permittees a notification to renew their coverage in advance of thirty (30) remaining days prior to permit expiration. The notification also contains information on how to terminate coverage if it is no longer needed. Subsequent failure to notify DEQ of permit recertification or a change in permit coverage may lead to enforcement action and possible removal of coverage.

Additionally, upcoming permit recertifications are moving forward via DEQ’s online [ePortal](#) system, which is largely a “Certificate of No Changes” process. Once a permit number is entered into the recertification form on ePortal, the system pulls in the permittee’s existing information on file with DEQ, which can then be reviewed and updated as necessary. Additional information may be requested from the permittee in accordance with the requirements of the current version of the permit.

Comment 4: Under Qualification for Monitoring Frequency Reductions Section 3.4.5 the wording in the first sentence after “will continue” should be the same as the existing permit (even through expiration and renewal of this general permit).

Response: DEQ intends to continue the reduced monitoring frequencies provided to existing covered permittees as long as the ongoing requirements discussed in Part 3.4 are being met.

DEQ made this change in the renewal permit since a previous frequency reduction decision may not remain appropriate for future permit periods. DEQ intends to review the frequency reduction requests to verify continued eligibility in the upcoming 5-year permit term. The reduction in monitoring frequency may be discontinued if DEQ determines that the permittee has violations that warrant the discontinuation of the reduction in monitoring frequency.

See also DEQ's response to Comment 2 for a discussion on the monitoring frequency reduction review process as a result of this change.

Additional language regarding the process of requesting continuation of monitoring frequency reductions has now been included in Part 3.4.5 of the final permit.

Comment 5: Regarding Draft Permit Table of Contents and Pagination:

Thank you for adding the Table of Contents! As you may recall, BWD has long been an advocate for including Tables of Contents in NPDES General Permits. We also appreciate that, while it was not mentioned as a proposed change in the Fact Sheet for the Draft Permit, the page numbers are consecutive for the entire Draft Permit rather than starting over with each Part of the permit. The Table of Contents and the consecutive pagination make the Draft Permit much more user-friendly.

Response: DEQ appreciates the acknowledgment as we strive to bring improvements to permits with each renewal.

Comment 6: Regarding Draft Permit Effective Date:

The current NPDES General Permit No. ARG640000 expires on November 30, 2021. The Draft Permit is proposed to have an effective date of December 1, 2021. *For multiple practical reasons that would benefit the Division of Environmental Quality (DEQ) and permittees under ARG640000, BWD requests that the effective date of the final renewal permit be January 1, 2022.*

The Outfall Type and corresponding effluent limitations and monitoring requirements are based upon Daily Average Waste Discharge Flow over the previous two years. The monitoring requirements at Part 2.1 of the Draft Permit are for quarterly monitoring. Under Part 3.4.1 of the Draft Permit, the monitoring requirements for Aluminum, Iron, Manganese, and Total Residual Chlorine (TRC) can be reduced to once per year. Under Parts 3.4.2 and 3.4.3 of the Draft Permit, the monitoring requirements for Total Suspended Solids (TSS) can be reduced to once every six months and once per quarter, respectively. It would be much easier for permittees and DEQ to determine the appropriate Outfall Type and to keep track of when monitoring is to be done if the requirements aligned

with the calendar year. Also, if the effective date of this final permit becomes January 1, 2022, then DEQ will be positioned to issue each subsequent renewal ARG640000 with an effective date of January 1.

BWD assumes that the current ARG640000 could remain in force and effect until December 31, 2021, pursuant to Arkansas Pollution Control and Ecology Commission Regulation No. 6.201. *If that is the case and DEQ issues the final renewal permit with an effective date of January 1, 2021, it may be appropriate to change Part 1.4.3.1 of the Draft Permit, which applies to Requests for Coverage for existing discharges covered under the current ARG640000. Instead of providing that the recertification Notice of Intent (NOI) must be submitted “no later than the effective date of this general permit,” perhaps Part 1.4.3.1 should state that the recertification NOI must be submitted “no later than November 30, 2021.”*

Response: DEQ acknowledges this comment and agrees. The effective date of the renewal permit has been changed from December 1, 2021 to January 1, 2022. The expiration date of the renewal permit has been changed from November 30, 2026 to December 31, 2026. Please see the response to Comment 1 for more information.

Comment 7: Regarding Draft Permit Part 1.4.1:

BWD understands from previous permit cycles that permittees submitting a recertification NOI under Draft Permit Part 1.4.3.1 need not re-submit the documents listed in Draft Permit Part 1.4.1 that they have submitted previously for coverage under ARG640000. To make this clear, however, BWD suggests adding the following italicized language to Draft Permit Part 1.4.1: “In order to discharge under this general permit, applicants must submit the following items to the Division, *unless the applicant has previously submitted the items for coverage under prior issuances of ARG640000.*”

Response: DEQ appreciates the suggestion of adding the included text. It should be noted that inclusions in the permit regarding recertifications must also account for any updated information submitted for permit coverage renewal, as well as updates to the requirements of the permit during renewals. It should also be noted that DEQ’s permit recertification process via [ePortal](#) allows permittees to verify previously submitted information instead of requiring resubmission of all items. The general permit coverage recertification process is explained in greater detail in the response to Comment 3.

Comment 8: Regarding Draft Permit Part 3.4.5:

BWD understands from previous permit cycles that permittees that have qualified for reduced monitoring frequencies under ARG640000 can continue to monitor at

the reduced frequencies when the general permit is renewed, as long as there have not been exceedances of the permit limits for the applicable parameter. To make this clear, however, BWD suggests adding the following language at the beginning of Draft Permit Part 3.4.5: *“Permittees that have qualified for reduced monitoring frequency for a given parameter under prior issuances of ARG640000 may continue monitoring at the reduced frequency under this permit.”*

Response: With this permit renewal, the monitoring frequency reduction requirements have been updated to require the permittee to reapply for any existing monitoring frequency reductions during the permit recertification process. Please refer to DEQ’s responses to Comments 2 and 4 regarding this update and the reduction continuation process. DEQ intends to continue the reduced monitoring frequencies provided to existing permittees as long as the ongoing requirements discussed in Part 3.4 are being met.

Summary of Changes to the Permit		
Part	Changes	Comment #
Cover Page	The effective date of the renewal permit has been changed from December 1, 2021 to January 1, 2022. The expiration date has been changed from November 30, 2026 to December 31, 2026.	1, 6
1.4.3.1	As a result of the effective and expiration date update, this part has been modified to specify that existing permittees must submit a recertification NOI and all necessary information no later than the expiration date of the previous permit, November 30, 2021, to seek continued permit coverage.	1, 6
3.4.5	Additional language regarding the process of requesting monitoring frequency reductions during permit recertification has been included.	2, 4, 8