



# NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT

DISCHARGE AUTHORIZED: DISCHARGES FROM THE MINING AND PROCESSING (WET OR DRY) OF CONSTRUCTION SAND AND GRAVEL, CHERT, DIRT, AND/OR RED CLAY, AND AREAS ASSOCIATED WITH THESE ACTIVITIES

AREA OF COVERAGE: THE STATE OF ALABAMA

PERMIT NUMBER: ALG850000

RECEIVING WATERS: ALL WATERS OF THE STATE OF ALABAMA NOT DESIGNATED OUTSTANDING NATIONAL RESOURCE WATERS, OUTSTANDING ALABAMA WATERS, OR TREASURED ALABAMA LAKE

*In accordance with and subject to the provisions of the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§1251-1388 (the "FWPCA"), the Alabama Water Pollution Control Act, as amended, Code of Alabama 1975, §§ 22-22-1 to 22-22-14 (the "AWPCA"), the Alabama Environmental Management Act, as amended, Code of Alabama 1975, §§22-22A-1 to 22-22A-17 (the "AEMA"), and rules and regulations adopted thereunder, and subject further to the terms and conditions set forth in this permit, the Permittee is hereby authorized to discharge into the above-named receiving waters.*

ISSUANCE DATE: March 24, 2017

EFFECTIVE DATE: April 1, 2017

EXPIRATION DATE: March 31, 2022

*GENORA L. DEAN*

Alabama Department of Environmental Management

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## **PART I COVERAGE UNDER THIS GENERAL PERMIT**

### **A. PERMIT COVERAGE**

1. This Permit authorizes, subject to the conditions herein, eligible stormwater and non-stormwater discharges associated with the mining and processing (wet or dry) of construction sand and gravel, chert, dirt, and/or red clay, and areas associated with these activities.
2. Eligible stormwater discharges include:
  - a. Stormwater discharges associated with mining activities described in Part I.A.1. of this Permit;
  - b. Stormwater discharges from support activities directly related to the mining activity covered by this Permit (*e.g.*, entrance/exit roads, haul roads, equipment staging yards, material storage areas, excavated material disposal areas); and
  - c. Stormwater discharges determined by the Director to require coverage under this Permit.
3. Eligible non-stormwater discharges include:
  - a. Treated process wash waters;
  - b. Waters used to wash vehicles where detergents are not used;
  - c. Water used for dust suppression;
  - d. Uncontaminated groundwater or spring water;
  - e. Discharges from fire-fighting activities;
  - f. Uncontaminated air conditioning or compressor condensate associated with temporary office trailers and other similar buildings; and
  - g. Non-stormwater discharges determined by the Director to require coverage under this Permit.

### **B. PROHIBITED DISCHARGES**

The following discharges associated with mining are not authorized by this Permit:

1. Stormwater discharges currently covered under another NPDES permit;
2. Discharges from industrial sand mines, industrial sand preparation plants, industrial sand transportation and storage, and areas associated with these activities;
3. Discharges from coal mines, coal preparation plant, coal transportation and storage, and areas associated with these activities;
4. Discharges from crushed or dimension stone mines, crushed or dimension stone wet preparation plants, crushed or dimension stone transportation and storage, and areas associated with these activities;
5. Discharges from bauxitic clay, bentonite clay, or fire clay mines; bauxitic clay, bentonite clay, or fire clay transportation and storage; and areas associated with these activities;

6. Discharges from metallic mineral or ore mines, metallic mineral or ore preparation plants, metallic mineral or ore transportation and storage, and areas associated with these activities; and
7. Discharges that have a reasonable potential to cause or contribute to a contravention of instream State Water Quality standards outlined in ADEM Admin. Code ch. 335-6-10.

## **PART II NOTICE OF INTENT REQUIREMENTS**

### **A. DEADLINES FOR NOTICES OF INTENT (NOI)**

1. Any person wishing to be permitted to conduct surface mining operations or discharge under this General Permit shall submit a Notice of Intent (NOI) to be covered by this General Permit at least 30 days prior to the date of desired coverage. No surface mining operations or discharges proposed by the NOI may commence until the person receives the Director's written approval of the coverage of the operations and discharge by this General Permit. The Director's approval shall include a letter signed by the Director indicating the date of coverage and a copy of this General Permit with the associated Permit Number indicated on Page 1.
2. Coverage under this Permit is conditionally granted, and the requirement to submit an NOI is suspended for governmental agencies and utilities for activities associated with immediate and effective emergency repairs and response to natural disasters, human health or environmental emergencies, or to avert/avoid imminent, probable, or irreparable harm to the environment or severe property damage. The operator or controlling/participating federal, State, or local government agencies/entities conducting emergency activities shall document the emergency condition, ensure compliance with the requirements of this Permit to the extent possible, and shall notify the Department as promptly as possible regarding the occurrence of the emergency disturbance and measures that have been implemented and are being implemented to protect water quality. Unless the requirement to obtain a permit pursuant to the requirements of this Permit are suspended or voided by the Director on a categorical or individual emergency basis, the operator shall submit the appropriate project information, NOI, and the required application fee for the activity after emergency repairs have been accomplished, according to a schedule acceptable to the Department

### **B. CONTINUATION OF THE EXPIRED GENERAL PERMIT**

1. If this General Permit is not reissued or replaced prior to the expiration date, it will be extended administratively until the Department can complete reissuance of the General Permit in accordance with the ADEM Admin. Code r. 335-6-6-.23(17)(b).
2. Any Permittee who was granted coverage under this General Permit prior to the expiration date will automatically retain coverage under the continued Permit provided that the Permittee has submitted a complete and correct NOI at least 90 days prior to the expiration date of this Permit.
3. Any Permittee whose coverage under this General Permit is automatically extended in accordance with Part II.B.2. will remain covered by the continued General Permit until the earlier of:
  - a. Reissuance or replacement of this General Permit;
  - b. Issuance of a different General Permit to provide coverage for regulated activities at the site;
  - c. Issuance of an Individual Permit to provide coverage for regulated activities at the site; or
  - d. A formal determination by the Department not to reissue this General Permit.
4. Any Permittee whose coverage under this General Permit is extended beyond the expiration date in accordance with Part II.B.2, must comply with the requirements of the reissued or replaced General Permit immediately upon its reissuance or replacement.
5. If the Department makes a formal determination not to reissue or replace this General Permit, the Department will provide notification to the Permittee at which time the Permittee must submit an NOI seeking coverage under an alternative general permit or submit an application for an individual permit within 90 days if the Permittee wishes to continue regulated activities at the site. The General Permit shall be extended until the

Department completes the permit decision process for the alternative general permit or individual permit for all persons covered under the General Permit and who have submitted NOIs for an alternative general permit or applications for an individual permit within the time period required by the Director.

### C. CONTENTS OF THE NOTICE OF INTENT

1. The NOI is comprised of:
  - a. A completed copy of the most recently approved ADEM Form 26;
  - b. Payment of all applicable fees for "Mineral/Resource Extraction Mining, Storage Transloading, Dry Processing" or "Wet Preparation, Processing, Beneficiation" pursuant to ADEM Admin. Code div. 335-1;
  - c. Pollution Abatement and/or Prevention (PAP) Plan in accordance with Part IV.A.2. of this General Permit and ADEM Admin. Code r. 335-6-9-.03 including Appendices A and B; and
  - d. Other supporting documentation, maps, diagrams, and/or plans as appropriate.
2. The NOI shall be signed by a "responsible official" meeting the requirements for signatories under ADEM Admin. Code r. 335-6-6-.09, and the person signing the NOI shall make the certification required for submission of documents under ADEM Admin Code r. 335-6-6-.09 and Part III.E.1.h. of this General Permit.
3. The NOI shall be signed by a registered Professional Engineer (PE) licensed to practice in the State of Alabama, and the PE signing the NOI shall have the following certification:

*"I certify under penalty of law that the technical information and data contained in this application, and a comprehensive Pollution Abatement and/or Prevention (PAP) Plan, including any attached SPCC plan, maps, engineering designs, etc. acceptable to ADEM, for the prevention and minimization of all sources of pollution in stormwater and authorized related process wastewater runoff has been prepared under my supervision for this facility utilizing effective, good engineering and pollution control practices and in accordance with the provisions of this Permit, and ADEM Admin. Code Division 335-6, including Chapter 335-6-9 and Appendices A & B. If the PAP Plan is properly implemented and maintained by the Permittee, discharges of pollutants can reasonably be expected to be effectively minimized to the maximum extent practicable and according to permit discharge limitations and other permit requirements. The applicant has been advised that appropriate pollution abatement/prevention facilities and structural & nonstructural management practices or Department approved equivalent management practices as detailed in the PAP Plan must be fully implemented and regularly maintained as needed at the facility in accordance with good sediment, erosion, and other pollution control practices, permit requirements, and other ADEM requirements to ensure protection of groundwater and surface water quality."*

### D. SUBMITTAL OF DOCUMENTS

1. The NOI, if submitted in hardcopy, and all other hardcopy documents required to be submitted to the Department by this general permit, the AWPCA and the Department's rules and regulations, shall be addressed to:

Alabama Department of Environmental Management  
Water Division, Mining and Natural Resource Section  
Post Office Box 301463  
Montgomery, Alabama 36130-1463

2. Certified and Registered Mail shall be addressed to:

Alabama Department of Environmental Management

Water Division, Mining and Natural Resource Section  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2059

3. Electronic submittal of documents required to be submitted to the Department by this General Permit, the AWPCA, and the Department's rules and regulations, shall comply with the electronic submittal requirements of Part III.E. of this Permit and ADEM Admin. Code r. 335-6-1-.04.

## PART III DISCHARGE REQUIREMENTS AND RESTRICTIONS

### A. DISCHARGE LIMITATIONS

During the period beginning on the effective date of coverage under this General Permit and lasting through the expiration date of this Permit, all discharges which occur from the surface mining operations described in the Permittee's NOI shall be limited and, except for those discharges addressed in Part III.B.2. of this Permit, shall be monitored by the Permittee as specified below:

Parameter	Discharge Limitations			Monitoring Requirements	
	Daily Minimum	Monthly Average	Daily Maximum	Sample Type	Measurement Frequency <sup>1</sup>
pH 00400 1 0 0	6.0 s.u.	-----	8.5 s.u.	Grab	Twice/Month
Total Suspended Solids 00530 1 0 0	-----	35.0 mg/l	70.0 mg/l	Grab	Twice/Month
Flow <sup>2</sup> 50050 1 0 0	-----	Report MGD	Report MGD	Instantaneous	Twice/Month

### B. ADDITIONAL LIMITATIONS

1. All surface drainage and stormwater runoff which originates within or enters the Permittee's premises and which contains any pollutants or other wastes, except for those discharges addressed in Part III.B.2. of this General Permit, shall be discharged, if at all, from a point source identified and described on the Permittee's NOI provided that the outfall associated with the point source has been constructed and certification received by the Department pursuant to Part III.C.1 of this General Permit.

All process water shall be discharged, if at all, from a point source identified and described on the Permittee's NOI provided that the outfall associated with the point source has been constructed and certification received by the Department pursuant to Part III.C.1 of this General Permit.

2. Nonpoint source discharges of surface drainage and stormwater are not prohibited provided that:
  - a. The surface drainage or stormwater runoff cannot feasibly be routed through a point source identified and described on the Permittee's NOI;
  - b. Best Management Practices (BMPs) are utilized and maintained to ensure the surface drainage or stormwater runoff is effectively treated to ensure the drainage or runoff does not cause or contribute to a contravention of instream State Water Quality standards outlined in ADEM Admin. Code ch. 335-6-10.; and
  - c. The surface drainage or stormwater runoff results in no visible accumulation of sediment outside of the boundaries of the Permit coverage. The boundaries of the Permit coverage shall be those boundaries indicated in the Permittee's NOI and associated maps.

<sup>1</sup> See Part III.D.1 for further measurement frequency requirements.

<sup>2</sup> Flow must be determined at the time of sample collection by direct measurement, calculation, or other method acceptable to the Department.

3. The discharge shall not cause the instream pH values to deviate more than 1.0 s.u. from the normal or natural pH, nor be less than 6.0 s.u., nor greater than 8.5 s.u.
4. The discharge shall have no sheen, and there shall be no discharge of visible oil, floating solids or visible foam in other than trace amounts.
5. No operator shall conduct its operation in such a manner as to place, or cause to be placed into a stream, soil, rock, trees, overburden or any other debris or material associated with mining operations.
6. No untreated wastewater from a mineral preparation plant or washing operation, nor untreated stormwater runoff from mineral storage piles or refuse piles, shall be discharged into any stream.
7. All water which is used to wash gravel or other minerals shall be directed to specially constructed sedimentation basins, incised mine pits, or other treatment structures acceptable to the Department. The location and/or construction of such basins, pits, and/or other treatment structures must be indicated in the PAP Plan and acceptable to the Department.
8. No earthen sedimentation basin, incised pit, or other treatment structures utilized in conjunction with mining operations shall be abandoned without the Director's approval or without release of all reclamation bonds by the Alabama Department of Labor (ADOL), if applicable. The Department shall be notified in writing of the intent to abandon, reclaim, or permanently leave sedimentation basins, pits, or other structures with such notification including those measures to be taken by the operator to ensure future discharges from the site do not have the potential to cause or contribute to contravention of instream State Water Quality standards outlined in ADEM Admin. Code ch. 335-6-10.

### **C. REQUIREMENTS TO ACTIVATE A PROPOSED MINING OUTFALL**

1. Discharge from any point source identified and described on the Permittee's NOI which is a proposed outfall is not authorized by this General Permit until the outfall has been constructed and certification received by the Department from a registered PE licensed to practice in the State of Alabama certifying that such facility has been constructed in accordance with the PAP Plan and good engineering practices.
2. Certification required by Part III.C.1 above shall be submitted on a completed ADEM Form 432.
3. The Permittee shall submit as an attachment to the certification required by Part III.C.1 above, an Outfall Certification Summary in a format approved or provided by the Department. The Outfall Certification Summary shall indicate whether each outfall identified on the Permittee's NOI has been certified and, if so, it shall include the date for each certification. If any outfall identified on the NOI has been released from monitoring requirements as provided in Part III.E.3. of this Permit, then the list of outfalls shall include the date of the monitoring requirement release.
4. Discharge Monitoring Report (DMR) submittal requirements described in Parts III.D. and E. of this General Permit do not apply to point sources that have not been constructed and certified.
5. Unauthorized discharges from point sources for which the Department has not received certification from a registered PE licensed to practice in the State of Alabama certifying that such facility has been constructed in accordance with the PAP Plan and good engineering practices must be monitored in accordance with Parts III.A. and D. of this Permit. Results of such monitoring must be submitted pursuant to the noncompliance notification requirements of Part III.E.2. of this Permit.
6. Upon submittal of the certification required by Part III.C.1 to the Department, all monitoring and DMR submittal requirements shall apply to the constructed and certified outfall.

## D. DISCHARGE MONITORING AND RECORD KEEPING REQUIREMENTS

### 1. Sampling Schedule and Measurement Frequency

- a. The Permittee shall collect at least one grab sample of the discharge to surface waters from each point source twice per month at a rate of at least every other week if a discharge occurs at any time during the two week period, but need not collect more than two samples per calendar month. Each sample collected shall be analyzed for each parameter specified in Part III.A. of this General Permit.
- b. If a discharge occurs at any time during a quarterly reporting period as a result of pumping (*e.g.*, from incised pits or ponds, old highwall cuts, old pit areas or depressions), the Permittee shall collect at least one of the discharge samples taken pursuant to Part III.D.1.a. above during such pumped discharge.
- c. The Permittee may increase the frequency of sampling listed in Part III.D.1.a. and III.D.1.b. above; however, all sampling results must be reported to the Department and included in any calculated results submitted to the Department in accordance with this Permit.

### 2. Sampling Location

Samples collected to comply with the monitoring requirements specified above shall be collected at the nearest accessible location after final treatment and just prior to discharge, or at an alternate location approved in writing by the Department.

### 3. Representative Sampling

Sample collection and measurement actions taken as required herein shall be conducted in such a way by the Permittee in order to ensure the sample or measurement is representative of the volume and nature of the monitored discharge and shall be in accordance with the provisions of this Permit.

### 4. Test Procedures

For the purpose of reporting and compliance, Permittees shall use one of the following procedures:

- a. For parameters with an EPA-established Minimum Level (ML), report the measured value if the analytical result is at or above the ML and report "0" for values below the ML. Test procedures for the analysis of pollutants shall conform to 40 CFR Part 136, guidelines published pursuant to Section 304(h) of the FWPCA, 33 U.S.C. Section 1314(h), and ADEM Standard Operating Procedures. If more than one method for analysis of a substance is approved for use, a method having a minimum level lower than the permit limit shall be used. If the minimum level of all methods is higher than the permit limit, the method having the lowest minimum level shall be used and a report of less than the minimum level shall be reported as zero and will constitute compliance, however should EPA approve a method with a lower minimum level during the term of this Permit the Permittee shall use the newly approved method.
- b. For pollutant parameters without an established ML, an interim ML may be utilized. The interim ML shall be calculated as 3.18 times the Method Detection Level (MDL) calculated pursuant to 40 CFR Part 136, Appendix B.

Permittees may develop an effluent matrix-specific ML, where an effluent matrix prevents attainment of the established ML. However, a matrix specific ML shall be based upon proper laboratory method and technique. Matrix-specific MLs must be approved by the Department, and may be developed by the Permittee during permit issuance, reissuance, modification, or during compliance schedule.

In either case the measured value should be reported if the analytical result is at or above the ML and "0" reported for values below the ML.

- c. For parameters without an EPA-established ML, interim ML, or matrix-specific ML, a report of less than the detection limit shall constitute compliance if the detection limit of all analytical methods is higher than the permit limit using the most sensitive EPA approved method. For the purpose of calculating a monthly average, "0" shall be used for values reported less than the detection limit.

The Minimum Level utilized for procedures identified in Parts III.D.4.(a) and (b) above shall be reported on the Permittee's DMR. When an EPA approved test procedure for analysis of a pollutant does not exist, the Director shall approve the procedure to be used.

#### 5. Recording of Results

For each measurement or sample taken pursuant to the requirements this General Permit, the Permittee shall record the following information:

- a. The facility name and location, point source number as indicated in the NOI (if applicable), date, time, and exact place of sampling or measurements;
- b. The name(s) of person(s) who obtained the samples or measurements;
- c. The dates and times the analyses were performed;
- d. The name(s) of the person(s) who performed the analyses;
- e. The analytical techniques or methods used including source of method and method number; and
- f. The results of all required analyses.

#### 6. Routine Inspection by Permittee

- a. The Permittee shall inspect all point sources identified in the Permittee's NOI and all treatment or control facilities or systems used by the Permittee to achieve compliance with the terms and conditions of this Permit at least as often as the applicable sampling frequency specified in Part III.D.1. of this Permit.
- b. The Permittee shall maintain a written log for each point source identified in the Permittee's NOI in which the Permittee shall record the following information:
  - (1) The date and time the point source and any associated treatment or control facilities or systems were inspected by the Permittee;
  - (2) Whether there was a discharge from the point source at the time of inspection by the Permittee;
  - (3) Whether a sample of the discharge from the point source was collected at the time of inspection by the Permittee;
  - (4) Whether all associated treatment or control facilities or systems appeared to be in good working order and operating as efficiently as possible, and if not, a description of the problems or deficiencies; and
  - (5) The name and signature of the person performing the inspection of the point source and associated treatment or control facilities or systems.

#### 7. Retention of Records

- a. The Permittee shall retain records of all inspection records, monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this General Permit, and records of all data used to

complete such reports, for a period of at least three (3) years from the date of the inspection, sample measurement, or report. This period may be extended by request of the Director at any time. If litigation or other enforcement action, under the AWPCA and/or the FWPCA, is ongoing which involves any of these records, the records shall be kept until the litigation is resolved.

- b. All records required to be kept for a period of three (3) years shall be kept at the permitted facility or an alternate location identified to the Department in writing and shall be made available for inspection upon request.

#### 8. Monitoring Equipment and Instrumentation

All equipment and instrumentation used to determine compliance with the requirements of this Permit shall be installed, maintained, and calibrated in accordance with the manufacturer's instructions or, in the absence of manufacturer's instructions, in accordance with accepted practices. The Permittee shall develop and maintain quality assurance procedures to ensure proper operation and maintenance of all equipment and instrumentation. The quality assurance procedures shall include the proper use, maintenance, and installation, when appropriate, of monitoring equipment at the plant site.

### E. DISCHARGE REPORTING REQUIREMENTS

#### 1. Reporting of Monitoring Requirements

- a. Monitoring results obtained during the previous three (3) months shall be summarized for each month on a Discharge Monitoring Report (DMR) Form approved by the Department, and submitted to the Department so that it is received by the Director no later than the 28th day of the month following the quarterly reporting period (*i.e.*, on the 28th day of January, April, July, and October of each year).
- b. The Department utilizes a web-based electronic environmental (E2) reporting system for submittal of DMRs. Except as allowed by Part III.E.1.c. or d., the Permittee shall submit all DMRs required by Part III.E.1.a. by utilizing the E2 reporting system. The E2 reporting system Permittee Participation Package may be downloaded online at <https://e2.adem.alabama.gov/npdes>.
- c. If the E2 reporting system is down (*i.e.*, electronic submittal of DMR data is unable to be completed due to technical problems originating with the Department's system; this could include entry/submittal issues with an entire set of DMRs or individual parameters), permittees are not relieved of their obligation to submit DMR data to the Department by the required submittal date. However, if the E2 reporting system is down on the 28th day of the month or is down for an extended period of time as determined by the Department when a DMR is required to be submitted, the Permittee may submit the data in an alternate manner and format acceptable to the Department. Preapproved alternate acceptable methods include faxing, e-mailing, mailing, or hand-delivery of data such that they are received by the required reporting date. Within five calendar days of the E2 reporting system resuming operation, the Permittee shall enter the data into the E2 reporting system unless an alternate timeframe is approved by the Department. An attachment should be included with the E2 DMR submittal verifying the original submittal date (*e.g.*, date of the fax, copy of dated e-mail, or hand-delivery stamped date).
- d. The Permittee may submit a request to the Department for a temporary electronic reporting waiver for DMR submittals. The waiver request should include the permit number; Permittee name; facility/site name; facility address; name, address, and contact information for the responsible official or duly authorized representative; a detailed statement regarding the basis for requesting such a waiver; and the duration for which the waiver is requested. Approved electronic reporting waivers are not transferrable. Permittees with an approved electronic reporting waiver for DMRs may submit hard copy DMRs for the period that the approved electronic reporting waiver request is effective. The Permittee shall submit the Department-approved DMR forms to the address listed in Part II.D.1.

- e. If the Permittee, using approved analytical methods as specified in Part III.D.4., monitors any discharge from a point source identified in the NOI more frequently than required by this Permit, the results of such monitoring shall be included in the calculation and reporting of values on the DMR Form, and the increased frequency shall be indicated on the DMR Form.
- f. In the event no discharge from a point source identified in the NOI occurs during a monitoring period, the Permittee shall report "No Discharge" for such period on the appropriate DMR Form.
- g. Each DMR Form submitted by the Permittee to the Department in accordance with Part III.E.1. must be legible and bear an original or electronic signature. Photo and electronic copies of the signature are not acceptable and shall not satisfy the reporting requirements of this General Permit.
- h. All reports and forms required to be submitted by this Permit, the AWPCA, and the Department's rules and regulations, shall be signed by a "responsible official" of the Permittee as defined in ADEM Admin. Code r. 335-6-6-.09 or a "duly authorized representative" of such official as defined in ADEM Admin. Code r. 335-6-6-.09 and shall bear 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."*

- i. Unless authorized in writing by the Department, approved reporting forms required by this Permit or the Department are not to be altered, and if copied or reproduced, must be consistent in format and identical in content to the ADEM approved form. Unauthorized alteration, falsification, or use of incorrectly reproduced forms constitutes noncompliance with the requirements of this Permit and may significantly delay processing of any request, result in denial of the request, result in permit termination, revocation, suspension, modification, or denial of a permit renewal NOI, or result in other enforcement action.

## 2. Noncompliance Notification

- a. The Permittee must notify the Department if, for any reason, the Permittee's discharge:
  - (1) Potentially threatens human health or welfare;
  - (2) Potentially threatens fish or aquatic life;
  - (3) Causes a contravention of in-stream water quality standards;
  - (4) Does not comply with an applicable toxic pollutant effluent standard or prohibition established under Section 307(a) of the FWPCA, 33 U.S.C. §1317(a);
  - (5) Contains a quantity of a hazardous substance which has been determined may be harmful to the public health or welfare under Section 311(b)(4) of the FWPCA, 33 U.S.C. §1321(b)(4);
  - (6) Is a direct or indirect unauthorized discharge of a pollutant to a water of the State, regardless of the cause of the discharge. This requirement shall not apply to spills or releases that are properly reported to the Department under any other state or federal requirement, if the report is made in accordance with the other requirement; or
  - (7) Does not comply with any discharge limitation for an effluent characteristic specified in this Permit as a result of an unanticipated bypass or upset.

- b. The Permittee shall orally or electronically report all occurrences listed in Part III.E.2.a. above, describing the circumstances and potential effects of such discharge to the Director no later than 24-hours after the Permittee becomes aware of the occurrence of such discharge. In addition to the oral or electronic report, the Permittee shall submit to the Director a written report as provided in Part III.E.2.d. below, no later than five (5) days after becoming aware of the occurrence of such discharge.
  - c. If for any reason, the Permittee's discharge does not comply with any limitation of this Permit, the Permittee shall submit a written or electronic report to the Director as provided in Part III.E.2.d. This report must be submitted as an attachment to the next DMR required to be submitted by Part III.E.1. of this Permit after becoming aware of the occurrence of such noncompliance.
  - d. Form 401 or 421 must be submitted to the Director in accordance with Parts III.E.2.b. and c. The completed form must document the following information:
    - (1) A description of the discharge and cause of noncompliance;
    - (2) The period of noncompliance, including exact dates, times, and duration of the noncompliance. If not corrected by the due date of the written report, then the Permittee is to state the anticipated timeframe that is expected to transpire before the noncompliance is resolved; and
    - (3) A description of the steps taken and/or being taken to reduce or eliminate the noncomplying discharge and to prevent its recurrence.
3. Reduction, Suspension, or Termination of Monitoring and/or Reporting
- a. The Director may, with respect to any point source identified and described on the Permittee's NOI, authorize the Permittee to reduce, suspend, or terminate the monitoring and/or reporting required by this Permit upon the submission of a written request for such reduction, suspension, or termination by the Permittee provided:
    - (1) All mining, processing, or disturbance in the drainage basin(s) associated with the discharge has ceased and site access is adequately restricted or controlled to preclude unpermitted and unauthorized mining, processing, transportation, or associated operations/activity;
    - (2) Permanent, perennial vegetation has been re-established on all areas mined or disturbed for at least one year since mining has ceased in the drainage basin(s) associated with the surface discharge, or all areas have been permanently graded such that all drainage is directed back into the mined pit to preclude all surface discharges;
    - (3) Unless waived in writing by the Department, the Permittee has been granted, in writing, a 100% Bond Release by the ADOL for all areas mined or disturbed in the drainage basin(s) associated with the discharge;
    - (4) Unless waived in writing by the Department, the Permittee has submitted inspection reports prepared and certified by a Professional Engineer (PE) registered in the State of Alabama or a qualified professional under the PE's direction which certify that the facility has been fully reclaimed or that water quality remediation has been achieved. The first inspection must be conducted approximately one year prior to and the second inspection must be conducted within thirty days of the Permittee's request for termination of monitoring and reporting requirements;
    - (5) All surface effects of the mining activity such as fuel or chemical tanks, preparation plants or equipment, old tools or equipment, junk or debris, etc., must be removed and disposed of according to applicable state and federal regulations;
    - (6) The Permittee's request for termination of monitoring and reporting requirements contained in this Permit has been supported by monitoring data covering a period of at least six consecutive months

or such longer period as is necessary to assure that the data reflect discharges occurring during varying seasonal climatological conditions;

- (7) The Permittee has stated in its request that the samples collected and reported in the monitoring data submitted in support of the Permittee's request for monitoring termination or suspension are representative of the discharge and were collected in accordance with all Permit terms and conditions respecting sampling times (*e.g.*, rainfall events) and methods and were analyzed in accordance with all Permit terms and conditions respecting analytical methods and procedures;
  - (8) The Permittee has certified that during the entire period covered by the monitoring data submitted, no chemical treatment of the discharge was provided;
  - (9) The Permittee has submitted as an attachment to the request for reduction, suspension, or termination of the monitoring and/or reporting requirements, an Outfall Certification Summary in a format approved or provided by the Department. The Outfall Certification Summary shall indicate whether each outfall identified on the Permittee's NOI has been certified and, if so, it shall include the date for each certification. If any outfall identified on the NOI has been released from monitoring requirements as provided in Part III.E.3. of this Permit, then the list of outfalls shall include the date of the monitoring requirement release.
  - (10) The Permittee's request has included the certification required by Part III.E.1.h. of this General Permit; and
  - (11) The Permittee has certified to the Director in writing as part of the request, its compliance with Parts III.E.3.a.(1) through (10) above.
- b. It remains the responsibility of the Permittee to comply with the monitoring and reporting requirements of this General Permit until written authorization to reduce, suspend, or terminate such monitoring and/or reporting is received by the Permittee from the Director.

## **F. OTHER REPORTING AND NOTIFICATION REQUIREMENTS**

### **1. Anticipated Noncompliance**

The Permittee shall give the Director written advance notice of any planned changes or other circumstances regarding a facility which may result in noncompliance with permit requirements.

### **2. Termination of Discharge**

The Permittee shall notify the Director, in writing, when all discharges from any point source(s) identified and described more fully in the Permittee's NOI have permanently ceased.

### **3. Updating Information**

- a. The Permittee shall inform the Director of any change in the Permittee's mailing address or telephone number or in the Permittee's designation of a facility contact or officer(s) having the authority and responsibility to prevent and abate violations of the AWPCA, the AEMA, the Department's rules and regulations, and the terms and conditions of this Permit, in writing, no later than ten (10) days after such change. Upon request of the Director, the Permittee shall furnish the Director with an update of any information provided in the NOI.
- b. If the Permittee becomes aware that it failed to submit any relevant facts in the NOI, or submitted incorrect information in an NOI or in any report to the Director, it shall promptly submit such facts or information with a written explanation for the mistake and/or omission.

4. Duty to Provide Information

- a. The Permittee shall furnish to the Director upon request and within a reasonable time, any information to determine whether cause exists for modifying, revoking and re-issuing, suspending, or terminating authorization under this General Permit, in whole or in part, or to determine compliance with this Permit. The Permittee shall also furnish to the Director upon request, copies of records required to be kept by this Permit.
- b. The Permittee shall furnish to the Director upon request and within a reasonable time, available information (*e.g.*, name, phone number, address, and site location) which identifies offsite sources of material or natural resources (*e.g.*, mineral, ore, or other material such as iron, coal, coke, dirt, chert, clay, sand, gravel, bauxite, rock, stone, etc.) used in its operation or stored at the facility.

**G. SIGNATORY REQUIREMENTS**

The NOI and all reports or information submitted to the Director shall be signed and certified according to the requirement of ADEM Admin. Code r. 335-6-6-.09. Where required by this Permit, documents will also be signed by a registered PE licensed to practice in the State of Alabama.

**H. SCHEDULE OF COMPLIANCE**

The Permittee shall achieve compliance with the requirements of this General Permit on the effective date of coverage under this Permit.

## **PART IV OTHER REQUIREMENTS, RESPONSIBILITIES, AND DUTIES**

### **A. OPERATIONAL AND MANAGEMENT REQUIREMENTS**

#### 1. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this General Permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. Operation of backup or auxiliary facilities is required only when necessary to achieve compliance with the conditions of this Permit.

#### 2. Pollution Abatement and/or Prevention Plan

The Pollution Abatement and/or Prevention (PAP) Plan shall be prepared and certified by a registered PE licensed to practice in the State of Alabama, and shall include, at a minimum, the information indicated in ADEM Admin. Code ch. 335-6-9 and its Appendices A and B as well as a description of the Best Management Practices (BMPs) which will be implemented to provide control of all nonpoint source pollution that is or may be associated with the Permittee's operations. The PAP Plan shall become a part of this Permit and all requirements of the PAP Plan shall become requirements of this Permit pursuant to ADEM Admin Code r. 335-6-9-.05(2). The PAP Plan shall be amended if the Department determines that the existing sediment control measures, erosion control measures, or other site management practices are ineffective or do not meet the requirements of this Permit.

#### 3. Additional Best Management Practices

- a. Unless otherwise authorized in writing by the Director, the Permittee shall provide a means of subsurface withdrawal for any discharge from each point source identified and described on the Permittee's NOI. Notwithstanding the above provision, a means of subsurface withdrawal need not be provided for any discharge caused by a 24-hour precipitation event greater than a 10-year, 24-hour precipitation event.
- b. Dilution water shall not be added to achieve compliance with discharge limitations except when the Director has granted prior written authorization for dilution to meet water quality requirements.
- c. The Permittee shall minimize the contact of water with overburden, including but not limited to stabilizing disturbed areas through grading, diverting runoff, achieving quick growing stands of temporary vegetation, sealing acid-forming and toxic-forming materials, and maximizing placement of waste materials in back-fill areas.
- d. Spill Prevention, Control, and Management

The Permittee shall prepare, implement, and maintain a Spill Prevention, Control and Countermeasures (SPCC) Plan acceptable to the Department that is prepared and certified by a Professional Engineer (PE), registered in the State of Alabama, for all onsite petroleum product or other pollutant storage tanks or containers as provided by ADEM Admin. Code r. 335-6-6-.08(j)5. The Plan shall describe and the Permittee shall implement appropriate structural and/or non-structural spill prevention, control, and/or management pursuant to ADEM Admin. Code r. 335-6-6-.12(r) sufficient to prevent any spills of pollutants from entering a ground or surface water of the State or a publicly or privately owned treatment works. The Plan shall include at a minimum, the engineering requirements provided in 40 C.F.R. §112.1. Any containment system used to implement this requirement shall be constructed of materials compatible with the substance(s) contained and shall prevent the contamination of groundwater. Such containment systems shall be capable of retaining a volume equal to 110 percent of the capacity of the largest tank for which containment is provided. The SPCC Plan shall listed any materials which the

Permittee may utilize to contain and to absorb fuel and chemical spills and leaks. The Permittee shall maintain sufficient amounts of such materials onsite or have sufficient amounts of such materials readily available to contain and/or absorb fuel and chemical spills and leaks. Soil contaminated by chemical spills, oil spills, etc., must be immediately cleaned up or be removed and disposed of in a manner consistent with all State and federal regulations.

- e. The Permittee shall take all reasonable precautions to prevent any surface drainage or stormwater runoff which originates outside the Permittee's premises and which contains any pollutants or other wastes from entering the Permittee's premises. At no time shall the Permittee discharge any such surface drainage or stormwater runoff which enters the Permittee's premises if, either alone or in combination with the Permittee's effluent, the discharge would exceed any applicable discharge limitation specified in Part III.A. of this Permit.

#### 4. Facility Identification

The Permittee shall clearly display, prior to commencement of any regulated activity and until permit coverage is properly terminated, the name of the Permittee, entire NPDES permit number, facility or site name, and other descriptive information deemed appropriate by the Permittee at the site entrance or other easily accessible location(s) to adequately identify the site, unless approved otherwise in writing by the Department. The Permittee shall repair or replace the sign(s) as necessary upon becoming aware that the identification is missing or is unreadable due to age, vandalism, theft, weather, or other reason.

#### 5. Removed Substances

Solids, sludges, filter backwash, or any other pollutants or other wastes removed in the course of treatment or control of wastewaters shall be disposed of in a manner that complies with all applicable Department rules and regulations.

#### 6. Loss or Failure of Treatment Facilities

Upon the loss or failure of any treatment facility, including but not limited to the loss or failure of the primary source of power of the treatment facility, the Permittee shall, where necessary to maintain compliance with the discharge limitations specified in Part III.A. of this Permit or any other terms or conditions of this Permit, cease, reduce, or otherwise control production and/or discharges until treatment is restored.

#### 7. Duty to Mitigate

The Permittee shall promptly take all reasonable steps to minimize or prevent any violation of this Permit or to mitigate and minimize any adverse impact to waters resulting from noncompliance with any discharge limitation specified in this Permit, including such accelerated or additional monitoring of the discharge and/or the receiving waterbody as is necessary to determine the nature and impact of the noncomplying discharge.

### **B. BYPASS AND UPSET**

#### 1. Bypass

- a. Any bypass is prohibited except as provided in Parts IV.B.1.b. and c. below.

- b. A bypass is not prohibited if:

- (1) It does not cause any applicable discharge limitation specified in Part III.A. of this Permit to be exceeded;
- (2) The discharge resulting from such bypass enters the same receiving water as the discharge from the permitted outfall;

- (3) It is necessary for essential maintenance of a treatment or control facility or system to assure efficient operation of such facility or system; and
  - (4) The Permittee monitors the discharge resulting from such bypass at a frequency, at least daily, sufficient to prove compliance with the discharge limitations specified in Part III.A. of this Permit.
- c. A bypass is not prohibited and need not meet the discharge limitations specified in Part III.A. of this Permit if:
- (1) It is unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (2) There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the Permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - (3) The Permittee submits a written request for authorization to bypass to the Director at least ten (10) days, if possible, prior to the anticipated bypass or within 24 hours of an unanticipated bypass, the Permittee is granted such authorization, and Permittee complies with any conditions imposed by the Director to minimize any adverse impact to waters resulting from the bypass.
- d. The Permittee has the burden of establishing that each of the conditions of Parts IV.B.1.b. or c. have been met to qualify for an exception to the general prohibition against bypassing contained in Part IV.B.1.a. and an exemption, where applicable, from the discharge limitations specified in Part III.A. of this Permit.

## 2. Upset

- a. Except as provided in Parts IV.B.2.b. and c. below, a discharge which results from an upset need not meet the applicable discharge limitations specified in Part III.A. of this Permit if:
- (1) No later than 24-hours after becoming aware of the occurrence of the upset, the Permittee orally reports the occurrence and circumstances of the upset to the Director; and
  - (2) No later than five (5) days after becoming aware of the occurrence of the upset, the Permittee furnishes the Director with evidence, including properly signed, contemporaneous operating logs, design drawings, construction certification, maintenance records, weir flow measurements, dated photographs, rain gauge measurements, or other relevant evidence, demonstrating that:
    - (a) An upset occurred;
    - (b) The Permittee can identify the specific cause(s) of the upset;
    - (c) The Permittee's treatment facility was being properly operated at the time of the upset; and
    - (d) The Permittee promptly took all reasonable steps to minimize any adverse impact to waters resulting from the upset.
- b. Notwithstanding the provisions of Part IV.B.2.a., a discharge which is an overflow from a treatment facility or system, or an excess discharge from a point source associated with a treatment facility or system and which results from a 24-hour precipitation event larger than a 10-year, 24-hour precipitation event is not exempted from the discharge limitations specified in Part III.A. of this Permit unless:
- (1) The treatment facility or system is designed, constructed, and maintained to contain the maximum volume of wastewater which would be generated by the facility during a 24-hour period without an

increase in volume from precipitation and the maximum volume of wastewater resulting from a 10-year, 24-hour precipitation event or to treat the maximum flow associated with these volumes.

In computing the maximum volume of wastewater which would result from a 10-year, 24-hour precipitation event, the volume which would result from all areas contributing runoff to the individual treatment facility must be included (*i.e.*, all runoff that is not diverted from the mining area and runoff which is not diverted from the preparation plant area); and

- (2) The Permittee takes all reasonable steps to maintain treatment of the wastewater and minimize the amount of overflow or excess discharge.
- c. The Permittee has the burden of establishing that each of the conditions of Parts IV.B.2.a. and b. have been met to qualify for an exemption from the discharge limitations specified in Part III.A. of this Permit.

### C. PERMIT CONDITIONS AND RESTRICTIONS

#### 1. Permit Modification, Revocation and Reissuance, and Termination

- a. In accordance with ADEM Admin. Code r. 335-6-6-.23(7), the Director may modify, revoke and reissue, or terminate this Permit during its term for cause including, but not limited to, the following:
  - (1) The Director's receipt of any information that was not available at the time of permit issuance and that would have justified the application of different permit conditions at the time of issuance;
  - (2) The change of any standards or regulations on which this Permit was based by promulgation of amended standards or regulations or by judicial decision after this Permit was issued;
  - (3) The failure of the state to notify another state whose waters may be affected by a discharge;
  - (4) The exceedance of the pollutant level which can be achieved by the technology based treatment requirements appropriate to the discharge under 40 CFR § 123.3(c) (1994) for any pollutant not limited in this Permit;
  - (5) The need to correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions;
  - (6) The discovery that the permit limitations in this Permit are not protective of state water quality standards;
  - (7) Any other applicable cause set forth in 40 CFR §§ 122.61, 122.62, 122.63, and 122.64 (1994).
- b. In accordance with ADEM Admin. Code r. 335-6-6-.23(7)(c), the Director may terminate coverage under this General Permit for cause including, but not limited to, the following:
  - (1) Noncompliance with the terms and conditions of this Permit;
  - (2) Noncompliance with Department rules or regulations;
  - (3) A finding that the General Permit does not control the discharge sufficiently to protect water quality or comply with the treatment based limitations applicable to the discharge; or
  - (4) The receipt of a request by the Permittee for termination of coverage under this Permit following or concurrent with a suspension or termination of monitoring and/or reporting requirements addressed by Part III.E.3. of this Permit.

- c. The filing of a request by the Permittee for modification, suspension, termination, or revocation and reissuance of coverage under this General Permit, in whole or in part, does not stay any Permit term or condition of this Permit.

2. Transfer of Permit

Coverage under this General Permit may not be transferred or the name of the Permittee changed without notice to the Director and subsequent NOI submitted to modify coverage under this Permit to identify the new Permittee and to incorporate any other changes to the NOI as may be required under the FWPCA or AWPCA. In the case of a change in name, ownership, or control of the Permittee's premises only, a request for modification of Permit coverage in a format acceptable to the Director is required at least 30 days prior to the change. In the case of a change in name, ownership, or control of the Permittee's premises accompanied by a change or proposed change in effluent characteristics, a complete NOI is required to be submitted to the Director at least 90 days prior to the change. Whenever the Director is notified of a change in name, ownership, or control, he may decide not to modify the existing Permit coverage and require the submission of an individual permit application.

3. Groundwater

Unless identified as a receiving water in the NOI, this General Permit does not authorize any discharge to groundwater. Should a threat of groundwater contamination occur, the Director may require groundwater monitoring to properly assess the degree of the problem, and the Director may require that the Permittee undertake measures to abate any such discharge and/or contamination.

4. Property and Other Rights

This Permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations, nor does it authorize or approve the construction of any physical structures or facilities or the undertaking of any work in any waters of the State or of the United States.

## **D. PERMITTEE RESPONSIBILITIES**

1. Duty to Comply

- a. The Permittee must comply with all terms and conditions of this General Permit. Any permit noncompliance constitutes a violation of the AWPCA and the FWPCA and is grounds for enforcement action; termination of coverage under this Permit; suspension of coverage under this Permit; denial of an NOI for future iterations of this Permit; or a requirement that the Permittee submit obtain NPDES coverage via an individual NPDES permit.
- b. The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the FWPCA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if this General Permit has not yet been modified to incorporate the effluent standard, prohibition or requirement.
- c. For any violation(s) of this General Permit, the Permittee is subject to a civil penalty as authorized by the AWPCA, the FWPCA, and Code of Alabama 1975, §§22-22A-1 et. seq., as amended, and/or a criminal penalty as authorized by Code of Alabama 1975, §22-22-1 et. seq., as amended.
- d. The necessity to halt or reduce mining or other activities in order to maintain compliance with the conditions of this Permit shall not be a defense for a Permittee in an enforcement action.

- e. The discharge of a pollutant from a source not specifically identified in the NOI to be covered under this General Permit is not authorized and shall constitute noncompliance with this Permit.
- f. Nothing in this Permit shall be construed to preclude or negate the Permittee's responsibility or liability to apply for, obtain, or comply with other ADEM, federal, state, or local government permits, certifications, licenses, or other approvals.
- g. The Permittee shall take all reasonable steps, including cessation of production or other activities, to minimize or prevent any violation of this Permit or to minimize or prevent any adverse impact of any permit violation.

2. Change in Discharge

- a. The Permittee shall apply for a permit modification at least 90 days in advance of any facility expansion, production increase, process change, or other action that could result in the discharge of additional pollutants, increase the quantity of a discharged pollutant, or that could result in an additional discharge point. This requirement also applies to pollutants that are not subject to discharge limitations in this Permit. No new or increased discharge may begin until the Director has authorized it by issuance of a permit modification or a reissued permit.
- b. The Permittee shall notify the Director as soon as it knows or has reason to believe that it has begun or expects to begin to discharge any pollutant listed as a toxic pollutant pursuant to Section 307(a) of the FWPCA, 33 U.S.C. §1317(a), any substance designated as a hazardous substance pursuant to Section 311(b)(2) of the FWPCA, 33 U.S.C. §1321(b)(2), any waste listed as a hazardous waste pursuant to Code of Alabama 1975, §22-30-10, or any other pollutants or other wastes which is not subject to any discharge limitations specified in this Permit, and was not reported in the Permittee's NOI, was reported in the Permittee's NOI in concentrations or mass rates lower than that which the Permittee expects to begin to be discharged, or has reason to believe has begun to be discharged.

3. Compliance with Toxic Pollutant Standard or Prohibition

If any applicable effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the FWPCA, 33 U.S.C. Section 1317(a), for a toxic pollutant discharged by the Permittee and such standard or prohibition is more stringent than any discharge limitation on the pollutant specified in this General Permit, or controls a pollutant not limited in this Permit, this Permit shall be modified to conform to the toxic pollutant effluent standard or prohibition and the Permittee shall be notified of such modification. If this Permit has not been modified to conform to the toxic pollutant effluent standard or prohibition before the effective date of such standard or prohibition, the Permittee shall attain compliance with the requirements of the standard or prohibition within the time period required by the standard or prohibition and shall continue to comply with the standard or prohibition until this Permit is modified or reissued.

4. Compliance with Water Quality Standards and Other Provisions

- a. On the basis of the Permittee's NOI, plans, or other available information, the Department has determined that compliance with the terms and conditions of this General Permit will assure compliance with applicable water quality standards. However, this Permit does not relieve the Permittee from compliance with applicable State water quality standards established in ADEM Admin. Code ch. 335-6-10, and does not preclude the Department from taking action as appropriate to address the potential for contravention of applicable State water quality standards which could result from discharges of pollutants from the permitted facility.
- b. Compliance with permit terms and conditions notwithstanding, if the Permittee's discharge(s) cause(s) or contribute(s) to a condition in contravention of State water quality standards, the Department may require abatement action to be taken by the Permittee, modify the permit pursuant to the Department's rules and regulations, or both.

- c. If the Department determines, on the basis of a notice provided pursuant to Part IV.D.2. of this Permit or any investigation, inspection, or sampling, that a modification of this Permit is necessary to assure maintenance of water quality standards or compliance with other provisions of the AWPCA or FWPCA, the Department may require such modification and, in cases of emergency, the Director may prohibit the noticed act until the permit has been modified.

5. Compliance with Statutes and Rules

- a. This Permit has been issued under ADEM Admin. Code div. 335-6. All provisions of this division that are applicable to this General Permit are hereby made a part of this Permit. A copy of this chapter can be found on the ADEM website at: <http://www.adem.state.al.us/alEnviroRegLaws/files/Division6Voll.pdf>.
- b. This Permit does not authorize the noncompliance with or violation of any Laws of the State of Alabama or the United States of America or any regulations or rules implementing such laws. FWPCA, 33 U.S.C. Section 1319, and Code of Alabama 1975, Section 22-22-14.

6. Right of Entry and Inspection

The Permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:

- a. Enter upon the Permittee's premises where a regulated 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, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the AWPCA, any activities, substances or parameters at any location.

7. Duty to Reapply

- a. If the Permittee authorized to discharge under this General Permit wishes to continue to discharge and engage in regulated activities upon the expiration of this Permit, the Permittee shall submit an NOI to be covered by the reissued General Permit. Such NOI shall be submitted at least 90 days prior to the expiration date of this General Permit.
- b. If the Permittee authorized to discharge under this General Permit does not desire to continue the discharge(s) and engage in regulated activities allowed by this Permit, the Permittee shall notify the Department at least 90 days prior to expiration of this Permit of the Permittee's intention not to request reissuance of coverage under this Permit. This notification must include the information required in Part III.E.3.a. and be signed by an individual meeting the signatory requirements for a permit application as set forth in ADEM Admin. Code r. 335-6-6-.09.
- c. Failure of the Permittee to submit a complete NOI for reauthorization under this General Permit at least 90 days prior to the Permit's expiration will void the automatic continuation of the authorization to discharge under this Permit as provided by ADEM Admin. Code r. 335-6-6-.06. Should the Permit not be reissued for any reason prior to its expiration date, any discharges from the site and other regulated activities will be unpermitted.

## **PART V ADDITIONAL PERMIT CONDITIONS**

### **A. CIVIL AND CRIMINAL LIABILITY**

1. Tampering

Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained or performed under this Permit shall, upon conviction, be subject to penalties and/or imprisonment as provided by the AWPCA and/or the AEMA.

2. False Statements

Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished as provided by applicable State and Federal law.

3. Permit Enforcement

This NPDES Permit is a permit for the purpose of the AWPCA, the AEMA, and the FWPCA, and as such all terms, conditions, or limitations of this Permit are enforceable under State and Federal law.

4. Relief From Liability

Except as provided in Part IV.B.1. (Bypass) and Part IV.B.2. (Upset), nothing in this Permit shall be construed to relieve the Permittee of civil or criminal liability under the AWPCA, AEMA, or FWPCA for noncompliance with any term or condition of this Permit.

### **B. OIL AND HAZARDOUS SUBSTANCE LIABILITY**

Nothing in this General Permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject to under Section 311 of the FWPCA, 33 U.S.C. §1321.

### **C. AVAILABILITY OF REPORTS**

Except for data determined to be confidential under Code of Alabama 1975, §22-22-9(c), all reports prepared in accordance with the terms of this General Permit shall be available for public inspection at the offices of the Department. Effluent data shall not be considered confidential. Knowingly making any false statement in any such report may result in the imposition of criminal penalties as provided for in Section 309 of the FWPCA, 33 U.S.C. §1319, and Code of Alabama 1975, §22-22-14.

### **D. SEVERABILITY**

The provisions of this Permit are severable, and if any provision of this Permit or the application of any provision of this Permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this Permit shall not be affected thereby.

### **E. DISCHARGES TO IMPAIRED WATERS**

1. This General Permit does not authorize new sources or new dischargers of pollutants of concern to impaired waters unless consistent with an EPA-approved or EPA-established Total Maximum Daily Load (TMDL) and applicable State law, or unless compliance with the limitations and requirements of the Permit ensure

that the discharge will not contribute to further degradation of the receiving stream. Impaired waters are those that do not meet applicable water quality standards and are identified by an EPA-approved or EPA-established TMDL and/or on the State of Alabama's 303(d) list. Pollutants of concern are those pollutants for which the water body is listed as impaired or which contribute to the listed impairment.

2. The facility otherwise eligible for coverage, or currently covered, under this General Permit must determine whether its discharge(s) contributes directly or indirectly to a waterbody that is included on the latest 303(d) list or otherwise designated by the Department as impaired or is included in an EPA-approved or EPA-established TMDL. If the facility has discharges meeting this criterion, it must obtain an individual permit for its discharge(s) in accordance with Part V.F.

## **F. ISSUANCE OF AN INDIVIDUAL PERMIT**

1. The Director may require the Permittee to apply for an individual NPDES permit for any or all of the discharges and regulated activities covered by this Permit in accordance with ADEM Admin. Code r. 335-6-6-.23(9). Reasons for requiring an application for an individual permit may include, but is not limited to:
  - a. Noncompliance with the General Permit;
  - b. Noncompliance with Department rules;
  - c. A change in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the wastewater being discharged;
  - d. The promulgation of effluent limit guidelines for the point source(s) covered by this General Permit;
  - e. Development of a Water Quality Management Plan applicable to the wastewater being discharged under this General Permit;
  - f. A change in circumstances since the time of the NOI submittal so that the discharges is no longer appropriately controlled under this General Permit or a temporary or permanent reduction or elimination of the authorized discharge is necessary;
  - g. The Permittee is a significant contributor of pollutants; or
  - h. A determination that the water of the State receiving the discharge is not meeting applicable water quality standards.
2. Any person covered by this General Permit may apply for termination of coverage by applying for an individual NPDES permit.
3. An individual NPDES permit application submitted voluntarily or at the direction of the Director for the purpose of termination of coverage by this General Permit shall be processed in accordance with the rules found in ADEM Admin. Code ch. 335-6-6 applicable to individual permits except that a public notice period shall not be required for termination of coverage requested by the Permittee.
4. Any person may petition the Director for withdrawal of this General Permit coverage from a discharger. The Director shall consider the information submitted by the petitioner and any other information he may be aware of and may obtain additional information from the discharger and through inspections by Department staff and shall decide if coverage should be withdrawn. The petitioner shall be informed of the Director's decision and shall be provided a summary of the information considered.

## **G. PROHIBITION AND ACTIVITIES NOT AUTHORIZED**

1. Discharges from disposal or landfill activities as described in ADEM Admin. Code div. 335-13 are not authorized by this Permit unless specifically approved by the Department.
2. Relocation, diversion, or other alteration of a water of the State is not authorized by this Permit unless specifically approved by the Department.
3. Lime or cement manufacturing or production and discharge of process waters from such manufacturing or production is not authorized by this Permit unless specifically approved by the Department.
4. Concrete or asphalt manufacturing or production and discharge of process waters from such manufacturing or production is not authorized by this Permit unless specifically approved by the Department.
5. The discharge of wastewater, generated by any process, facility, or by any other means not under the operational control of the Permittee or not identified in the NOI for coverage under this General Permit or not identified specifically in the description of an outfall in the NOI is not authorized by this Permit.
6. Discharge(s) from instream and within-bank mining are not authorized by this Permit.

## **H. COASTAL ZONE MANAGEMENT (MOBILE AND BALDWIN COUNTIES)**

1. Except for those activities described in Part V.H.2 below, this Permit is conditionally consistent with the Alabama Coastal Area Management Plan (ACAMP) upon continued compliance with the ACAMP.
2. The Permittee shall obtain, as appropriate, a coastal permit or coastal consistency determination from the Department if any activity conducts a use as described in ADEM Admin. Code r. 335-8-1-.08, 335-8-1-.09, 335-8-1-.10 or 335-8-1-.11.

## **I. DEFINITIONS**

1. ADEM - the Alabama Department of Environmental Management.
2. ADOL - the Alabama Department of Labor.
3. Alabama Environmental Management Act (AEMA) - Code of Alabama 1975, §§22-22A-1 et. seq., as amended.
4. Alabama Water Pollution Control Act (AWPCA) - Code of Alabama 1975, §§22-22-1 et. seq., as amended.
5. Average Monthly Discharge Limitation - the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month (no discharge days shall not be included in the number of "daily discharges" measured and a less than detectable test result shall be treated as a concentration of zero if the most sensitive EPA approved method was used).
6. Arithmetic Mean - the summation of the individual values of any set of values divided by the number of individual values
7. Best Management Practices (BMPs) - the implementation and continued maintenance of appropriate structural and non-structural practices and management strategies to prevent and minimize the introduction of pollutants to stormwater and to treat stormwater to remove pollutants prior to discharge.
8. Bypass - the intentional diversion of waste streams from any portion of a treatment facility.

9. Chert Mine - an area on or beneath land, used or disturbed in activity related to the extraction, removal, or recovery of chert from natural or artificial deposits, including active mining, mineral wet processing or beneficiation (regardless of size), reclamation, and mineral storage areas.
10. Clean Water Act (CWA or The Act) - Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq. (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972).
11. Construction Sand and Gravel Mine - an area on or beneath land, used or disturbed in activity related to the extraction, removal, or recovery of sand and/or gravel from natural or artificial deposits, including active mining, mineral wet processing or beneficiation (regardless of size), reclamation, and mineral storage areas.
12. Daily Discharge - the discharge of a pollutant measured during any consecutive 24-hour period in accordance with the sample type and analytical methodology specified by the discharge permit.
13. Daily Maximum - the highest value of any individual sample result obtained during a day.
14. Daily Minimum - the lowest value of any individual sample result obtained during a day.
15. Day - any consecutive 24-hour period.
16. Department - the Alabama Department of Environmental Management or an authorized representative.
17. Director - the Director of the Department or his designee.
18. Dirt Mine - an area on or beneath land, used or disturbed in activity related to the extraction, removal, or recovery of dirt from natural or artificial deposits, including active mining, mineral wet processing or beneficiation (regardless of size), reclamation, and mineral storage areas.
19. Discharge - "[t]he addition, introduction, leaking, spilling or emitting of any sewage, industrial waste, pollutant or other waste into waters of the state." Code of Alabama 1975, §22-22-1(b)(8).
20. Discharge Monitoring Report (DMR) - the form approved by the Director to accomplish monitoring report requirements of an NPDES Permit.
21. EPA - the United States Environmental Protection Agency.
22. Federal Water Pollution Control Act (FWPCA) - 33 U.S.C. §§1251 et. seq., as amended.
23. Flow - the total volume of discharge in a 24-hour period.
24. Grab Sample - a single influent or effluent portion which is not a composite sample. The sample(s) shall be collected at the period(s) most representative of the discharge.
25. Incised Pit - a mining pit which is below grade with sufficient freeboard to prevent discharges resulting from groundwater intrusion, precipitation events less than a 50-year, 24-hour event, or other water sources to surface waters of the State of Alabama.
26. Maximum Extent Practicable - full implementation and regular maintenance of available industry standard technology and effective management practices, designed to prevent and/or minimize discharges of pollutants and ensure protection of groundwater and surface water quality.
27. mg/L - milligrams per liter of discharge.
28. MGD - million gallons per day.

29. Mining Operations - regulated activities in an area, on or beneath land, including but not limited to, advance prospecting, mining site development, extraction, removal, mining, borrowing, remining, storing, transloading, wet and dry processing, transportation, and/or recovery of any mineral, including but not limited to, overburden, dirt, chert, soil, red clay, rock, sand, gravel, and refuse from natural deposits. Pre-mining construction and land preparation, including but not limited to, clearing, grubbing, testing and advance prospecting in advance of mining activity is considered part of the mining operations for which a permit is required prior to commencement. For the purposes of this General Permit, mining operations does not refer to any industrial sand, coal, metal ore, dimension or crushed stone, or associated product. It also does not mean certain clay materials which contain heavy metals (*e.g.*, bauxite, bentonite, fire clay.).
30. Monthly Average - other than for E. coli bacteria, the arithmetic mean of all composite or grab samples taken for the daily discharges collected in one month period. The monthly average for E. coli bacteria is the geometric mean of daily discharge samples collected in a one month period. The monthly average for flow is the arithmetic mean of all flow measurements taken in a one month period. (Zero discharges for flow shall not be included in the calculation of monthly averages.)
31. National Pollutant Discharge Elimination System (NPDES) - a provision of the CWA which prohibits discharge of pollutants into waters of the United States unless a special permit is issued by EPA, a state, or, where delegated, a tribal government on an Indian reservation.
32. Nonpoint Source - a source, other than point source, from which pollution is or may be added to any stream from diffuse locations over a wide area and not easily attributable to a single identifiable point (*e.g.*, sheet flow).
33. Notice of Intent (NOI) - the documentation required to be submitted by the Permittee or Applicant to obtain coverage under this General Permit.
34. PE - a registered professional engineer, presently licensed in the State of Alabama and who is competent to perform work in this field of engineering.
35. Point Source - "any discernible, confined and discrete conveyance, including but not limited to any pipe, channel, ditch, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged." Section 502(14) of the FWPCA, 33 U.S.C. §1362(14).
36. Pollutant - includes for purposes of this Permit, but is not limited to, those pollutants specified in Code of Alabama 1975, §22-22-1(b)(3) and those effluent characteristics, excluding flow, specified in Part III.A. of this Permit.
37. Pollutant of Concern - means those pollutants for which a water body is listed as impaired or which contribute to the listed impairment or other pollutants known or reasonably expected to be found in untreated discharges associated with mining operations.
38. Pollution Abatement and/or Prevention Plan (PAP Plan) – mining operations plan developed to minimize impacts on water quality to avoid a contravention of the applicable water quality standards as defined in ADEM Admin. Code r. 335-6-9-.03.
39. Preparation, Dry - a dry preparation facility within which the mineral/material is cleaned, separated, or otherwise processed without use of water or chemical additives before it is shipped to the customer or otherwise utilized. A dry preparation plant includes all ancillary operations and structures necessary to clean, separate, or otherwise process the mineral/material, such as storage areas and loading facilities. Dry preparation also includes minor water spray(s) used solely for dust suppression on equipment and roads to minimize dust emissions.
40. Preparation, Wet - a wet preparation facility within which the mineral/material is cleaned, separated, or otherwise processed using water or chemical additives before it is shipped to the customer or otherwise

utilized. A wet preparation plant includes all ancillary operations and structures necessary to clean, separate, or otherwise process the mineral/material, such as storage areas and loading facilities. Wet preparation also includes mineral extraction/processing by dredging, slurry pumping, etc.

41. Privately Owned Treatment Works - any devices or system which is used to treat wastes from any facility whose operator is not the operator of the treatment works, and which is not a "POTW."
42. Publicly Owned Treatment Works (POTW) - a wastewater collection and treatment facility owned by the State, municipality, regional entity composed of two or more municipalities, or another entity created by the State or local authority for the purpose of collecting and treating municipal wastewater.
43. Red Clay mine - means an area on or beneath land, used or disturbed in activity related to the extraction, removal, or recovery of red clay from natural or artificial deposits, including active mining, mineral wet processing or beneficiation (regardless of size), reclamation, and mineral storage areas. Mines associated with bauxitic clay, bentonite clay, and fire clay are not included in this definition.
44. Receiving Stream - the "waters" receiving a "discharge" from a "point source" or "nonpoint source."
45. Reclaimed - the condition of a site in which all disturbed areas are permanently covered by completed buildings, other structures, pavement/concrete, other acceptable impervious materials, or other effective permanent non-vegetative structures and practices. Reclaimed may also include the condition of a site in which all disturbed areas have been graded, slopes effectively stabilized, and perennial vegetation has been fully established with the ability to survive in the future if properly maintained, to prevent/minimize to the maximum extent practicable exposure of disturbed soils to erosion as necessary to protect water quality.
46. Severe Property Damage - substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
47. Site - the land or water area where any facility or regulated activity for which coverage under this Permit is required is physically located or conducted, including adjacent land used in connection with the facility or activity.
48. State Water Quality Standards - the numeric and narrative standards set forth at ADEM Admin Code chs. 335-6-10 and 335-6-11.
49. Stormwater - runoff, accumulated precipitation, process water, and other wastewater generated directly or indirectly as a result of mining activity, including but not limited to, precipitation, upgradient or offsite water that cannot be diverted away from the site, and wash down water associated with normal mining activities. Stormwater does not mean discharges authorized by the Department via other permits or regulations.
50. Surface Mining - all or any part of the process of recovering coal, lignite, iron, clay, sand, bauxite, gravel, ores, gold, marble, or any other material or mineral by removal of such mineral from the surface or by removal or displacement of the strata or material which overlies such mineral deposits in its natural condition, and shall include but not be limited to the open-pit or open-cut method, the auger method, and the highwall mining method. It shall not be interpreted to include dredging operations or advance prospecting.
51. Surface Mining Operation - all of the premises, facilities, roads, and equipment used for the process of surface mining in a designated area.
52. Surface Mining Operator - any person, firm, corporation, or partnership engaged in or controlling a surface mining operation including any agent or independent contractor engaged in surface mining under a contract with such person, firm, corporation, or partnership.

53. 10-Year, 24-Hour Precipitation Event - that amount of precipitation which occurs during the maximum 24-hour precipitation event with a probable recurrence interval of once in ten years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, or equivalent regional or rainfall probability information developed therefrom.
54. Total Maximum Daily Load (TMDL) - the calculated maximum permissible pollutant loading to a waterbody at which water quality standards can be maintained. Also, the sum of wasteload allocations (WLAs) and load allocations (LAs) for any given pollutant.
55. TSS - the pollutant parameter Total Suspended Solids.
56. Treatment Facility and Treatment System - all structures which contain, convey, and as necessary, chemically or physically treat mine and/or associated preparation plant drainage and wastewaters, which remove pollutants limited by this Permit from such drainage or wastewater. This includes all pipes, channels, ponds, tanks, and all other equipment serving such structures.
57. 24-Hour Precipitation Event - that amount of precipitation which occurs within any 24-hour period.
58. Waters - "[a]ll waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the State, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual, partnership, or corporation unless such waters are used in interstate commerce." Code of Alabama 1975, §22-22-1(b)(2). "Waters" include all "navigable waters" as defined in §502(7) of the FWPCA, 33 U.S.C. §1362(7), which are within the State of Alabama.
59. Week - the period beginning at twelve midnight Saturday and ending at twelve midnight the following Saturday.

**NPDES GENERAL PERMIT RATIONALE  
SAND AND GRAVEL GENERAL PERMIT  
NPDES PERMIT NO. ALG850000**

**DATE** January 19, 2017 (Amended March 24, 2017)

**PREPARED BY** Catherine A. McNeill

**THIS PERMIT IS A REISSUANCE DUE TO EXPIRATION**

**PERMITTED DISCHARGER**

This permit is intended to cover dischargers who engage in the mining, wet processing, and/or dry processing of construction sand and gravel, chert, dirt, and/or red clay. This permit proposes to provide coverage for discharges to waters of the State from these activities and from areas associated with these activities.

**GEOGRAPHIC AREA COVERED**

The State of Alabama

**RECEIVING WATERS**

All waters of the State of Alabama except those classified or designated as Outstanding Alabama Water (OAW), Outstanding National Resource Water (ONRW), or Treasured Alabama Lake (TAL)

**PERMIT PROCEDURES**

This draft Permit has been developed in accordance with all applicable procedures of ADEM Admin. Code ch. 335-6-6.

**EFFLUENT LIMITATIONS**

Parameter	Discharge Limitations			Monitoring Requirements	
	Daily Minimum	Monthly Average	Daily Maximum	Sample Type	Measurement Frequency
pH 00400 1 0 0	6.0 s.u.	-----	8.5 s.u.	Grab	Twice/Month
Total Suspended Solids 00530 1 0 0	-----	35.0 mg/l	70.0 mg/l	Grab	Twice/Month
Flow 50050 1 0 0	-----	Report MGD	Report MGD	Instantaneous	Twice/Month

Additional narrative limitations are provided in Part III.B. of the draft Permit.

**DISCUSSION**

The Department is proposing to reissue and modify NPDES General Permit ALG850000. This NPDES general permit establishes effluent limitations, prohibitions, reporting requirements, and other conditions on treated discharges associated with mining, wet processing, and/or dry processing of construction sand

and gravel, chert, dirt, and/or red clay, and areas associated with these activities, discharging to all waters of the State not classified or designated as ONRW, OAW, or TAL (ADEM Admin. Code r. 335-6-11-.02).

This permit does not provide coverage for discharges from mining or activities associated with industrial sand, coal, crushed or dimension stone, clay other than red clay (*e.g.*, bauxitic, bentonite, or fire clays), metallic mineral, or ore. This permit also does not provide coverage to any discharge that has a reasonable potential to cause or contribute to a contravention of instream State Water Quality Standards (WQSs) outlined in ADEM Admin. Code ch. 335-6-10.

The permit requirements have been developed to ensure that full compliance with the draft permit terms and conditions is protective of instream water quality and is consistent with applicable instream State WQSs for the receiving streams.

Monitoring for discharges to groundwater is not required because of the natural treatment provided by the geological formation; however, discharges to surface waters must be monitored twice per month.

Technology Based Effluent Limits (TBELs) for construction sand and gravel facilities can be found in 40 CFR 436.32(1) and (2) for facilities that recycle waste water for use in processing and mine dewatering, respectively. The TBELs were promulgated for existing dischargers using the Best Practicable Control Technology Available (BPT). New Source Performance Standards (NSPS) have not yet been developed by the EPA for the Construction Sand and Gravel Subcategory.

No TBELs for chert, dirt, and red clay have been promulgated as of the drafting of this General Permit.

The in-stream WQSs for pH in all state waters are 6.0 to 8.5 s.u. per ADEM Admin. Code r. 335-6-10-.09 (excluding those classified as Shellfish Harvesting and those in estuarine or salt waters which have the in-stream WQSs of 6.5 to 8.5). The TBELs for construction sand and gravel facilities promulgated by 40 CFR § 436.32 are 6.0 to 9.0 s.u. for pH. When discharges are pumped during low flow conditions in the receiving streams, sufficient dilution may not be available to ensure that a discharge of 9.0 s.u. does not cause a contravention of the instream WQS for pH. Because pumped discharges are authorized under this Permit, and because the discharge may occur during low-flow conditions, the Permit includes discharge limitations for pH of 6.0 s.u. (daily minimum) and 8.5 s.u. (daily maximum) to ensure instream compliance with WQSs.

The Permit also requires that the discharge not cause the in-stream pH to deviate more than 1.0 s.u. from the normal or natural pH, nor be less than 6.0 s.u., nor greater than 8.5 s.u.

The TBELs in 40 CFR § 436.32 for construction sand and gravel do not include limitations for Total Suspended Solids (TSS). TSS is classified as a conventional pollutant in 40 CFR 401.16 and is expected to be discharged from these types of facilities. Therefore, effluent limitations for TSS of 35.0 mg/L (monthly average) and 70.0 mg/L (daily maximum) are established by Best Professional Judgment (BPJ) with consideration given to NSPS for TSS in 40 CFR 434.35 and are based on proper implementation of best management practices at the facility. Discharges within these TSS limitations have been shown to be protective of water quality for the types of operations authorized by this Permit.

As required by ADEM Admin. Code r. 335-6-9-.03, a Pollution Abatement/Prevention (PAP) plan for facilities covered by this permit must be prepared and certified by a professional engineer (PE) registered in the State of Alabama and designed to ensure reduction of pollutants in the waste stream to a level that, if operated properly, the treated discharge will not contribute to or cause a violation of applicable State WQSs. The permit terms and conditions are predicated on the basis of ensuring reduction of pollutants in the waste stream to a level that the treated discharge will not contribute to or cause a violation of applicable State WQSs.

Pursuant to ADEM Admin. Code r. 335-6-6-.12(r) this permit requires any Permittees covered by this permit to design and implement a Spill Prevention Control and Countermeasures (SPCC) plan for all stored chemicals, fuels and/or stored pollutants that have the potential to discharge to a water of the State. This plan must meet the minimum engineering requirements as defined in 40 CFR §112 and must provide for secondary containment adequate to control a potential spill.

This Permit does not authorize new sources or new dischargers of pollutants of concern to impaired waters unless consistent with an EPA-approved or EPA established Total Maximum Daily Load (TMDL) and applicable State law, or unless compliance with the limitations and requirements of the Permit ensure that the discharges will not contribute to further degradation of the receiving streams. Impaired waters are those that do not meet applicable WQSs and are identified by an EPA-approved or EPA established TMDL and/or on the State of Alabama's current §303(d) list. Pollutants of concern are those pollutants for which the water body is listed as impaired or which contribute to the listed impairment.

If, in the process of reviewing a submitted NOI for coverage under this Permit, the Department determines that there is a reasonable potential that a pollutant present in the treated discharges from a facility could cause or contribute to a contravention of applicable State WQSs, coverage under this Permit will be denied.

#### **CHANGES FROM CURRENT PERMIT**

This draft General Permit renewal contains many of the same basic requirements as the current permit. However, much of the language of the current Permit has been rearranged or edited in this draft Permit to make the Permit more clear and comprehensive for the Permittees and the general public. The most significant modifications to the content of the current Permit are addressed below.

The daily maximum pH limitation of 8.5 s.u. is a reduction from the current Permit limitation of 9.0 s.u. The current Permit was drafted under the assumption that discharges would only occur as a result of precipitation events, and low flow conditions would not exist within the receiving stream (dilution would be available in the stream to ensure compliance with WQSs). Therefore, the current permit includes the 9.0 s.u. pH limitation from the ELGs of 40 CFR § 436.32. Although this assumption is likely true in most scenarios, there may be occasions when pumped discharges occur during low flow conditions in the receiving stream. To ensure that WQSs for pH are achieved, the pH limitation has been reduced to match the WQS of 8.5 s.u. as a daily maximum.

The current permit prohibits discharges to waters of the State classified or designated as OAW and ONRW. This draft General Permit also excludes discharges to waters designated as TAL.

As stated on the first page of the current Permit, the current Permit provides coverage for discharges to waters of the State from "non-coal, non-metallic construction aggregate, construction sand and gravel, [and] chert or dirt" mining operations. This draft Permit attempts to provide clarification on the materials for which associated discharges may be covered.

Because "construction aggregate" is a broad term which includes materials such as crushed stone and recycled concrete, and because discharges from areas associated with many of these materials are excluded from coverage under the Permit, the term "construction aggregate" has been removed from the draft Permit. However, those construction aggregates for which discharges currently are covered and are proposed to remain covered (e.g., sand, gravel, chert) are expressly authorized in the draft Permit.

Clarification of eligible coverage is also attempted in this draft Permit for "red clay." Much of the soil in the State of Alabama includes a red, clay subsoil. This material, when mined, is appropriately classified as "dirt," and discharges from operations associated with this material is covered under the current Permit.

However, because the term “clay” can also refer to materials for which associated discharges are not covered under the current Permit (e.g., bauxitic clay, fire clay), the term “red clay” has been added to the draft Permit as a material for which discharges are covered.

This draft Permit includes language to clarify and expand upon the types of operations for which associated discharges are not covered. As previously stated, these exclusions include discharges from mining or activities associated with industrial sand, coal, crushed or dimension stone, clay other than red clay (e.g., bauxitic, bentonite, or fire clays), metallic mineral, and ore.

This draft Permit removes the requirement to measure and record all precipitation at the mining site. Because precipitation event strength does not necessarily correlate to discharge flows (due to additional pumped discharges, incised mining areas, sufficient freeboard in basins, etc.), and because historical precipitation data is readily available on the internet, this requirement was determined to be no longer necessary.

In the current Permit, written logs of point source inspections recording the information listed in the Permit and conducted by the Permittee were required to be maintained if so required by the Director. This draft Permit requires that these written logs are mandatory for each point source identified in the NOI.

The current Permit does not address nonpoint source discharges. However, because sometimes it is infeasible for all stormwater to be discharged from a point source (e.g., runoff from downgradient haul roads, runoff from outside slopes of berms), it is important to address these situations. The draft Permit specifies that nonpoint source discharges of surface drainage and stormwater runoff are not prohibited in certain circumstances. These circumstances include when the drainage or runoff cannot feasibly be routed through a point source, when Best Management Practices are maintained and effective to prevent violations of instream WQSs, and when the discharge does not result in offsite sedimentation.

In accordance with Federal Rule 40 CFR § 127.11(a)(1) and with the anticipated promulgation of ADEM Admin. Code r. 335-6-1-.04, the draft Permit adds the requirement that Discharge Monitoring Reports be submitted through the Department’s web-based electronic environmental (E2) reporting system.

This draft Permit also adds clarification that all point source discharges which occur from the mining operations described in the NOI are limited and must be monitored and reported.

The draft Permit has reduced the submittal deadline for permit modification requests from 180 days in advance of any proposed facility changes to 90 days.

The draft Permit also expands on much of the language of the current Permit to provide additional clarification for cited regulations, definitions, terms, requirements, and responsibilities.

#### **ADDENDUM AFTER RECEIPT AND REVIEW OF PUBLIC COMMENTS (March 24, 2017)**

The draft Permit was edited in several ways after receipt and review of public comments. Some edits were made to correct citations and one edit was to replace the pronoun “his” with the neutral “its.” Other edits are described below.

An Outfall Certification Summary was required in the draft Permit to be submitted on a quarterly basis with the Permittee’s Discharge Monitoring Reports. This requirement was removed and replaced with the requirement to submit Outfall Certification Summaries as attachments to outfall PE certifications and monitoring release requests. The request was based on a public comment received by the Department and is intended to reduce the burden of excess paperwork on the Permittee and the Department.

This rationale, in the above language which was prepared on January 19, 2017, states "Pursuant to ADEM Admin. Code r. 335-6-6-.12(r) this permit requires any Permittees covered by this permit to design and implement a Spill Prevention Control and Countermeasures (SPCC) plan.... This plan must meet the minimum engineering requirements as defined in 40 CFR §112...." However, it is more appropriate to state that this Permit requires the Permittee to design and implement an SPCC Plan *as provided by ADEM Admin. Code r. 335-6-6-.08(j)5*. The plan shall include at a minimum, the engineering requirements provide in 40 CFR §112. Edits were made to the Permit to clarify these points.

The Permit was also edited to clarify the requirements of the SPCC Plans and to remove language which implied that secondary containment was not required for tanks or storage containers greater than 1320 gallons. The Permit requires secondary containment for any stored pollutant(s) that may, if spilled, be reasonably expected to enter a water of the state or the collection system for a publicly or privately owned treatment works pursuant to ADEM Admin. Code r. 335-6-6-.12(r).

The Permit was edited to remove the implication that flotation booms were the only products approved to be used to contain fuel and chemical spills. The edits allow for the use of any material which is described in the SPCC Plan.

Finally, the sentence, "Soil contaminated by chemical spills, oil spills, etc., must be immediately cleaned up or be removed and disposed of in an approved manner," was edited to state that the disposal of contaminated soil must be "in a manner consistent with all State and federal regulations."