

---

December 17, 2025

CERTIFIED MAIL

Mr. Bob Mixon, Owner  
Mixon Brothers Wood Preserving, Inc.  
P.O. Box 327  
Idabel, OK 74745

Re: RCRA Corrective Action and Post-Closure Permit Renewal  
Public Draft Permit  
Mixon Brothers Wood Preserving, Inc. ("Mixon Brothers")  
EPA No. OKD007336258; RCRA Permit No. 007336258-PC

Dear Mr. Mixon:

The Oklahoma Department of Environmental Quality ("DEQ") received the Resource Conservation and Recovery Act ("RCRA") corrective action and post-closure permit renewal application ("Application") on March 3, 2023. The Application was reviewed for administrative completeness in accordance with Title 40 of the Code of Federal Regulations ("40 C.F.R.") Parts 264 and 270; the Oklahoma Hazardous Waste Management Act (27A O.S. §§ 2-7-101 through 2-7-134); and Oklahoma Administrative Code ("OAC") Chapters 252:4 and 252:205. Mixon Brothers published the notice of filing in the *McCurtain Gazette* on July 13, 2023. On August 15, 2023, DEQ issued an administrative Notice of Deficiency ("NOD"), and on September 7, 2023, Mixon Brothers submitted a response. DEQ determined the Application to be administratively complete on October 5, 2023.

In accordance with OAC 252:4-7-8, DEQ has reviewed the application for technical completeness in accordance with the applicable laws and regulations. DEQ issued technical NODs on February 29, 2024; October 10, 2024; and March 27, 2025. Mixon Brothers submitted responses to the NODs on May 17, 2024; August 16, 2024; February 25, 2025; May 12, 2025; and July 7, 2025.

On August 21, 2025, DEQ found the Application to be technically complete and issued a courtesy draft of the permit to Mixon Brothers and the United States Environmental Protection Agency ("EPA") Region 6 for review and comment. DEQ granted an extension to the courtesy draft review to Mixon Brothers on October 1, 2025. On October 20, 2025, DEQ received comments from Mixon Brothers. DEQ reviewed the comments and sent an updated courtesy draft to Mixon Brothers on November 13, 2025. On December 5, 2025, DEQ received an email from Mixon Brothers stating that they had no further comments on the courtesy draft. DEQ has not received any comments from EPA Region 6.

The enclosed Draft Permit has been finalized for public review and comment. Mixon Brothers is required to publish notice of opportunity to comment and request a public meeting on the Draft Permit in at least one (1) local newspaper of general circulation. Concurrently, a notice should be broadcast on a local radio station. These notices must announce the opening of a

Mr. Bob Mixon  
December 17, 2025  
Page: 2

forty-five (45) day comment period during which the public may comment on the permit language and/or request that a public meeting be held. Additionally, Mixon Brothers is required to send a notice of the Draft Permit to all persons on the facility mailing list and to appropriate state and local government agencies as specified in 40 C.F.R. § 124.10(c)(1)(viii) and (ix). Subsequently, proofs of publication and broadcast must be submitted to DEQ within twenty (20) days after the date of publication pursuant to OAC 252:4-7-13(d).

A fact sheet is included with the Draft Permit for public information. Please ensure copies of the Application, Draft Permit, fact sheet, and related documents are made available at the Idabel Public Library. A copy of the Application, Draft Permit, and related documents will also be available at the DEQ office and on DEQ's website at <https://oklahoma.gov/deq/permits/permit-assistance/permits-for-public-review.html>.

If you have any questions, please contact Adrian Simmons, of my staff, at 405-702-5217.

Sincerely,

A handwritten signature in black ink, appearing to read "Hillary Young", with a large, stylized flourish extending from the end of the signature.

Hillary Young, P.E.  
Chief Engineer  
Land Protection Division

HY/AS

Enclosures: Draft Permit, Draft Public Notices, Fact Sheet

cc: Harry Shah, EPA Region 6 (via e-mail)

**MIXON BROTHERS WOOD PRESERVING, INC.**  
**FACT SHEET**

**Type of Proposed Action:** Renewal of RCRA Corrective Action and Post-Closure Permit

**Type of Facility:** Corrective Action and Post-Closure

**Facility Name:** Mixon Brothers Wood Preserving, Inc.

**EPA ID Number:** OKD007336258

**Permit Number:** 007336258-PC

**Location:** 1202 NW 16<sup>th</sup> Street, Idabel, OK 74745

**Legal Description:** Approximately 25 acres in the West Half (W1/2) of the Northwest Quarter (NW1/4) of Section 31, Township 7 South, Range 24 East of the Indian Meridian, McCurtain County, Oklahoma.

**Geographic Location:** Latitude: 33°54'36"  
Longitude: -94°50'24"

**Landowner:** Mr. Bob Mixon, P.O. Box 327, Idabel, Oklahoma 74745

**Facility Operator:** Mr. Bob Mixon, P.O. Box 327, Idabel, Oklahoma 74745

**Comment Period:** Forty-five (45) days from date of publication

**Basis of Draft Permit:**

Mixon Brothers Wood Preserving, Inc. ("Mixon Brothers") has been in operation since 1948, producing agricultural fencing materials from creosote pressure-treated posts and poles. The permit renewal and its conditions propose that Mixon Brothers continue maintenance of three closed surface impoundments, a closed waste pile, and ongoing groundwater monitoring and corrective action. The permit would be issued under the authority of the Oklahoma Hazardous Waste Management Act and Resource Conservation and Recovery Act.

On March 3, 2023, the Oklahoma Department of Environmental Quality ("DEQ") received the RCRA Permit Renewal Application ("Application") for the Mixon Brothers facility in Idabel, Oklahoma. The Application has been through a series of Notices of Deficiency and responses. Mixon Brothers submitted revisions to the Application on September 7, 2023; May 17, 2024; August 16, 2024; February 25, 2025; May 12, 2025; and July 7, 2025. DEQ determined the Application to be administratively complete on October 5, 2023.

DEQ has tentatively found that the Application meets the requirements of the Oklahoma Hazardous Waste Management Act ("OHWMA"), 27A Oklahoma Statute ("O.S.") §§ 2-7-101 through 2-7-134; the hazardous waste management regulations of Oklahoma Administrative Code ("OAC") 252:205, as amended; the federal RCRA; and the federal Hazardous and Solid Waste Amendments of 1984

("HSPA") and has prepared a Draft Permit. DEQ has the authority to issue permits for these activities and to enforce compliance with the RCRA program.

DEQ developed the draft permit conditions and incorporated applicable conditions from OAC 252:205 and Title 40 of the Code of Federal Regulations ("40 C.F.R.") Part 270, additional conditions to enhance compliance with OAC 252:205 and 40 C.F.R. Part 264, and other conditions (as required) to achieve environmentally sound hazardous waste management.

The administrative record supporting the Draft Permit consists of the initial Application, including all supplemental information submitted that relates to the Application or is referenced in the Draft Permit and this Fact Sheet.

### **Information Resources**

Copies of the proposed Draft Permit conditions, this Fact Sheet, and the Application are available for review on DEQ's website at <https://oklahoma.gov/deq/permits/land-permits/permit-public-participation-process> and during normal business hours at the locations listed below:

Idabel Public Library  
103 E Main Street  
Idabel, OK 74745  
(580) 286-6406

Oklahoma Department of Environmental Quality  
Office of Central Records  
707 North Robinson Avenue  
Oklahoma City, OK 73102  
(405) 702-1188

Telephone inquiries may be directed to:

DEQ: Hillary Young, Chief Engineer  
Land Protection Division, DEQ  
Phone: (405) 702-5100

Mixon Brothers: Bob Mixon  
Owner, Mixon Brothers Wood Preserving, Inc.  
Phone: (580) 286-9494

### **Comment Period and Procedures**

Persons wishing to comment on the Draft Permit may submit their comments, in writing, to DEQ at the addresses listed below and on DEQ's website: <https://oklahoma.gov/deq/permits/permit-assistance/permits-for-public-review>. Comments should be directed to the appropriateness of the permit decision and the permit conditions and should be factual in nature. All comments must be submitted to DEQ no later than forty-five (45) days after the notice of Draft Permit has been published. Draft Permit Comments should be directed to:

Oklahoma Department of Environmental Quality  
707 North Robinson, P. O. Box 1677  
OKC, OK 73101-1677  
(405) 702-5100  
Attn: Hillary Young, PE, Chief Engineer  
Land Protection Division

The applicable comment period and public meeting procedures may be found at OAC 252:4 and 40 C.F.R. Part 124.Draft Permit

### **Public Meeting**

Pursuant to 40 C.F.R. Part 124 and the Oklahoma Uniform Environmental Permitting Act, Title 27A of the Oklahoma Statutes, § 2-14-303, interested parties may request a public meeting on the permit. The request must be in writing and submitted prior to the closing date of the comment period which expires forty-five (45) days from the date of publication of the notice of the Draft Permit. Persons wishing to request a public meeting should submit their request in writing to Hillary Young, Chief Engineer, Land Protection Division at the above address.

If a public meeting is requested, public notice of the date, time, and place will be given at least thirty (30) days before the meeting. If a public meeting is held, any person may submit oral or written statements and data concerning the Draft Permit. Reasonable limits may be set upon time allowed for oral statements.

### **Notice of Final Determination**

DEQ will notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. Within thirty (30) days after a RCRA permit decision has been issued, any person who filed comments on the Draft Permit renewal or participated in the public meeting may petition the Executive Director of DEQ to review any condition of the permit decision. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period and, when appropriate, a showing that the condition in question is based on a finding of fact or conclusion of law which is clearly erroneous or an exercise of discretion or important policy consideration which the DEQ should review. A petition to the DEQ is a prerequisite to judicial review pursuant to 40 C.F.R. § 124.19, as incorporated pursuant to OAC 252:205-3-2 and 252:205-3-5, and should be directed to the address listed below:

Robert Singletary, Executive Director  
Department of Environmental Quality  
707 N. Robinson  
Oklahoma City, OK 73101-1677

If no comments are received during the comment period, the permit will become final and effective immediately upon issuance.

## **Radio Broadcast Text**

### **Oklahoma Department of Environmental Quality Notice of Potential Permit Renewal For a Hazardous Waste Management Facility**

The Oklahoma Department of Environmental Quality has reviewed a permit renewal application submitted by Mixon Brothers Wood Preserving, Incorporated, to conduct hazardous waste post-closure and corrective action. The application was filed on March 3, 2023. The legal description of the facility is part of the West Half of the Northwest Quarter of Section 31, Township 7 South, Range 24 East of the Indian Meridian, McCurtain County, Oklahoma. The street address for the facility is 1202 NW 16<sup>th</sup> Street, Idabel, OK 74745. DEQ has made a tentative determination to renew the permit for Mixon Brothers Wood Preserving, Incorporated for its facility in Idabel, Oklahoma.

The draft permit and its conditions propose that Mixon Brothers, Incorporated, continue to maintain three closed surface impoundments and a closed waste pile, and conduct groundwater monitoring and corrective action. The final permit would be issued under the authority of the Oklahoma Hazardous Waste Management Act and the federal Resource Conservation and Recovery Act.

Further information, including the application, draft permit, and a fact sheet may be reviewed at DEQ's central office, 707 N. Robinson Avenue, Oklahoma City 73101-1677; on DEQ's website at [deq.ok.gov](http://deq.ok.gov); and at the Idabel Public Library at 103 E Main Street, Idabel, OK 74745.

Persons wishing to comment on the draft permit or request a public meeting should submit their comments or requests in writing to DEQ no later than forty-five days from the date of this broadcast. DEQ's mailing address is P. O. Box 1677, Oklahoma City, Oklahoma, 73101-1677.

For further information about this notice, please contact Hillary Young with DEQ at 405-702-5100. That number again is 405-702-5100.

## **Newspaper Notice Text**

### **OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY NOTICE OF DRAFT PERMIT RENEWAL OF AN EXISTING HAZARDOUS WASTE MANAGEMENT FACILITY**

The Oklahoma Department of Environmental Quality ("DEQ") has received an application from Mixon Brothers Wood Preserving, Inc. ("Mixon Brothers") to renew its Resource Conservation and Recovery Act ("RCRA") Post-Closure and Corrective Action Permit to continue to maintain three closed surface impoundments and a closed waste pile and conduct groundwater monitoring and corrective action at the Mixon Brothers facility in Idabel, Oklahoma, located in the West Half (W1/2) of the Northwest Quarter (NW1/4) of Section 31, Township 7 South, Range 24 East of the Indian Meridian, McCurtain County, Oklahoma. The street address for the facility is 1202 NW 16<sup>th</sup> Street, Idabel, OK 74745. The application was submitted to DEQ on March 3, 2023.

DEQ has tentatively found that the application meets the requirements of Title 40 of the Code of Federal Regulations Parts 264 and 270; Title 27A of the Oklahoma Statutes §§ 2-7-101 through 2-7-134; and Oklahoma Administrative Code 252:4 and 252:205 and has prepared a draft permit renewal for public review.

Mixon Brothers produces pressure-treated wood agricultural fencing materials and has historical contamination from the use of creosote-treated poles and posts. The permit renewal and its conditions propose that Mixon Brothers continue to maintain closed surface impoundments and a closed waste pile and continue groundwater monitoring of a closed surface impoundment, detection monitoring of a closed waste pile, and ongoing groundwater corrective action. The draft permit contains conditions for employee training, inspection requirements, emergency procedures, financial assurance, groundwater monitoring and remediation, and monitoring and maintaining the closed hazardous waste surface impoundment and waste pile. The permit would be issued under the authority of the Oklahoma Hazardous Waste Management Act and RCRA.

The application, draft permit, and related documents may be reviewed during normal business hours at the following locations:

Oklahoma Department of Environmental Quality, Office of Central Records, 707 N. Robinson Avenue, Second Floor, P. O. Box 1677, Oklahoma City 73101-1677, telephone number 405-702-1188;

Idabel Public Library at 103 E Main Street, Idabel, OK 74745, telephone number 580-286-6406.

The application, draft permit, and related documents may also be reviewed on the DEQ website <https://oklahoma.gov/deq/permits/land-permits/permit-public-participation-process.html>

Specific information may be obtained by contacting DEQ or the applicant at the contact information below:

Hillary Young, P.E., Chief Engineer  
Land Protection Division  
Oklahoma Department of Environmental Quality  
P. O. Box 1677  
Oklahoma City, Oklahoma 73101-1677  
405-702-5100

Mr. Bob Mixon, Owner  
Mixon Brothers Wood Preserving, Inc.  
P.O. Box 327  
Idabel, OK 74745  
580-286-9494

Persons wishing to comment on the draft permit should submit their comments in writing to DEQ at the above address or the DEQ website given above. Also, any person may request, in writing, a formal public meeting to present written or oral statements and data concerning the draft permit. A request for a public meeting must identify the nature of the issues to be raised in the meeting. If DEQ determines, based on the requests it receives, that there is a significant degree of public interest in the draft permit, it will schedule a public meeting and provide notice of the date, time, and place.

Written comments and requests for a public meeting must be received by DEQ within forty-five (45) days after the date of this publication at the DEQ address given above. More specific information may be obtained by contacting the applicant at the Mixon Brothers contact given above or by contacting DEQ at the contact listed above.



**OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY  
CORRECTIVE ACTION AND POST-CLOSURE PERMIT  
FOR A HAZARDOUS WASTE MANAGEMENT FACILITY**

**EPA ID:** OKD007336258  
**Permittee:** Mixon Brothers Wood  
Preserving, Inc.  
Idabel, Oklahoma

**Permit Number:** 007336258-PC  
**Effective Date:** December 16, 2025  
**Expiration Date:** December 16, 2035

---

Pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §§ 6901 *et seq.*, commonly known as “RCRA”), including the Hazardous and Solid Waste Amendments of 1984 (“HSWA”), and regulations promulgated thereunder by the U.S. Environmental Protection Agency (“EPA”) and the Oklahoma Department of Environmental Quality (“DEQ”) pursuant to the Oklahoma Hazardous Waste Management Act (“OHWMA”), 27A Oklahoma Statute (“O.S.”) §§ 2-7-101 *et seq.*, as amended, a RCRA Permit to maintain three closed surface impoundments, a closed waste pile, and continued groundwater monitoring and corrective action, is reissued by DEQ to Mixon Brothers Wood Preserving, Inc., (“Mixon Brothers” or “Permittee”). The facility is located in Idabel, in the West Half (W1/2) of the Northwest Quarter (NW1/4) of Section 31, Township 7 South, Range 24 East of the Indian Meridian, McCurtain County, Oklahoma.

The facility is owned and operated by Mixon Brothers Wood Preserving, Inc.

The Permittee must comply with all terms and conditions of this Permit. This Permit consists of the conditions contained herein (including those in any attachments) and the applicable regulations contained in 40 C.F.R. Parts 260 through 266, 268, 270 and 124, as specified in the Permit. Applicable regulations are those which are in effect on the date of issuance of the Permit, in accordance with 40 C.F.R. § 270.32(c).

This Permit is based on the assumption that all the information submitted in the Part B permit application received on March 3, 2023, as modified by subsequent amendments, the last one dated July 7, 2025, (hereafter referred to as the “Application”) is true and accurate and that the facility will be maintained as specified in the Application.

Any inaccuracies found in the submitted Application may be grounds for the termination, revocation and reissuance, or modification of this Permit in accordance with 40 C.F.R. §§ 270.41, 270.42, and 270.43 and for enforcement action.

This Permit is effective as of December 16, 2025 and shall remain in effect until December 16, 2035 unless revoked and reissued under 40 C.F.R. § 270.41, terminated under 40 C.F.R. § 270.43, or continued in accordance with 40 C.F.R. § 270.51(a) and Title 252, Oklahoma Administrative Code, Chapter 205, otherwise known as the hazardous waste management rules, and the Oklahoma Administrative Procedures Act 75 O.S. §§ 250 *et seq.*

Issued by the Oklahoma Department of Environmental Quality this sixteenth day of December, 2025.

---

Hillary Young, P.E.  
Chief Engineer  
Land Protection Division  
Oklahoma Department of Environmental Quality

Date

---

Kelly Dixon  
Division Director  
Land Protection Division  
Oklahoma Department of Environmental Quality

Date

## TABLE OF CONTENTS

<b>Section I</b>	<b>General Permit Conditions</b>	
A.	General	I-1
B.	Basis of Permit	I-1
C.	Incorporation by Reference	I-1
D.	Definitions	I-1
E.	Effect of Permit	I-4
F.	Permit Actions	I-4
G.	Severability	I-6
H.	Duties and Requirements	I-6
I.	Signatory Requirements	I-11
J.	Reports, Notifications and Submissions to DEQ	I-11
K.	Confidential Information	I-11
L.	Documents to be Maintained at the Facility	I-12
<b>Section II</b>	<b>General Facility Conditions</b>	
A.	Design and Operation of Facility	II-1
B.	Off-Site Sources of Hazardous Waste	II-1
C.	Security	II-1
D.	General Inspection Requirements	II-1
E.	Preparedness and Prevention	II-1
F.	General Post-Closure Requirements	II-2
G.	Cost Estimate for Facility Post-Closure	II-3
H.	Financial Assurance for Facility Post-Closure	II-3
I.	Liability Requirements	II-3
J.	Incapacity of Owners or Operators, Guarantors, or Financial Institutions	II-3
<b>Section III</b>	<b>Post-Closure Care</b>	
A.	Section Highlights	III-1
B.	Unit Identification	III-1
C.	Post-Closure Procedures and Use of Property	III-1
D.	Inspection Schedules and Procedures	III-2
E.	Notices and Certification	III-2
F.	Financial Assurance	III-3
G.	Request for Permit Modification	III-3
<b>Section IV</b>	<b>Groundwater Detection Monitoring</b>	
A.	Section Highlights	IV-1
B.	Well Location, Installation, Construction, and Sampling	IV-1
C.	Indicator Parameters	IV-2
D.	Sampling and Analysis Procedures	IV-2
E.	Elevation of the Groundwater Surface	IV-2
F.	Groundwater Protection Standard	IV-2
G.	Data Evaluation	IV-3
H.	Recordkeeping and Reporting	IV-3
I.	Request for Permit Modification	IV-5

<b>Section V</b>	<b>Corrective Action and Groundwater Monitoring</b>	
A.	Section Highlights	V-1
B.	Well Location, Installation and Construction	V-1
C.	Groundwater Protection Standard	V-2
D.	Sampling and Analysis Procedures	V-2
E.	Elevation of the Groundwater Surface	V-3
F.	Monitoring Program and Data Evaluation	V-3
G.	Operation of the Groundwater Removal Program	V-3
H.	Recordkeeping and Reporting	V-5
I.	Request for Permit Modification	V-5

<b>Section VI</b>	<b>Special Conditions Pursuant to the 1984 Hazardous Waste Solid Waste Amendments</b>	
A.	Standard Conditions	VI-1
B.	Corrective Action	VI-5
C.	Notification Requirements for and Assessment of Newly Identified SWMUs and Potential AOCs	V-5
D.	Notification Requirements for Newly Discovered Releases at SWMUs and AOCs	VI-6
E.	Interim Measures	VI-6
F.	RFI Workplan	VI-6
G.	RFI Implementation	VI-7
H.	RFI Final Report and Summary	VI-8
I.	RFI Scope of Work	VI-8
J.	Determination of No Further Action	VI-8
K.	Corrective Measures Study (“CMS”) Plan	VI-8
L.	CMS Implementation	VI-9
M.	CMS Final Report and Summary	VI-9
N.	Corrective Measure Remedy Selection and Implementation	VI-9

#### **Attachments**

Attachment 1	Sampling and Analysis Plan
Attachment 2	Post-Closure plan
Attachment 3	Contingency Plan
Attachment 4	Site Maps

## **SECTION I – GENERAL PERMIT CONDITIONS**

### **A. GENERAL**

The Permittee shall monitor, maintain, and operate the Mixon Brothers Wood Preserving, Inc facility (“Facility”) in compliance with the provisions of the Oklahoma Hazardous Waste Management Act (“OHWMA”), 27A Oklahoma Statutes (“O.S.”) §§ 2-7-101 *et seq.*; the Oklahoma Administrative Code (“OAC”) 252:205 and OAC 252:515; the federal hazardous waste management regulations in title 40 of the Code of Federal Regulations (“C.F.R.”) Parts 260-279; the Resource Conservation and Recovery Act (“RCRA”); the Hazardous and Solid Waste Amendments of 1984 (“HSWA”); and the approved Permit Application as further modified through Permit Conditions set herein.

### **B. BASIS OF PERMIT**

This Permit is granted based on the information submitted and the design criteria presented in the Application. Any inaccuracies found in this information could provide cause for the termination or modification of this Permit and for enforcement action. The Permittee is to inform the Land Protection Division (“LPD”) of the Oklahoma Department of Environmental Quality (“DEQ”) of any deviation from or changes in the design or operation of the Facility which could affect the Permittee's ability to comply with the applicable regulations or Permit Conditions.

The term of this Permit is ten (10) years. 40 C.F.R. § 270.50. However, this Permit shall be reviewed by DEQ five (5) years after the date of Permit issuance and shall be modified as necessary. 40 C.F.R. § 270.41 and OHWMA 27A O.S. § 2-7-127(B). Except as provided in Permit Condition I.F.4, the term of this Permit shall not be extended by modification beyond the expiration date appearing on the face of this Permit. 40 C.F.R. § 270.50(b).

### **C. INCORPORATION BY REFERENCE**

All the referenced federal regulations (40 C.F.R. Parts 124, 260 through 264, 266, 268 and 270) as specified in the Permit are, unless otherwise stated, incorporated in their entirety by OAC 252:205-3-2.

### **D. DEFINITIONS**

For purposes of this Permit, terms used herein shall have the same meaning as those in 40 C.F.R. Parts 124, 260, 261, 264, 266, 268, and 270 and OAC 252:205-1-2, unless this Permit specifically provides otherwise. Where terms are not defined in the C.F.R., OAC or the Permit, the meaning associated with such terms shall be defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term.

**"Action Levels"** means health and environmental-based levels of constituent concentrations determined by DEQ to be indicators for protection of human health and the environment.

**"Application"** means the set of documents, filed with DEQ for the purpose of receiving a permit, to include the original application and all subsequent submittals which supplement, correct, or amend a pending application.

**"Area of Concern" ("AOC")** means any discernable unit or area which, in the opinion of DEQ, may have received solid or hazardous waste or waste containing hazardous constituents at any time. DEQ may require investigation of the unit as if it were a SWMU. If shown to be a SWMU by the investigation, the AOC must be reported by the Permittee as a newly identified SWMU. If the AOC is shown not to be a SWMU by the investigation, DEQ may determine that no further action is necessary and notify the Permittee in writing.

**"Corrective Action"** means remediation as well as continued monitoring and long-term maintenance of the SWMUs and closed surface impoundments.

**"CMS"** means Corrective Measures Study.

**"DEQ"** means the Oklahoma Department of Environmental Quality.

**"Director"** means the Executive Director of the Oklahoma Department of Environmental Quality, or his/her designee or authorized representative.

**"Division Director"** means the Director of the Land Protection Division of the Oklahoma Department of Environmental Quality, or his/her designee or authorized representative.

**"EPA"** means the United States Environmental Protection Agency.

**"Facility"** means all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA.

**"Hazardous constituent"** means any constituent identified in Appendix VIII of 40 C.F.R. Part 261, or any constituent identified in Appendix IX of 40 C.F.R. Part 264.

**"Hazardous waste"** means a solid waste or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. The term hazardous waste includes hazardous constituent.

**"HSWA"** means the 1984 Hazardous and Solid Waste Amendments to RCRA.

**"Land disposal"** means placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome

formation, salt bed formation, underground mine or cave, or placement in a concrete vault, or bunker intended for disposal purposes.

**"Land Protection Division"** means the Land Protection Division of the Oklahoma Department of Environmental Quality.

**"No Further Action" ("NFA")** means that no additional investigation or remediation is known to be required for a designated SWMU or AOC, or portion thereof. "NFA" status does not relieve the Permittee of continued monitoring and/or maintenance of the area or unit, as may be specified elsewhere in this Permit.

**"OHWMA"** means Oklahoma Hazardous Waste Management Act, 27A O.S. §§ 2-7-101 *et seq.*, as amended.

**"Permit"** means the full Permit, Resources Conservation and Recovery Act, and special conditions pursuant to the 1984 Hazardous and Solid Waste Amendments to RCRA.

**"Permittee"** means Mixon Brothers Wood Preserving, Inc, Idabel, Oklahoma, EPA ID OKD007336258.

**"RCRA"** means the Resource Conservation and Recovery Act of 1980 as amended by HSWA in 1984.

**"RFA"** means RCRA Facility Assessment.

**"RFI"** means RCRA Facility Investigation.

**"Regional Administrator"** means the Regional Administrator of EPA Region VI, or his/her designee or authorized representative.

**"Release"** means any spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of hazardous wastes or hazardous constituents into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing hazardous wastes or hazardous constituents). RCRA Section 3004(u) corrective action authority does not routinely reevaluate permitted releases.

**"Solid Waste Management"** means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

**"Solid Waste Management Unit" ("SWMU")** means any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units include any area at a facility at which solid wastes have been routinely and systematically released. The definition includes regulated units (e.g., landfills, surface impoundments, waste piles, and land treatment units)

but does not include passive leakage or one-time spills from production areas and units in which wastes have not been managed (e.g., product storage areas).

If, subsequent to the issuance of this Permit, regulations are promulgated which redefine any of the above terms, DEQ may, at its discretion, apply the new definition to this Permit by modifying the Permit in accordance with 40 C.F.R. Section 270.41.

#### **E. EFFECT OF PERMIT**

The Permittee is required to monitor and maintain the closed hazardous waste surface impoundments and waste pile in accordance with the conditions of this Permit. Any storage, treatment, and/or disposal of hazardous waste not authorized in this Permit is prohibited, unless exempted from Permit requirements.

Subject to 40 C.F.R. § 270.4, compliance with this Permit generally constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA except for those requirements not included in the Permit which become effective by statute or are promulgated under 40 C.F.R. Part 268 restricting the placement of hazardous wastes in or on the land.

Issuance of this Permit does not convey any property rights of any sort or any exclusive privilege, nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of state or local laws or regulations. 40 C.F.R. §§ 270.4 and 270.30(g)

Compliance with the terms of this Permit does not constitute a defense to any order issued or any action brought under the OHWMA; §§ 3008(a), 3008(h), 3013, or 7003 of RCRA; §§ 104, 106(a), or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9601 *et seq.*, commonly known as CERCLA); or any other law providing for protection of public health or the environment from an imminent or substantial endangerment.

#### **F. PERMIT ACTIONS**

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

This Permit may be modified, revoked and reissued, or terminated for cause, as specified in 40 C.F.R. §§ 270.30(f), 270.41, 270.42, and 270.43. The filing of a request for a Permit modification, revocation and reissuance, or termination, or the notification of planned changes or anticipated noncompliance on the part of the Permittee, does not stay the applicability or enforceability of any Permit Condition. 40 C.F.R. §§ 270.4(a)(2), 270.30(f). Except as provided in Permit Condition I.F.4, the term of this Permit shall not be extended by modification beyond the expiration date appearing on the face of this Permit. 40 C.F.R. § 270.50.



2. Permit Renewal

This Permit may be renewed as specified in 40 C.F.R. § 270.30(b), OAC 252:205-1-3(a) and Permit Condition I.H.2. Review of any application for a Permit renewal shall consider improvements in the state of control and measurement technology, as well as changes in applicable regulations. 40 C.F.R. § 270.30(b), HSWA § 212, and 27A O.S. § 2-7-127(B).

3. Permit Review

This Permit shall be reviewed by DEQ five (5) years after the date of Permit issuance and may be modified as necessary, as provided in 40 C.F.R. § 270.41.

4. Permit Expiration

Pursuant to 40 C.F.R. § 270.50, this Permit shall be effective for a fixed term not to exceed ten (10) years. This Permit and all conditions herein will remain in effect beyond the Permit's expiration date if the Permittee has submitted a timely, complete application (40 C.F.R. § 270.10, and §§ 270.13 through 270.29) and, through no fault of the Permittee, DEQ has not issued a new Permit, as set forth in 40 C.F.R. § 270.51. Permits continued under this section remain fully effective and enforceable. When the Permittee is not in compliance with the conditions of the expired or expiring Permit, DEQ may choose to do any one or more of the following:

- a. Initiate enforcement action based upon the Permit which has been continued;
- b. Issue a notice of intent to deny the new Permit under 40 C.F.R. § 124.6. If the Permit is denied, the owner or operator would then be required to cease the activities authorized by the continued Permit or be subject to enforcement action for operating without a Permit;
- c. Issue a new Permit under 40 C.F.R. Part 124 with appropriate conditions; or
- d. Take other action authorized by these regulations.

5. Permit Enforcement

When the Permittee is not in compliance with the conditions of the Continued Permit, DEQ may do any or all of the following:

- a. Pursuant to 27A O.S. §§ 2-7-126, 2-7-127, 2-7-129, 2-7-130, 2-7-131 and/or 2-7-134, issue an order with penalties; require corrective action; temporarily suspend the continued Permit; revoke the continued Permit and/or cause proceedings to be instituted in the district court for civil or criminal penalties, and;

- b. Issue a final denial of the new Permit. If the Permit is denied, the owner or operator shall cease the activities authorized by the continued Permit or be subject to enforcement action for operating without a Permit; or
- c. Take other actions authorized by 27A O.S. §§ 2-1-101 *et seq.*, OAC 252:205-1-1 *et seq.* or other applicable laws or regulations.

6. Transfer of Permits

This Permit is not transferable to any person, except after notice to DEQ. DEQ may require modification or revocation and reissuance of the Permit pursuant to 40 C.F.R. § 270.40. Before transferring ownership or operation of the Facility during its operating life, the Permittee shall notify the new owner or operator in writing of the requirements of 40 C.F.R. Parts 264 and 270 and this Permit. 40 C.F.R. §§ 270.30(l)(3), and 264.12(c).

**G. 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 shall not, except as otherwise provided by 40 C.F.R. § 124.16(a), be affected thereby.

**H. DUTIES AND REQUIREMENTS**

1. Duty to Comply

The Permittee shall comply with all conditions of this Permit, except to the extent and for the duration that noncompliance is authorized by an emergency Permit. 40 C.F.R. § 270.61. Any Permit noncompliance, other than noncompliance authorized by an emergency Permit, constitutes a violation of OHWMA and RCRA and is grounds for enforcement action; for Permit termination, revocation and reissuance, or modification; or for denial of a Permit renewal application. 40 C.F.R. § 270.30(a).

2. Duty to Reapply

If the Permittee wishes to continue an activity allowed by this Permit after the expiration date of this Permit, the Permittee shall submit a complete application for a new Permit at least one hundred and eighty (180) days prior to Permit expiration. 40 C.F.R. §§ 270.10(h), and 270.30(b).

3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Permittee, in an enforcement action, that it would have been necessary to halt or reduce the Permitted activity in order to maintain compliance with the conditions of this Permit. 40 C.F.R. § 270.30(c).

4. Duty to Mitigate

In the event of noncompliance with this Permit, the Permittee shall take all reasonable steps to minimize releases to the environment and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment. 40 C.F.R. § 270.30(d).

5. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance include effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Permit. 40 C.F.R. § 270.30(e).

6. Duty to Provide Information

The Permittee shall furnish to DEQ, within a reasonable time, any relevant information which DEQ may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. The Permittee shall also furnish to DEQ, upon request, copies of records required to be kept by this Permit. 40 C.F.R. § 270.30(h).

7. Inspection and Entry

Pursuant to 40 C.F.R. § 270.30(i) and 27A O.S. § 2-3-501(A), the Permittee shall allow DEQ, or an authorized representative, upon the presentation of credentials and other documents, as may be required by law, to:

- a. Enter at reasonable times upon the Permittee's premises where a regulated Facility or activity is located or conducted or where records must be kept under the conditions of this Permit;
- 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 RCRA, any substances or parameters at any location.

8. Monitoring and Records

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The method used to obtain a representative sample of the waste and/or contaminated media to be analyzed must be the appropriate method from Appendix I of 40 C.F.R. Part 261 or an equivalent method approved by DEQ. Laboratory methods must be those specified in the most recent edition of Test Methods for Evaluating Solid Waste: Physical/Chemical Methods SW-846, Standard Methods of Wastewater Analysis, or an equivalent method approved by DEQ. 40 C.F.R. § 270.30(j)(1).
- b. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports and records required by this Permit, and records of all data used to complete the application for this Permit for a period of at least three (3) years from the date of the sample, measurement, report, record, certification, or application. These periods may be extended by request of DEQ at any time and are automatically extended during the course of any unresolved enforcement action regarding this Facility. The Permittee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations for the active life of the Facility and for the post-closure care period as well. 40 C.F.R. §§ 270.30(j)(2) and 264.74(b).
- c. Pursuant to 40 C.F.R. § 270.30(j)(3), records of monitoring information shall specify:
  - i. The date(s), exact place, and times of sampling or measurements;
  - ii. The individual(s) who performed the sampling or measurements;
  - iii. The date(s) analyses were performed;
  - iv. The individual(s) who performed the analyses;
  - v. The analytical techniques or methods used; and

vi. The results of such analyses.

9. Reporting Planned Changes

The Permittee shall give notice to DEQ, as soon as possible, of any planned physical alterations or additions to the Permitted Facility. 40 C.F.R. § 270.30(l)(1).

10. Reporting Anticipated Noncompliance

The Permittee shall give advance notice to DEQ of any planned changes in the Permitted Facility or activity which may result in noncompliance with Permit requirements. 40 C.F.R. § 270.30(l)(2).

11. Transfer of Permits

Refer to Permit Condition I.F.6.

12. Compliance Schedules

Reports of compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Permit shall be submitted no later than fourteen (14) days following each schedule date. 40 C.F.R. 270.30(l)(5).

13. Hazardous Waste Release Reporting

Upon release of materials that are or become hazardous waste whether by spillage, leakage, or discharge to the soil or to air or to surface or groundwater (outside the limits of any discharge Permit), or by any other means, and which could threaten human health or the environment, the Permittee shall immediately notify DEQ and take all necessary action to contain, remediate, and mitigate hazards from the release. The Permittee shall also report any other noncompliance which may endanger health or the environment orally within twenty-four (24) hours from the time the Permittee becomes aware of the circumstances. OAC § 252:205-13-1(a), 40 C.F.R. 270.30(l)(6)(i).

a. The description of the occurrence and its cause shall include: (40 C.F.R. § 270.30(l)(6)(ii))

i. Name, address, and telephone number of the owner or operator;

ii. Name, address, and telephone number of the Facility;

iii. Date, time, and type of incident;

iv. Name and quantity of material(s) involved;

- v. The extent of injuries, if any;
  - vi. An assessment of actual or potential hazards to the environment and human health outside the Facility, where this is applicable; and
  - vii. Estimated quantity and disposition of recovered material that resulted from the incident.
- b. A written submission shall also be provided within five (5) days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period(s) of noncompliance (including exact dates and times); whether the noncompliance has been corrected; and, if not, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. DEQ may waive the five-day written notice requirement in favor of a written report within fifteen (15) days. 40 C.F.R. § 270.30(l)(6)(iii).

14. Manifest Discrepancy Report

The Permittee shall comply with the manifest discrepancy reporting requirements of 40 C.F.R. § 264.72 and the unmanifested waste reporting requirements of 40 C.F.R. § 264.76.

15. Unmanifested Waste Report

If hazardous waste is received from offsite without an accompanying manifest, a report must be submitted to the Director within fifteen (15) days of receipt of the unmanifested waste. The report shall include the information required in 40 C.F.R. §§ 264.76(a)(1)-(7). 40 C.F.R. §270.30(l)(8).

16. Annual Groundwater and Corrective Action Reports 40 C.F.R. § 270.30(l)(4).

- a. The Permittee shall submit a Groundwater Monitoring Report and Potentiometric Groundwater Surface Report within 30 (thirty) days of receiving sampling results, as outlined in IV.H.2(a) and V(H)2.
- b. The Permittee shall submit a Corrective Action Report containing the cumulative monthly groundwater removal amounts as required by V.G.1 by February 28 of each year.

17. Biennial Report

The Permittee shall comply with the biennial reporting requirements of 40 C.F.R. § 264.75. 40 C.F.R. § 270.30(l)(9).

18. Other Noncompliance

The Permittee shall report all other instances of known noncompliance with this Permit not otherwise required to be reported above by Permit Conditions I.H.10-at the time monitoring reports related to that activity are submitted. The reports shall contain the information listed in Permit Condition I.H.13. 40 C.F.R. § 270.30(l)(10).

19. Other Information

Whenever the Permittee becomes aware that it failed to submit any relevant facts in the Permit Application or submitted incorrect information in a Permit Application or in any report to DEQ, the Permittee shall promptly submit such facts or information. 40 C.F.R. § 270.30(l)(11).

**I. SIGNATORY REQUIREMENT**

All applications, reports, or information submitted to or requested by the Executive Director, their designee, or authorized representative, shall be signed and certified in accordance with 40 C.F.R. §§ 270.11 and 270.30(k).

**J. REPORTS, NOTIFICATIONS, AND SUBMISSIONS TO DEQ**

All reports, notifications, or other submissions which are required by this Permit to be sent or given to DEQ should be sent by mail or given to:

Chief Engineer  
Land Protection Division  
Oklahoma Department of Environmental Quality  
PO Box 1677  
707 North Robinson  
Oklahoma City, Oklahoma 73101-1677  
Phone Number (405) 702-5100.

**K. CONFIDENTIAL INFORMATION**

In accordance with 40 C.F.R. § 270.12 and OAC 252:4-1-5(d) and 252:205-1-4, the Permittee may claim confidential any information required to be submitted by this Permit. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of the submission, DEQ may make the information available to the public without further notice. Any claim asserted and approved by DEQ, will be treated in accordance with the procedures in 40 C.F.R. Part 2 (Public Information), and the Oklahoma

Open Records Act, 51 O.S. § 24A.5. Claims of confidentiality for the name and address of any Permit applicant or Permittee will be denied.

**L. DOCUMENTS TO BE MAINTAINED AT THE FACILITY**

The Permittee shall maintain at the Facility, until closure is completed and certified by an independent, registered professional engineer, the following documents and all amendments, revisions and modifications to these documents:

1. Sampling and Analysis Plan, as required by 40 C.F.R. § 264.97(d) and this Permit (See Permit Attachment 1).
2. Post-Closure Plan, as required by 40 C.F.R. § 264.118(a) and this Permit (See Permit Attachment 2).
3. Inspection Schedules, as required by 40 C.F.R. § 264.15(b)(2) and this Permit (See Permit Attachment 2).
4. Contingency Plan, as required by 40 C.F.R. § 264.53(a) and this Permit (See Permit Attachment 3).
5. Site Maps, as required by 40 C.F.R. § 270.14(b)(19) and this Permit (see Permit Attachment 4).
6. Operating Record, as required by 40 C.F.R. § 264.73 and this Permit.
7. All other documents required by Permit Condition I.H.8.



## **SECTION II – GENERAL FACILITY CONDITIONS**

### **A. DESIGN AND OPERATION OF FACILITY**

The Permittee shall construct, maintain, and operate the Facility to minimize the possibility of a fire, explosion, or any unplanned, sudden or non-sudden release of hazardous waste constituents to air, soil, groundwater, or surface water which could threaten human health or the environment, as required by 40 C.F.R. § 264.31 and OAC 252:205-9-1(a).

### **B. OFF-SITE SOURCES OF HAZARDOUS WASTE**

The Facility is not authorized to receive hazardous waste from off-site or foreign sources.

### **C. SECURITY**

The Permittee shall comply with the security provisions of 40 C.F.R. § 264.14(a), (b)(1) and (c) and the Facility Security Plan in Permit Attachment 2.

### **D. GENERAL INSPECTION REQUIREMENTS**

The Permittee shall comply with 40 C.F.R. § 264.15 and follow the Inspection Schedule set out in Permit Attachment 2. The Permittee shall remedy any deterioration or malfunction discovered by an inspection, as required by 40 C.F.R. § 264.15(c). Records of inspections shall be kept, as required by 40 C.F.R. § 264.15(d).

1. If requested, the Permittee shall submit a revised Inspection Schedule to DEQ.
2. If requested, the Permittee shall provide to DEQ a copy of daily, weekly, and monthly inspection logs which address all items on the Inspection Schedule from Permit Attachment 2, as referenced in Permit Condition II.D above.

### **E. PREPAREDNESS AND PREVENTION**

1. Testing and Maintenance of Equipment

As required by 40 C.F.R. § 264.32 and 40 C.F.R. § 264.33, the Permittee shall maintain and test the equipment specified in the Post-Closure Plan, Permit Attachment 2.

2. Access to Communications or Alarm System

As required by 40 C.F.R. § 264.34, the Permittee shall maintain access to the communications or alarm system, as set forth in Permit Attachment 3.

3. Arrangements with Local Authorities

As required by 40 C.F.R. § 264.37, the Permittee shall maintain arrangements with state and local authorities as specified in Permit Attachment 3. If state or local officials refuse to enter into preparedness and prevention arrangements with the Permittee, the Permittee must document this refusal in the operating record.

**F. GENERAL POST-CLOSURE REQUIREMENTS**

1. Post-Closure Care Period

The Permittee began post-closure care for one waste pile and three waste surface impoundments after completion of closure of the units in 1993 and 1994. The Permittee shall maintain the Facility in accordance with 40 C.F.R. § 264.117 and the Post-Closure Plan, Permit Attachment 2 until certification of completion of post-closure.

2. Post-Closure Security

The Permittee shall maintain security at the Facility during the post-closure care period by posting a sign with the legend “Danger-Unauthorized Personnel Keep Out” at each entrance to the Facility. The legend must be written in English and must be legible from a distance of at least 25 feet. The Permittee shall maintain the security features as outlined in Permit Attachment 2. 40 C.F.R. § 264.14(c).

3. Amendment to Post-Closure Plan

The Permittee shall amend the Post-Closure Plan in accordance with 40 C.F.R. § 264.118(d), whenever necessary.

4. Post-Closure Hazardous Waste Removal

The Permittee shall request and obtain a Permit modification prior to post-closure removal of hazardous wastes, hazardous waste residues, liners, or contaminated soils, in accordance with 40 C.F.R. § 264.119(c).

5. Post-Closure Use of Property

The Permittee shall not allow post-closure use of the property to disturb the integrity of the final cover or any other components of the run-on run-off containment system or the function of the Facility’s monitoring systems in accordance with 40 C.F.R. § 264.117(c).

**G. COST ESTIMATE FOR FACILITY POST-CLOSURE**

The Permittee's most recent post-closure cost estimates, prepared in accordance with 40 C.F.R. 264.144, are specified in Attachment 2 of the Permit. Post-closure cost estimates must be updated at the next Permit renewal and each subsequent renewal. 40 C.F.R. 270.14(b)(16).

**H. FINANCIAL ASSURANCE FOR FACILITY POST-CLOSURE**

The Permittee shall demonstrate continuous compliance with 40 C.F.R. §§ 264.145 by providing documentation of financial assurance, as required by 40 C.F.R. §§ 264.151 or 264.149, in at least the amount of the cost estimates required by Permit Condition II.G. 40 C.F.R. 270.14(b)(18). Changes in financial assurance mechanisms must be approved by DEQ pursuant to 40 C.F.R. §§ 264.145 or 264.149.

**I. LIABILITY REQUIREMENTS**

By the authority of 40 C.F.R. § 264.147(d) the Permittee is relieved from the requirements to comply, as applicable, with 40 C.F.R. § 264.147(a) to have and maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence, with an annual aggregate of at least \$2 million, exclusive of legal defense costs.

By the authority of 40 C.F.R. § 264.147(d) the Permittee also is relieved from the requirements to comply, as applicable, with 40 C.F.R. § 264.147(b) to have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least \$3 million per occurrence, with an annual aggregate of at least \$6 million, exclusive of legal defense costs. DEQ may reinstitute liability requirements of the Permittee depending on upon the assessment of the annual groundwater monitoring result.

**J. INCAPACITY OF OWNERS OR OPERATORS, GUARANTORS, OR FINANCIAL INSTITUTIONS**

The Permittee shall comply with 40 C.F.R. § 264.148, whenever necessary.

### **SECTION III – POST-CLOSURE CARE**

#### **A. SECTION HIGHLIGHTS**

This section covers the maintenance and post-closure care of a waste pile and three surface impoundments which have been closed as landfills. In 1994, the Permittee closed three interim status surface impoundments as one landfill after attempting to remove all contaminated soils, structures, and other materials. These surface impoundments, #1, #2, and #3, contained bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol, EPA waste code K001. The Permittee also closed the hazardous waste pile, which contained K001 waste, as a landfill. On October 6, 1994, DEQ accepted closure certification for the waste pile and surface impoundments.

Thirty years of semi-annual post-closure monitoring of groundwater and quarterly maintenance of the cover were initiated subsequent to closure. The activities will be carried out until certification of post-closure.

#### **B. UNIT IDENTIFICATION**

The Permittee shall provide post-closure care for the two closed hazardous waste management units, the waste pile and the surface impoundment unit, subject to the terms and conditions of this Permit. The waste pile is located approximately 350 feet west of the process area in the western part of the site (see Permit Attachment 4). The closed surface impoundment is located approximately 100 feet south of the process area (see Permit Attachment 4). Both units contain hazardous waste with waste code K001. Both units also contain elevated concentrations of chromium as well as measurable mercury and cadmium concentrations.

#### **C. POST-CLOSURE PROCEDURES AND USE OF PROPERTY**

1. The Permittee shall conduct post-closure care for each hazardous waste management unit identified in Permit Condition III.B. This care began after completion of closure of the unit and shall continue for 30 years after that date. The 30-year post-closure care period may be shortened upon application and demonstration approved by DEQ that the Facility is secure or may be extended by DEQ if necessary to protect human health and the environment. 40 C.F.R. § 264.117(a).
2. The Permittee shall maintain and monitor the groundwater monitoring system and comply with all other applicable requirements of 40 C.F.R. Part 264 Subpart F and the terms of this Permit during the post-closure period. 40 C.F.R. § 264.90(a)(2).

3. The Permittee shall comply with the requirements for landfills, as follows: (40 C.F.R. § 264.310(b))
  - a. Maintain the integrity and effectiveness of the final cover, including vegetation mowing and making repairs to the cap, as necessary, to correct the effects of settling, subsidence, erosion, tree growth, rodent damage, or other events;
  - b. Prevent surface water run-on and run-off from eroding or otherwise damaging the final cover; and
  - c. Protect and maintain surveyed benchmarks used in complying with the surveying and recordkeeping requirements of 40 C.F.R. § 264.309.
4. The Permittee shall comply with all security requirements, as specified in 40 C.F.R. § 264.117(b).
5. The Permittee shall not allow any use of the units designated in Permit Condition III.B which will disturb the integrity of the final cover, liners, any components of the containment system, or the function of the Facility's monitoring systems during the post-closure care period. 40 C.F.R. § 264.117(c).

DEQ may allow a variance to this condition, with the proper notifications and modifications, if a disturbance of the cap is necessary for the proposed use of the property and will not increase the potential hazard to human health or the environment or is necessary to reduce a threat to human health and/or the environment. 40 C.F.R. § 264.117(c)(1) and (2).

#### **D. INSPECTION SCHEDULES AND PROCEDURES**

The Permittee shall inspect the components, structures, and equipment at the site in accordance with 40 C.F.R. § 264.117(a)(1)(ii).

#### **E. NOTICES AND CERTIFICATION**

1. If the Permittee, or any subsequent owner or operator of the land upon which the hazardous waste disposal units are located, wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, or contaminated soils, then he shall request a modification to this Permit in accordance with the applicable requirements in 40 C.F.R. Parts 124 and 270. The Permittee or any subsequent owner or operator of the land shall demonstrate that the removal of hazardous wastes will satisfy the criteria of 40 C.F.R. § 264.117(c). 40 C.F.R. § 264.119(c).

By removing hazardous waste, the Permittee may become a generator of hazardous waste and must manage it in accordance with all applicable RCRA requirements.

If the Permittee is granted a Permit modification or otherwise granted approval to conduct such removal activities, the Permittee may request that DEQ approve either:

- a. The removal of the notation on the deed to the Facility property or other instrument normally examined during title search; or
  - b. The addition of a notation to the deed or instrument indicating the removal of the hazardous waste.
2. No later than sixty (60) days after completion of the established post-closure care period for each hazardous waste disposal unit, the Permittee shall submit to DEQ, by registered mail, a certification that the post-closure care of the hazardous waste disposal unit was performed in accordance with the specifications in the approved Post-Closure Plan. The certification must be signed by the Permittee and an independent, professional engineer that is registered in Oklahoma. Documentation supporting the independent, registered professional engineer's certification must be furnished to DEQ upon request until DEQ releases the Permittee from the financial assurance requirements for post-closure care under 40 C.F.R. § 264.145(i). 40 C.F.R. § 264.120.

**F. FINANCIAL ASSURANCE**

1. The Permittee shall maintain financial assurance during the post-closure period and comply with all applicable requirements of 40 C.F.R. Part 264, Subpart H. 40 C.F.R. § 264.145.
2. The Permittee shall demonstrate to DEQ that the value of the financial assurance mechanism exceeds the remaining cost of post-closure care in order for DEQ to approve a release of funds. 40 C.F.R. § 264.145(a)(10).
3. The Permittee or any other person authorized to conduct post-closure care shall submit itemized bills to DEQ when requesting reimbursement for post-closure care. 40 C.F.R. § 264.145(a)(11).

**G. REQUEST FOR PERMIT MODIFICATION**

The Permittee must request a Permit modification to authorize a change in the approved Post-Closure Plan. This request must be in accordance with applicable requirements of 40 C.F.R. Parts 124 and 270 and must include a copy of the proposed amended Post-Closure Plan for approval by DEQ. The Permittee shall request a Permit modification whenever changes in operating plans or Facility design affect the approved Post-Closure Plan, there is a change in the expected year of final closure, or other events occur during the active life of the Facility that affect the approved Post-Closure Plan. The Permittee must submit a written request for a Permit modification at least 60 days prior to the proposed change in

Facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the Post-closure Plan. 40 C.F.R. § 264.118(d).

At the end of the Post-Closure/Compliance period, the Permittee shall submit a work plan for sampling the closed waste pile to determine whether the bioremediation remedy has succeeded; if it has not succeeded, then further corrective action should be considered.

## **SECTION IV—GROUNDWATER DETECTION MONITORING**

### **A. SECTION HIGHLIGHTS**

In 1994, the Permittee closed three interim status surface impoundments as one landfill after attempting to remove all contaminated soils, structures, and other materials. These surface impoundments, #1, #2, and #3, contained bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol, EPA waste code K001. The Permittee also closed the hazardous waste pile, which contained K001 waste, as a landfill. On October 6, 1994, DEQ accepted closure certification for the waste pile and surface impoundments.

This section describes the groundwater detection monitoring requirements for the Facility. Monitoring well PZ-2 is the downgradient monitoring well for detection of releases from the Waste Pile. In May 2019, DEQ authorized PZ-2 to be sampled biennially in even-numbered years beginning in 2020. DEQ may require further monitoring if deemed necessary.

### **B. WELL LOCATION, INSTALLATION, CONSTRUCTION AND SAMPLING**

The Permittee shall install and maintain a groundwater detection monitoring system as specified below: (40 C.F.R. § 264.98(b))

1. The Permittee shall maintain groundwater monitoring well PZ-2 at the location specified on the map in Permit Attachment 1.
2. The Permittee shall sample groundwater from monitoring well PZ-2 in August during even-numbered years using the procedures outlined in Permit Condition IV.D. The Permittee may revise this schedule with prior written approval from DEQ. A detection of the indicator parameters found in Permit Condition IV.C above the concentration limits listed in Permit Condition IV.F will be considered a significant increase over the background values and will require the Permittee to perform the actions outlined in Permit Condition IV.H.3.
3. Plugging or abandonment of PZ-2 will require prior approval from DEQ and must follow the plugging and abandonment procedures of the Oklahoma Water Resource Board. Well plugging and abandonment methods and certification shall be submitted to DEQ within thirty (30) days from the date the wells are removed from the monitoring program.
4. When a new monitoring well is installed, the Permittee shall submit all well logs to DEQ in a report following installation of the new monitoring well.



**C. INDICATOR PARAMETERS**

The Permittee shall monitor wells as described in Permit Condition IV.B.1, for the following constituents: (40 C.F.R. § 264.98(a))

Pentachlorophenol  
Naphthalene

**D. SAMPLING AND ANALYSIS PROCEDURES**

The Permittee shall use the following techniques and procedures when obtaining and analyzing samples from the groundwater monitoring well described in Permit Condition IV.B.2. 40 C.F.R. § 264.97(d) and (e).

1. Samples shall be collected using the techniques described in Permit Attachment 1.
2. Samples shall be preserved and shipped, in accordance with the procedures specified in Permit Attachment 1.
3. Samples shall be analyzed in accordance with the procedures specified in Permit Attachment 1.
4. Samples shall be tracked and controlled using the chain-of-custody procedures specified in Permit Attachment 1.
5. The Permittee must use an accredited laboratory for testing and analysis procedures.

**E. ELEVATION OF THE GROUNDWATER SURFACE**

The Permittee shall determine the elevation of the groundwater surface at the groundwater monitoring wells described in Permit Condition IV.B.1 prior to the time the groundwater is sampled. 40 C.F.R. § 264.97(f).

**F. GROUNDWATER PROTECTION STANDARD (“GWPS”)**

1. The Permittee shall monitor the groundwater to determine whether the regulated unit is in compliance with the GWPS under 40 C.F.R. § 264.92

The following hazardous constituents and their Maximum Concentration Limit (“MCL”) comprise the GWPS: (40 C.F.R. §§ 264.93 and 264.94)

<u>Constituent</u>	<u>Concentration</u>
Pentachlorophenol	1 µg/L
Naphthalene	2 µg/L

2. The Permittee shall sample the groundwater monitoring well in Permit Condition IV.B.1 at the frequency outlined in Permit Condition IV.B.2.

**G. DATA EVALUATION**

1. The Permittee shall determine groundwater quality at the monitoring well in Permit Condition IV.B.1 at each sampling event during the post-closure care period. 40 C.F.R. § 264.98(d).
2. The Permittee shall determine the detection of constituents above the GWPS, as required by Permit Condition IV.F.1 at each monitoring well in Permit Condition IV.B.1. 40 C.F.R. § 264.98(f).
3. The Permittee shall, at least annually, determine the groundwater flow rate and direction in the uppermost aquifer. 40 C.F.R. § 264.98(e).
4. The Permittee shall perform the evaluations described in Permit Condition IV.G.2 within forty-five (45) days after completion of sampling. 40 C.F.R. § 264.98(f)(2).

**H. RECORDKEEPING AND REPORTING**

1. The Permittee shall enter all monitoring, testing, and analytical data in Permit Condition IV.G. into the operating record. 40 C.F.R. § 264.97(j).
2. The Permittee shall submit the analytical results required by Permit Conditions IV.E, IV.G.2 and IV.G.3 in accordance with the following schedule:
  - a. Within thirty (30) days of receiving the analytical results required by Permit Condition IV.G.2, the Permittee shall submit a report describing the groundwater sampling analysis and the annual groundwater flow rate and direction determination required by Permit Condition IV.G.3.
3. If the Permittee determines, pursuant to Permit Condition IV.G.2 there is a detection above the GWPS of the indicator parameters specified in Permit Condition IV.C, the Permittee shall:
  - a. Notify DEQ in writing within seven (7) days. The notification must indicate which parameters have detections above the method detection limit. 40 C.F.R. § 264.98(g)(1).
  - b. Immediately sample the groundwater in PZ-2 and determine the concentration of naphthalene and pentachlorophenol. 40 C.F.R. § 264.98(g)(2).

- c. If either naphthalene or pentachlorophenol is detected pursuant to Permit Condition IV.G.2 above, the Permittee may resample within one (1) month and repeat the analysis for either compound detected. If the results from this second analysis confirm the initial results, then these constituents will form the basis for Compliance Monitoring or additional Corrective Action. 40 C.F.R. § 264.98(g)(3).
- d. Within ninety (90) days of detections of indicator parameters in Permit Condition IV.H.3 the Permittee shall submit to DEQ an application for a Permit modification to establish a Compliance Monitoring Program meeting the requirements of 40 C.F.R. § 264.99. The application must include the following information: (40 C.F.R. § 264.98(g)(4)).
  - 1. An identification of the concentrations of naphthalene and pentachlorophenol found in the groundwater at each monitoring well at the compliance point. 40 C.F.R. § 264.98(g)(4)(i).
  - 2. Any proposed changes to the groundwater monitoring system at the Facility necessary to meet the requirements of compliance monitoring as described in 40 C.F.R. § 264.99. 40 C.F.R. § 264.98(g)(4)(ii).
  - 3. Any proposed changes to the monitoring frequency, sampling and analysis procedures, or methods or statistical procedures used at the Facility necessary to meet the requirements of compliance monitoring as described in 40 C.F.R. § 264.99. 40 C.F.R. § 264.98(g)(4)(iii).
  - 4. For each hazardous constituent found at the monitoring well listed in Permit Condition IV.B.2, the Permittee may propose an Alternate Concentration Limit (“ACL”), with supporting documentation. 40 C.F.R. § 264.98(g)(4)(iv).
- e. Within one hundred eighty (180) days of detections of indicator parameters in Permit Condition IV.H.3, the Permittee shall submit to DEQ the following items: (40 C.F.R. § 264.98(g)(5)).
  - 1. All of the data necessary to justify an ACL and (if applicable);
  - 2. An engineering feasibility plan for a Corrective Action Program necessary to meet the requirements of 40 C.F.R. § 264.100.

4. If the Permittee determines, pursuant to Permit Condition IV.G.2, that there is a detection of the parameters specified in Permit Condition IV.C, he may demonstrate that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. In such cases, the Permittee shall:
  - a. Notify DEQ in writing within seven (7) days of the determination of detections of constituents listed in IV.C above background values required by Permit Condition IV.G.4 that he intends to make a demonstration. 40 C.F.R. § 264.98(g)(6)(i).
  - b. Within ninety (90) days of the determination of detections of constituents listed in IV.C above background values required by Permit Condition IV.G.4, submit a report to DEQ which demonstrates that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation. 40 C.F.R. § 264.98(g)(6)(ii).
  - c. Within ninety (90) days of the determination of detections of constituents listed in IV.C above background values required by Permit Condition IV.G.4, submit to DEQ an application for a Permit modification to make any appropriate changes to the Detection Monitoring Program at the Facility. 40 C.F.R. § 264.98(g)(6)(iii).
  - d. Continue to monitor in accordance with the Detection Monitoring Program at the Facility. 40 C.F.R. § 264.98(g)(6)(iv).

## **I. REQUEST FOR PERMIT MODIFICATION**

If the Permittee or DEQ determines the Detection Monitoring program no longer satisfies the requirements of the regulations, the Permittee must, within ninety (90) days of the determination, submit an application for a Permit modification to make any appropriate changes to the program which will satisfy the regulations. 40 C.F.R. § 264.98(h).

## **SECTION V—CORRECTIVE ACTION AND GROUNDWATER MONITORING**

### **A. SECTION HIGHLIGHTS**

A Corrective Action Program has been in existence at the Facility since 1996 when a release to the groundwater was confirmed from the interim status detection groundwater monitoring program. Sampling events indicated pentachlorophenol (“PCP”) concentrations in PZ-6 and PZ-7 greater than the MCL, confirming a release to the groundwater from the closed surface impoundments. Monitoring well PZ-4, also contaminated with PCP, is located within the waste management area, i.e., the cap over the impoundments.

Monitoring wells PZ-5, PZ-8, PZ-9, PZ-10, CW-1, CW-2, and CW-3 may be used as Corrective Action wells, as designated by DEQ. These wells range in depth from 13.5 to 30.0 feet and are screened at the base of the shallowest and second shallower aquifer. Representative groundwater samples from selected wells will be collected and analyzed for the presence of pentachlorophenol and naphthalene. The Permittee currently samples PZ-5, PZ-9, and CW-2 annually. As required by Permit Condition IV.B.2, PZ-2 is in detection monitoring and is sampled biennially in even-numbered years.

Wells PZ-4, PZ-5, PZ-6 and PZ-7 are utilized in the Permittee’s Corrective Action Program to remove groundwater with contaminant concentrations above the groundwater protection standard. The Permittee bails these piezometers each operating day or as groundwater is present, as a remediation effort, with the bailed water placed in process vessels of wood-treating fluid, as is allowed under 40 C.F.R. § 261.4(a)(9). Bailing of PZ-6 and PZ-7 began in 1996, bailing of PZ-4 began in 1999 and bailing of PZ-5 began in 2016. Volumes from the groundwater removal are to be submitted annually with the sampling results required by Permit Condition V.G.

### **B. WELL LOCATION, INSTALLATION AND CONSTRUCTION**

The Permittee shall maintain and operate the groundwater monitoring and Corrective Action Program as specified below: (40 C.F.R. § 264.99(b))

1. Monitoring Wells:  
The Permittee shall maintain the following groundwater monitoring wells at the locations specified on the map presented in Permit Attachment 1: PZ-3, PZ-4, PZ-5, PZ-6, PZ-7, PZ-8, PZ-9, CW-1, CW-2, and CW-3.
2. Well Maintenance:  
The Permittee shall maintain the monitoring wells in accordance with the specifications presented in Permit Attachment 1.

3. Monitoring Well Removal:

The Permittee must apply for a Permit modification, as applicable, to request a change in the number, location, depth, or design of groundwater monitoring wells as required under 40 C.F.R. § 270.42 Appendix I(C)(1).

All wells removed from the monitoring program shall be plugged and abandoned in accordance with procedures specified by the Oklahoma Water Resources Board. A list of plugged wells and corresponding certification shall be submitted to DEQ at least semi-annually, as appropriate.

4. Well Log Submission:

The Permittee shall submit all well logs to DEQ in the report following installation of a new monitoring well.

**C. GROUNDWATER PROTECTION STANDARD (“GWPS”)**

1. The Permittee shall monitor the groundwater to determine whether the regulated units are in compliance with the GWPS under 40 C.F.R. § 264.92
2. The following hazardous constituents and their MCL comprise the GWPS: (40 C.F.R. §§ 264.93 and 264.94)

<u>Constituent</u>	<u>Concentration</u>
Pentachlorophenol	1 µg/L
Naphthalene	2 µg/L

3. The Permittee shall monitor groundwater monitoring wells PZ-5, PZ-9, and CW-2 annually.
4. The compliance period, during which the groundwater protection standard applies, shall extend until the Permittee demonstrates that the GWPS has not been exceeded for three consecutive years after completion of remediation efforts. 40 C.F.R. § 264.96(c).

**D. SAMPLING AND ANALYSIS PROCEDURES**

The Permittee shall use the following techniques and procedures when obtaining and analyzing samples from the groundwater monitoring wells described in Permit Condition V.C.3. 40 C.F.R. § 264.97(d) and (e).

1. Samples shall be collected using the techniques described in Permit Attachment 1.
2. Samples shall be preserved and shipped, in accordance with the procedures specified in Permit Attachment 1.

3. Samples shall be analyzed in accordance with the procedures specified in Permit Attachment 1.
4. Samples shall be tracked and controlled using the chain-of-custody procedures specified in Permit Attachment 1.
5. The Permittee must use an accredited laboratory for testing and analysis procedures.

**E. ELEVATION OF THE GROUNDWATER SURFACE**

The Permittee shall determine the groundwater surface elevation at each well when groundwater is sampled in accordance with the Permittee's Sampling and Analysis Plan, Permit Attachment 1. 40 C.F.R.264.97(f).

**F. MONITORING PROGRAM AND DATA EVALUATION**

The Permittee shall establish and implement a Groundwater Monitoring Program to demonstrate the effectiveness of the Corrective Action Program. 40 C.F.R. 264.100(d). The Permittee shall determine groundwater quality as follows:

1. The Permittee shall analyze groundwater samples pursuant to Permit Condition V.C.1. Sampling shall occur annually in August.
2. The Permittee shall determine the concentration of hazardous constituents, as specified in Permit Condition V.C.1, in groundwater at each monitoring well listed in Permit Condition V.C.3 within forty-five (45) days of sampling.
3. The Permittee shall determine the groundwater flow rate and direction in the uppermost aquifer at least annually. 40 C.F.R. § 264.99(e)

**G. OPERATION OF GROUNDWATER REMOVAL PROGRAM**

1. The Permittee's Corrective Action Program shall prevent hazardous constituents from exceeding the GWPS, as required under Permit Condition V.C.1, by removing the hazardous constituents. 40 C.F.R. § 264.100(b). Specifically, the Permittee shall continue the approved Corrective Action Program, found in Permit Attachment 1 which outlines bailing of wells PZ-4, PZ-5, PZ-6, and PZ-7, five days a week, or as groundwater is present, to remove contaminants. The Permittee shall provide a report on this remediation program to DEQ annually, as outlined in Permit Condition I.H.15.
2. The Permittee shall continue the Corrective Action Program until the GWPS of Permit Condition V.C.1 is met. If corrective action is required beyond the

compliance period, it will continue until the GWPS has not been exceeded for three (3) consecutive years. 40 C.F.R. § 264.100(f).

3. If the determination of the concentrations of hazardous constituents under Permit Condition V.F.2 indicates an exceedance for two (2) consecutive sampling periods, the Permittee shall, within ninety (90) days after submittal of the second consecutive report of an exceedance, submit a Permit modification to expand the Corrective Action Program. 40 C.F.R. § 264.100(h).
  - a. The Permittee shall provide a list of corrective measures to be performed and a time schedule for completion of all tasks.
  - b. Within thirty (30) days of DEQ's approval of the modification of the Corrective Action Program, the Permittee must implement the conditions and tasks of the modified program. 40 C.F.R. § 264.100(c).
  - c. In conjunction with the Corrective Action Program, the Permittee must modify and implement a Groundwater Monitoring Program to demonstrate the effectiveness of the Corrective Action Program. 40 C.F.R. § 264.100(d).
  - d. The Permittee shall modify the Corrective Action Program to remove or treat in place any hazardous constituents that exceed concentration limits in groundwater as follows:
    - i. Between the compliance point and the downgradient Facility property boundary, in accordance with 40 C.F.R. § 264.100(e)(1); and
    - ii. Beyond the Facility boundary, where necessary to protect human health and the environment, the Permittee is required to conduct a Corrective Action Program to remove or treat in place any hazardous constituents under 40 C.F.R. § 264.93 that exceed concentration limits under 40 C.F.R. § 264.94 in groundwater, unless the Permittee demonstrates to DEQ that, despite the Permittee's best efforts, he is unable to obtain the necessary permission to undertake such action. The Permittee, however, is not relieved of all responsibility to clean up a release that has migrated beyond the Facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case-basis. 40 C.F.R. § 264.100(e)(2).



- e. Corrective action measures under this paragraph must be initiated and completed within a reasonable period of time considering the extent of contamination. 40 C.F.R. § 264.100(e)(3).
- f. Corrective action measures may be terminated once the concentration of hazardous constituents under 40 C.F.R. § 264.93 is reduced to levels below their respective concentration limits under 40 C.F.R. § 264.94. 40 C.F.R. § 264.100(e)(4).

## **H. RECORDKEEPING AND REPORTING**

- 1. The Permittee shall enter all monitoring, testing, and analytical data obtained pursuant to Permit Conditions V.D-V.G in the operating record.
- 2. Within thirty (30) days of receiving the analytical results required by Permit Condition V.C.3, the Permittee shall submit a report describing the groundwater sampling analysis and the annual groundwater flow rate and direction determination required by Permit Conditions V.D-V.F.

## **I. REQUEST FOR PERMIT MODIFICATION**

If the Permittee or DEQ determines the corrective action system has achieved the GWPS, the Permittee may submit to DEQ an application for a Permit modification to request a “No Further Action” determination and site closure.

## **SECTION VI—SPECIAL CONDITIONS PURSUANT TO THE 1984 HAZARDOUS AND SOLID WASTE AMENDMENTS (“HSWA”)**

### **A. STANDARD CONDITIONS**

#### **1. Dust Suppression**

Pursuant to 40 C.F.R. § 266.23(b), OAC 252:205-3-2(m), and the Toxic Substances Control Act, the Permittee shall not use waste or used oil or any other material which is contaminated with dioxin, polychlorinated biphenyls (“PCBs”), or any other hazardous waste (other than a waste identified solely on the basis of ignitability), for dust suppression or road treatment.

#### **2. Permit Modification**

##### **a. DEQ-Initiated Modifications**

If at any time for any of the reasons specified in 40 C.F.R. § 270.41, DEQ determines that modification of this Permit is necessary, DEQ may initiate permit modification proceedings in accordance with the regulations set forth at 40 C.F.R. § 270.41.

##### **b. Permittee-Initiated Modifications**

The Permittee may, where appropriate, initiate Permit modifications in accordance with the regulations set forth at 40 C.F.R. § 270.42. The Permittee shall follow all applicable requirements and procedures as specified in 40 C.F.R. § 270.42 in initiating such proceedings.

##### **c. Modification of Corrective Action Schedules of Compliance (“CASC”)**

i. The Permittee shall adhere to CASCs developed for newly identified and previously identified SWMUs covered by this Permit. If at any time the Permittee determines that such schedules cannot be met, the Permittee shall, within fifteen (15) days of such determination, notify DEQ and submit a request for a permit modification under 40 C.F.R. § 270.42, with a justification as to why the current CASC cannot be met and revise the Corrective Action Program to be developed per Permit Condition V.G.3 accordingly.

ii. If DEQ determines that a modification of the CASC is required, the following procedure will apply. CASC modifications made under this procedure are not subject to administrative appeal.

1. DEQ will notify the Permittee in writing of the proposed modification. Such notice will:

- a. Describe the exact changes to be made to the permit conditions;
  - b. Provide an explanation of why the modification is needed;
  - c. Provide notification of the date by which comments on the proposed modification must be received. Such date will not be less than twenty (20) days from the date the notice of proposed modification is received by the Permittee, or after the public notice is published;
  - d. Provide notification that supporting documentation or data may be available for inspection at the State or EPA Regional office; and
  - e. Include the name and address of a representative of DEQ to whom comments may be sent.
2. The Permittee shall:
- a. Publish a notice, approved by DEQ, of the proposed modification in a newspaper distributed in the locality of the facility, which includes notice of items in 40 C.F.R. § 124.10(d);
  - b. Mail a notice of the proposed modification to all persons on the facility mailing list maintained according to 40 C.F.R. § 124.10(c)(1). Such notice will include items in 40 C.F.R. § 124.10(d) and shall be mailed concurrently with notice to the Permittee; and
  - c. For facilities which have established an information repository, the Permittee shall place a notification of the proposed modification, including items under 40 C.F.R. § 124.10(d), in the information repository concurrently with actions taken under those items.
- iii. DEQ's Decision Regarding Modification
1. If DEQ receives no written comment on the proposed modification, the modification shall become effective five

(5) calendar days after the close of the comment period. DEQ shall:

- a. Notify the Permittee in writing of the final decision.
- b. Notify individuals on the facility mailing list in writing that the modification has become effective and shall place a copy of the modified CASCs in the information repository, if a repository is required for the facility.

2. If DEQ receives written comment on the proposed modification, DEQ shall make a final determination concerning the modification after the end of the comment period. DEQ shall:

- a. Notify the Permittee in writing of the final decision.
- b. Provide notice of the final modification decision in a locally distributed newspaper and place a copy of the modified permit in the information repository, if a repository is required for the facility.

3. Permit Review

This Permit will be reviewed by DEQ five (5) years after the date of Permit issuance and may be modified as necessary. Nothing in this section shall preclude DEQ from reviewing and modifying the Permit at any time during its term.

4. Compliance with Permit

Compliance with a RCRA Permit during its term constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA except for those requirements not included in the Permit which:

- a. Become effective by statute;
- b. Are promulgated under 40 C.F.R. Part 268 restricting the placement of hazardous wastes in or on the land; or
- c. Are promulgated under 40 C.F.R. Part 264 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, QA/QC programs, monitoring action leakage rates, and response action

plans, and will be implemented through the procedures of 40 C.F.R. § 270.42 Class 1 Permit modifications.

5. Information Submittal

Failure to comply with any condition of this Permit, including information submittal, constitutes a violation of the Permit and is grounds for enforcement action, Permit amendment, termination, revocation, suspension, or denial of Permit renewal application. Falsification of any submitted information is grounds for termination of this Permit. 40 C.F.R. § 270.43.

The Permittee shall ensure that all plans, reports, notifications, and other submissions to DEQ required in this Permit are signed and certified in accordance with 40 C.F.R. § 270.11. One (1) hard copy and one (1) electronic copy of each of these plans, reports, notifications, or other submissions shall be submitted to DEQ by Certified Mail or hand-delivered to:

Oklahoma Department of Environmental Quality  
Land Protection Division  
707 North Robinson Avenue  
P.O. Box 1677  
Oklahoma City, Oklahoma 73101-1677

6. Plans and Schedules Incorporation into Permit

All plans and schedules required by this Permit are, upon approval by DEQ, incorporated into this Permit by reference and become an enforceable part of this Permit. Since required items are essential elements of this Permit, failure to submit any of the required items or submission of inadequate or insufficient information may subject the Permittee to enforcement action under Section 3008 of RCRA which may include fines, suspension, or revocation of the Permit.

Any noncompliance with approved plans and schedules shall be termed noncompliance with this Permit. Written requests for extensions of due dates for submittals may be granted by DEQ.

If DEQ determines that actions beyond those provided for, or changes to what is stated herein, are warranted, DEQ may modify this Permit.

7. Data Retention

All raw data, such as laboratory reports, drilling logs, bench-scale or pilot-scale data, and other supporting information gathered or generated during activities undertaken pursuant to this Permit shall be maintained at the Facility during the term of this Permit, including any reissued Permits.

8. Management of Wastes

All solid wastes which are managed pursuant to a remedial measure taken under the corrective action process or as an interim measure addressing a release or the threat of a release from a solid waste management unit shall be managed in a manner protective of human health and the environment and in compliance with all applicable federal, state and local requirements. Approval of units for managing wastes and conditions for operating the units, if approved, shall be granted through the permitting process.

**B. CORRECTIVE ACTION**

Corrective Action for Releases: Section 3004(u) of RCRA, as amended by HSWA, and 40 C.F.R. § 264.101, require that permits issued after November 8, 1984, address corrective action for Releases of hazardous waste or hazardous constituents from any SWMU at the Facility, regardless of when the waste was placed in the unit.

In 1994, the Permittee closed three interim status surface impoundments as one landfill after attempting to remove all contaminated soils, structures, and other materials. These surface impoundments, #1, #2, and #3, contained bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol, EPA waste code K001. The Permittee closed the waste pile, which also contained K001 waste, as a landfill. On October 6, 1994, DEQ accepted closure certification for the waste pile and surface impoundments.

**C. NOTIFICATION REQUIREMENTS FOR AND ASSESSMENT OF NEWLY IDENTIFIED SWMUs AND POTENTIAL AOCs**

1. The Permittee shall notify DEQ, in writing, of any newly identified SWMU(s) and potential AOCs (i.e., a unit or area not specifically identified during the RFA), discovered in the course of groundwater monitoring, field investigations, environmental audits, or other means, no later than thirty (30) calendar days after discovery. The Permittee shall also notify DEQ of any newly constructed land-based SWMUs (including but not limited to, surface impoundments, waste piles, landfills, land treatment units) and newly constructed SWMUs where any release of hazardous constituents may be difficult to identify (e.g., underground storage tanks) no later than thirty (30) days after construction. The notification shall include the following items, to the extent available:
  - a. The location of the newly identified SWMU or potential AOC on the topographic map required under 40 C.F.R. § 270.14(b)(19). Indicate all existing units (in relation to other SWMUs);
  - b. The type and function of the unit;

- c. The general dimensions, capacities, and structural description of the unit (supply any available drawings);
  - d. The period during which the unit was operated;
  - e. The specifics, to the extent available, on all wastes that have been or are being managed at the SWMU or potential AOC; and
  - f. Results of any sampling and analysis required for the purpose of determining whether releases of hazardous waste including hazardous constituents have occurred, are occurring, or are likely to occur from the SWMU or whether the AOC should be considered a SWMU.
2. Based on the results of this notification, DEQ will designate the newly identified AOC(s). Based on the results of this notification or investigation conducted, DEQ will determine the need for further investigations or corrective measures at any newly identified SWMU(s) or AOC(s). If DEQ determines that such investigations are needed, DEQ may require the Permittee to prepare a plan for such investigations. The Permit will be modified to incorporate the investigation requirements for the newly identified AOC(s) or SWMU(s).

**D. NOTIFICATION REQUIREMENTS FOR NEWLY DISCOVERED RELEASES AT SWMU(s) AND AOC(s)**

The Permittee shall notify DEQ in writing, no later than fifteen (15) calendar days after discovery, of any release(s) from a SWMU or AOC of hazardous waste or hazardous constituents discovered during the course of groundwater monitoring, field investigation, environmental auditing, or other means. Such newly discovered releases may be from newly identified SWMUs or AOCs, newly constructed SWMUs, or from SWMUs or AOCs for which, based on the findings of the RFA, completed RFI, or investigation of an AOC(s), DEQ had previously determined no further investigation was necessary. The notification shall include information concerning actual and/or potential impacts beyond the Facility boundary and on human health and the environment, if available at the time of the notification. DEQ may require further investigation and/or interim measures for the newly identified release(s), and may require the Permittee to prepare a plan for the investigation and/or interim measure. The Permit will be modified to incorporate the investigation, if required.

**E. INTERIM MEASURES**

1. If during the course of any activity initiated under this Permit, DEQ determines that a release or potential release of hazardous constituents from a SWMU poses a threat to human health and the environment, DEQ may require interim measures. DEQ shall determine the specific measure(s) or require the Permittee to propose a measure(s). The interim measure(s) may include a Permit modification, a schedule for implementation, and a written plan. DEQ shall notify the Permittee in writing

of the requirement to perform interim measures. DEQ may modify this Permit to incorporate interim measures into the Permit.

2. The Permittee may propose interim measures at any time. The proposal shall include a written plan and a schedule for implementation. Depending upon the nature of the interim measure, a Permit modification may not be required.
3. The following factors will be considered by DEQ in determining the need for interim measures and the need for Permit modification:
  - a. Time required to develop and implement a final remedy;
  - b. Actual and potential exposure to human and environmental receptors;
  - c. Actual and potential contamination of drinking water supplies and sensitive ecosystems;
  - d. The potential for further degradation of the medium in the absence of interim measures;
  - e. Presence of hazardous wastes in containers that may pose a threat of release;
  - f. Presence and concentration of hazardous waste including hazardous constituents in soil that have the potential to migrate to groundwater or surface water;
  - g. Weather conditions that may affect the current levels of contamination;
  - h. Risks of fire, explosion, or accident; and
  - i. Other situations that may pose threats to human health and the environment.

**F. RFI WORKPLAN**

In the event that the Permittee discovers SWMUs or AOCs that require investigation, the Permit shall be modified within 180 days of identification to include the requirements for an RFI Workplan.

**G. RFI IMPLEMENTATION**

The Permittee completed an RFI at the Facility. In the event that the Permittee identifies additional SWMUs or AOCs, this Permit may be modified to include requirements for an additional RFI implementation.



**H. RFI FINAL REPORT AND SUMMARY**

The Permittee completed an RFI at the Facility and submitted an RFI Final Report and Summary which DEQ approved with minor modifications in a letter dated July 2, 1996. In the event that the Permittee identifies additional SWMUs or AOCs, this Permit may be modified to include requirements for an additional RFI Final Report and Summary.

**I. RFI SCOPE OF WORK**

In the event that the Permittee identifies additional SWMUs or AOCs, this Permit may be modified to include requirements for an RFI Scope of Work.

**J. DETERMINATION OF NO FURTHER ACTION**

1. Should an additional RFI be required, the Permittee may, based on the results of the RFI and/or other relevant information, submit an application to DEQ for a Class 3 Permit modification under 40 C.F.R. § 270.42(c) to terminate the RFI/CMS process for a specific unit. This Permit modification application must contain information demonstrating that there are no releases of hazardous waste including hazardous constituents from a particular SWMU at the Facility that pose a threat to human health and/or the environment, as well as additional information required in 40 C.F.R. § 270.42(c).
2. If, based upon review of the Permittee's request for a Permit modification, the results of the RFI, and other information, including comments received during any public comment period required for Class 3 Permit modifications, DEQ determines that releases or suspected releases which were investigated either are non-existent or do not pose a threat to human health and/or the environment, DEQ may grant the requested modification.
3. If necessary to protect human health or the environment, a determination of no further action shall not preclude DEQ from requiring continued or periodic monitoring of air, soil, groundwater, or surface water, when site-specific circumstances indicate that releases of hazardous waste or hazardous constituents are likely to occur.
4. A determination of no further action shall not preclude DEQ from requiring further investigations, studies, or remediation at a later date if new information or subsequent analysis indicates a release or likelihood of a release from a SWMU at the Facility that is likely to pose a threat to human health or the environment. In such a case, DEQ shall initiate a modification to the Permit.

**K. CORRECTIVE MEASURES STUDY ("CMS") PLAN**

In the event that additional CMS work is required, this Permit shall be modified to include requirements for a CMS Plan.

**L. CMS IMPLEMENTATION**

In the event that an additional CMS is required, this Permit shall be modified to include requirements for CMS implementation.

**M. CMS FINAL REPORT AND SUMMARY**

In the event that the Permittee identifies additional SWMUs or AOCs, this Permit may be modified to include requirements for a CMS Final Report and Summary.

**N. CORRECTIVE MEASURE (REMEDY) SELECTION AND IMPLEMENTATION**

In the event that the Permittee is required to perform additional corrective measures, this Permit may be modified to include corrective measure selection and implementation requirements.