

NPDES PERMIT NO.SR0240281

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, 33 U.S.C. §1251 et. seq. (the "Act"),

St. Regis Mohawk Tribe Wastewater Treatment Plant  
Department of Public Works  
Route 37, Box 8A  
Akwesasne, New York 13655

hereinafter referred to as "the permittee" is authorized to discharge from a facility located at

47 Sanitation Plant Road  
Franklin County  
Akwesasne, New York 13655

to receiving waters named:


St. Regis River

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I and II hereof. All references to Title 40 of the Code of Federal Regulations are to regulations that are in effect on the effective date of this permit, including all amendments thereto published in the Federal Register. Unless otherwise specified herein, all terms are defined as provided in the applicable regulations under Title 40 of the Code of Federal Regulations.

This permit modification shall become effective on November 1, 2010.

The Permit and the authorization to discharge shall expire at midnight, October 31, 2015.

Signed this 19<sup>th</sup> day of October, 2010

  
Barbara A. Finazzo  
Director  
Division of Environmental Planning  
and Protection  
U.S. Environmental Protection Agency  
Region II

Required Effluent Limitations

During the period beginning on November 1, 2010 and lasting through October 31, 2015, discharges from outfall 001 shall be limited and monitored by the permittee as specified below:

1. See Tables I and A-1.

TABLE I  
EFFLUENT LIMITATIONS

Effluent Characteristics	Discharge Load Allocations		Discharge Concentrations Limitations		Minimum Percent Removal Limitations <sup>1</sup>
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Average Monthly
5-Day- 20°C Biochemical Oxygen Demand <sup>2</sup>	87.57	131.35	30	45	85%
Suspended Solids <sup>2</sup>	87.57	131.35	30	45	85%
Flow shall be reported as a monthly average and daily maximum. Measurement frequency shall be continuous.					

<sup>1</sup>The arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic means of the values of influent samples collected at approximately the same time during the same period (85 percent removal).

<sup>2</sup>Measurement frequency shall be every two weeks using composite sampling.

**TABLE A-1 EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

During the period beginning on November 1, 2010 lasting through October 31, 2015, the permittee is authorized to discharge from outfall serial number 001 (treated sanitary waste ) to the St. Regis River. Such discharge shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>		<u>Monitoring Requirements</u>		Sample Type
	kgs/day(lbs/day) Daily Avg.	Daily Max.	other units(specified) Monthly Avg.	Daily Max. Frequency	
Benzene (µg/l)			10	Monthly	Grab
BOD <sub>5</sub> (mg/l)	See page 2 - Table 1			Every two Weeks	Composite
Chromium (Cr) (mg/l)			7.56 20.90	Monthly	Grab
Copper (Cu) (mg/l)			0.49 1.34	Monthly	Grab
Color (CU)	Tribal Surface Waters shall be free of substances producing objectionable color for aesthetics purposes. Color-producing substances from other than natural sources are limited to concentrations equivalent to 15 color units (CU).			Monthly	Grab
Dissolved Oxygen (mg/l)	The DO standard for the protection of aquatic life in surface waters shall not be less than a daily average of 6.0 mg/l, and at no time less than 5.0. For water bodies used as spawning habitat by cold water fishes (e.g. salmonids) the DO standard shall be no less than 7.0 mg/l from other than natural conditions.			Monthly	Grab
E. Coli (Colonies/100 ml)	Levels shall not exceed the geometric mean of 126 colonies per 100 ml, nor shall 10% of the samples exceed the 90% confidence			Monthly	Grab

limit.

**TABLE A-1 EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (Cont.)**

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>		<u>Monitoring Requirements</u>			
	kgs/day(lbs/day) Daily Avg.	Daily Max.	other units(specified) Monthly Avg.	Daily Max.	Measurement Frequency	Sample Type
Flow m <sup>3</sup> /day (MGD)				0.350	Continuous Recording	
Garbage, cinders, ashes, sludge, and other refuse	Tribal Surface waters shall be free of these items in any amount.				----	
Lead (Pb) (mg/l)			0.30	0.94	Monthly	Grab
Nickel (Ni) (mg/l)			5.65	14.20	Monthly	Grab
Oil and Grease and any floating substances	Tribal Surface Waters shall be free of oil and grease, including visible oil film and globules of oil, attributable to other than natural sources.				Every two weeks	Grab
Odor and Taste	Tribal Surface Waters shall be free of substances that will adversely affect the taste, odor thereof, or impair the water of their designated uses.				Daily	Grab
Nitrogen and Phosphorus	Tribal Surface Waters shall be free of nutrients in concentrations that will result in growths of algae, weeds and slimes that will impair their designated uses.				Every two weeks	Grab
pH (SU)	The pH of Tribal Surface Waters shall not be permitted to fluctuate in excess of 1.0 unit over a period of 24 hours for other than natural causes				Daily	Grab

or outside the range 6.5 – 8.5.

**TABLE A-1 EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (Cont.)**

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>		<u>Monitoring Requirements</u>			
	kgs/day(lbs/day) Daily Avg.	Daily Max.	other units(specified) Monthly Avg.	Daily Max.	Measurement Frequency	Sample Type
Suspended, Colloidal or Settleable Solids (ml/l)	Tribal surface waters shall be free from suspended, colloidal and settleable solids that will cause deposition or impair the waters for their best uses.				Monthly	Grab
Total Nitrogen (N) (mg/l)					α	Grab
Total Phosphorus (P) (mg/l)					α	Grab
Total Suspended Solids (mg/l)	See page 2 - Table I				Every two weeks	Grab
Turbidity	Turbidity attributable to other than natural causes, shall not reduce light transmission to a point that causes an unaesthetic and substantial visible contrast with the natural appearance of the water.				Daily	Grab
Salinity/Mineral Quality (total dissolved solids, chlorides, and sulfates) (mg/l)	Existing mineral quality shall not be altered by municipal, industrial, and instream activities, or other waste discharges so as to interfere with the designated uses for a water body. An increase of more than 1/3 over naturally occurring levels shall not be permitted. In no case shall dischargers cause concentrations in rivers with a domestic water supply use to exceed 250 mg/l of chlorides, 250 mg/l sulfates and 500 mg/l total dissolved solids.				Monthly	Grab

**TABLE A-1 EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (Cont.)**

	kgs/day(lbs/day)		other units(specified)		Measurement Frequency	Sample Type
	Daily Avg.	Daily Max.	Monthly Avg.	Daily Max.		
Temperature Thermal Discharge	The introduction of heat by other than natural causes shall not increase the temperature in a stream, outside a mixing zone, by more than 2.7°C (5°F), based upon the monthly average of the maximum daily temperatures measured at mid-depth or three feet (whichever is less) outside the mixing zone. The normal daily and seasonal variations that were present before the addition of heat from other than natural sources shall be maintained. In no case shall man-introduced heat be permitted when the maximum temperature specified for the reach (20°C/68°F for cold water fisheries and 32.2°C/90°F for warm water fisheries) would thereby be exceeded.				Daily	Grab
Zinc (Zn) (mg/l)			0.30	0.94	Monthly	Grab

Special Conditions      See attached sheet which contains special conditions that constitute part of this permit.  
Notes:  
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To comply with the monitoring requirements specified above, samples shall be taken at the outfall of discharge 001. In addition, for BOD<sub>5</sub> and Total Suspended Solids, influent monitoring, as specified above is required.

All flow measurements shall achieve accuracy within the range ± 10%

+      The permittee shall perform sampling for settleable solids.

α      The permittee shall implement a monthly monitoring program using the analytical method approved by EPA with the lowest possible detection level for one (1) year period. Based on the evaluation of the results obtained, EPA will determine if more frequent monitoring is necessary. In such case the permit will be reopened to revise the monitoring frequency if considered necessary. Test method 602, 624, or 1624B shall be used for Benzene.

A. **SPECIAL CONDITIONS**

These special conditions are an integral part of the permit.

1. The permittee shall conduct quarterly acute toxicity tests, for a period of one (1) year, of its wastewater discharge through outfall serial number 001 in accordance with the following:
  - a. The toxicity tests shall be conducted in accordance with the EPA publication, EPA-821-R-02-012 *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms* (Fifth Edition), October 2002, or the most recent edition of this publication, if such edition is available.
  - b. The tests shall provide a measure of the acute toxicity as determined by the wastewater concentration, which cause 50 percent mortality of the organisms over a 48 hour period. Test results shall be expressed in terms of *Lethal Concentration* (LC) and reported as 48 hour LC50.
  - c. The test species should be the *Fathead Minnow* (*Pimephales promelas*) and *Cladocera* (*Daphnia magna*). The tests should be *static renewal type*.
  - d. A procedure report shall be submitted ninety (90) days after the effective date of the NPDES permit (EDP). The following information shall be included in the procedure report:
    1. An identification of the organizations responsible for conducting the test and the species to be tested.
    2. A detailed description of the methodology to be utilized in the conduct of the tests, including equipment, sample collection, dilution water and source of test organisms.
    3. A schematic diagram which depicts the effluent sampling location. The diagram shall indicate the location of effluent sampling in relation to wastewaters treatment facility and discharge monitoring point.
  - e. The tests shall be conducted quarterly for a period of one (1) year and shall commence not later than one hundred eighty (180) days after EDP. The results shall be submitted to EPA Region II and the Tribal Director within thirty (30) days of completion of each test. Based on a review of the test results, EPA may require additional toxicity tests, including chronic toxicity analyses. In addition to submitting the procedures report and test results to the addresses listed in Part I.B. of this permit, results shall be submitted to:

CHIEF, CLEAN WATER REGULATORY BRANCH  
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION II  
290 BROADWAY - 24th FLOOR  
NEW YORK, NEW YORK 10007-1866

2. Reopener Clause for Toxicity Requirements

This permit may be reopened by EPA to include toxicity/treatability studies, and/or effluent limitations for toxicity.

B. MONITORING AND REPORTING REQUIREMENTS

1. Monitoring and records. See Part II.B.10.

2. Discharge monitoring reports.

a. See Part II.B.12.d.

b. Monitoring results obtained during the previous month shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. The first report is due on December 28, 2010. Signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator and Tribal Director at the following addresses:

**COMPLIANCE ASSISTANCE  
PROGRAM SUPPORT BRANCH  
REGION II  
U.S. ENVIRONMENTAL PROTECTION  
AGENCY  
290 BROADWAY, 21ST FLOOR  
NEW YORK, NEW YORK 10007**

**St. Regis Mohawk Tribe  
Tribal Director  
SRMT Environment Division  
412 State Route 37  
Akwesasne, New York 13655**

3. Quality assurance practices. The permittee is required to show the validity of all data by requiring its laboratory to adhere to the following minimum quality assurance practices:

a. Duplicate<sup>1</sup> and spiked<sup>2</sup> samples must be run for each constituent analyzed for permit compliance on 5% of the samples, or at least on one sample per month, whichever is greater. If the analysis frequency is less than one sample per month, duplicate and spiked samples must be run for each analysis.

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<sup>1</sup> Duplicate samples are not required for the following parameters: Color, Temperature, Turbidity.

<sup>2</sup> Spiked samples are not required for the following parameters listed in Table 1 of 40 CFR Part 136: Acidity, Alkalinity, Bacteriological, Benzedrine, Chlorine, Color, Dissolved Oxygen, Hardness, pH, Oil and Grease, Radiological, Residues, Temperature, Turbidity. Procedures for spiking samples and spiked sample requirements for parameters not listed on the above-referenced table are available through EPA's Regional Quality Assurance Coordinator.



- b. For spiked samples, a known amount of each constituent is to be added to the discharge sample. The amount of constituent added should be approximately the same amount present in the unspiked sample, or must be approximately that stated as maximum or average in the discharge permit.
  - c. The data obtained in a. shall be summarized in an annual report submitted at the end of the fourth quarter of reporting in terms of precision, percent recovery, and the number of duplicate and spiked samples run.
  - d. Precision for each parameter shall be calculated by the formula, standard deviation  $s = (\sum d^2/2K)^{1/2}$ , where d is the difference between duplicate results, and K is the number of duplicate pairs used in the calculation.
  - e. Percent recovery for each parameter shall be calculated by the formula  $R = 100 (F-I)/A$ , where F is the analytical result of the spiked sample, I is the result before spiking of the sample, and A is the amount of constituent added to the sample.
  - f. The percent recovery, R, for each parameter in e. above shall be summarized yearly in terms of mean percent recovery and standard deviation from the mean. The formula,  $s = (\sum (x_i - \bar{x})^2 / (n-1))^{1/2}$ , where "s" is the standard deviation around the mean " $\bar{x}$ ", " $x_i$ " is an individual recovery value, and "n" is the number of data points, shall be applied.
  - g. The permittee or his contract laboratory is required to annually analyze an external quality control reference sample for each pollutant. These are available through the Regional Quality Assurance Coordinator, Region II, U.S. Environmental Protection Agency, Edison Environmental Laboratory, Edison, New Jersey 08817.
  - h. The permittee and/or his contract laboratory is required to maintain records of the specific analytical methods used, including options employed, if any, within a particular method, and of reagent standardization and equipment calibration operations.
  - i. If a contract laboratory is utilized, the permittee shall submit the name and address of the laboratory and the parameters analyzed at the time it submits its discharge monitoring reports (see Section 2.b above). Any change in the contract laboratory being used or the parameters analyzed shall be reported prior to or together with the monitoring report covering the period during which the change was made.
4. Twenty-four hour reporting.
- a. The permittee must report violations of maximum daily discharge limitations in accordance with the reporting requirements set forth in Part II.B.12.f. (24 hour reporting followed by 5 day written submission) for the following pollutants:

Not Applicable

5. Additional reporting requirements. The permittee shall notify the Regional Administrator and Tribal Director as soon as it knows or has reason to believe:
- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
    - (1) One hundred micrograms per liter (100 µg/l);
    - (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2, 4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony; or
    - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
    - (4) The notification level, if any, established by the Director in the permit.
  - b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
    - (1) Five hundred micrograms per liter (500 µg/l);
    - (2) One milligram per liter (1 mg/l) for antimony;
    - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
    - (4) The notification level, if any, established by the Director in the permit

### C. DEFINITIONS

1. "Average monthly discharge limitation" and "daily average" mean the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
2. "Average weekly discharge limitations" means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.
3. "Bypass" means the intentional diversion of wastes from any portion of a treatment facility.
4. "Composite" means a combination of individual (or continuously taken) samples obtained at regular intervals over the entire discharge day. The volume of each sample shall be proportional to the discharge flow rate. For a continuous discharge, a minimum of 24 individual grab samples (at hourly intervals) shall be collected and combined to constitute a 24-hour composite sample. For intermittent discharges of more than four (4) hours duration, grab samples shall be taken at a minimum of 30 minute intervals.
5. "Daily discharge" means the discharge of a pollutant measure during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharge over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of pollutant over the day. For purposes of sampling, "daily" means an operating day or 24-hour period.
6. "Director" means the "Regional Administrator" or the "Tribal Director", as the context requires, or an authorized representative. Until the Tribe has an approved Tribal program authorized by EPA under 40 CFR Part 123, "Director" means the Regional Administrator. When there is an approved Tribal Program, "Director" normally means the Tribal Director. Even in such circumstances, EPA may retain authority to take certain action (see, for example, 40 CFR §123.1(d), 45 Federal Register 14178, April 1, 1983, on the retention of jurisdiction over permits EPA issued before program approval). If any condition of this permit requires the reporting of information or other actions to both the Regional Administrator and the Tribal Director, regardless of who has permit-issuing authority, the terms "Regional Administrator" and "Tribal Director" will be used in place of "Director".
7. "Discharge Monitoring Report" or "DMR" means the EPA uniform national form, including any subsequent additions, revisions, or modifications, for the reporting of self-monitoring results by permittees.
8. "Grab" means an individual sample collected in less than 15 minutes.
9. "Gross" means the weight or the concentration contained in the discharge. (Unless a limitation is specified as a net limitation, the limitation contained in this permit is a gross limitation).

10. "Maximum daily discharge limitation" means the highest allowable "daily discharge".
11. "Monthly" means one day each month (the same day each month) and a normal operating day (e.g., the 2nd Tuesday of each month).
12. "Net" means the amount of a pollutant contained in the discharge measured in appropriate units as specified herein, less the amount of a pollutant contained in the surface water body intake source, measured in the same units, over the same period of time, provided:
  - a. The intake water source must be drawn for the same body of water into which the discharge is made; and
  - b. In cases where the surface water body intake source is pretreated for the removal of pollutants, the intake level of a pollutant to be used in calculating the net is that level contained after the pretreatment steps.
13. "Regional Administrator" means the Regional Administrator of Region II of EPA or the authorized representative of the Regional Administrator.
14. "Severe property damage" means that substantial physical damage to the treatment facilities which would cause them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
15. "Tribal Director" means the chief administrative officer of the Tribe, or the authorized representative of the Tribal Director.
16. "Toxic pollutant" means any of the pollutants listed in 40 CFR §401.15 (45 F.R. 44503, July 30, 1979) and any modification to that list in accordance with Section 307 (a)(1) of the Clean Water Act.
17. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
18. "Weekly" means every seventh day (the same day of each week) and a normal operating day.

#### D. GENERAL CONDITIONS

1. Duty to Comply
  - a. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
  - b. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
  - c. The Clean Water Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405, of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day for each violation. Any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act is subject to a fine not less than \$2,500 nor more than \$37,500 per day of violation, or by imprisonment for not more than 1 year, or both. Any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act is subject to a fine not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.
2. Duty to Reapply. This permit and the authorization to discharge shall terminate on the expiration date indicated on the first page. In order to receive authorization to discharge after the expiration date of this permit, the permittee must apply for and obtain a new permit. If the permit issuing authority remains EPA, the permittee shall complete, sign, and submit an application to the Regional Administrator no later than 180 days before the expiration date.
3. Need to Halt or Reduce not a Defense. It shall not be a defense for a 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.
4. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
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 also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, installed by the permittee, when the operation is necessary to achieve compliance with the conditions of the permit.

6. Permit actions.

- a. This permit may be modified, revoked and reissued, or terminated during its term for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- b. Causes for modification, revocation and reissuance, and termination are set forth in 40 CFR §122.62 and §122.64.
  - (1) Specified causes for modification, revocation and reissuance, and termination include:
    - (a) Noncompliance by the permittee with any condition of the permit;
    - (b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
    - (c) A determination that the permitted discharge endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
    - (d) There is a change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge controlled by the permit.
  - (2) Specified causes for modification and, upon request or agreement of the permittee, revocation and reissuance of the permit include material and substantial alterations or additions to the permittee's operation which occurred after permit issuance and which justify the application of permit conditions that are different or absent from this permit, (e.g., production changes, relocation or combination of discharge points, changes in the nature or mix of products produced) provided the reconstruction activities do not cause the new source permit issuance provisions of 40 CFR §122.29 to be applicable.
- c. With the exception of permit modifications which satisfy the criteria in 40 CFR §122.63 for "minor modifications," the applicable procedures required by 40 CFR Part 124, including notice and opportunity or a hearing, shall be followed before this permit is modified, revoked and reissued, or terminated.

7. Property rights. The issuance of this permit does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, or any infringement of Tribal regulations .

8. Duty to provide information. The permittee shall furnish to the Director within a reasonable time, any information which the Director 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 the Director, upon request, copies of records required to be kept by this permit.

9. Inspection and Entry. The permittee shall allow the Regional Administrator, the head of the Tribe, or any other authorized representative(s), upon the presentation of credentials and other documents as may be required by law, to:
- a. Enter upon the permittee's premises where a regulated 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 the Clean Water Act, any substances or parameters at any location.
10. Monitoring and records.
- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
  - 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 required by this permit, for a period of at least 3 years from the date of the sample, measurement report or application. This period may be extended by request of the Director at any time.
  - c. Records of monitoring information shall include:
    - (1) The date, exact place, and time of sampling or measurement;
    - (2) The individual(s) who performed the sampling or measurements;
    - (3) The date(s) analyses were performed;
    - (4) The individual(s) who performed the analyses;
    - (5) The analytical techniques or methods used;
    - (6) The quality assurance information specified in Part I of this permit; and
    - (7) The results of such analyses.
  - d. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136.

- e. The Clean Water Act provides that any person who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both.

11. Signatory requirements.

- a. All permit applications shall be signed as follows:
  - (1) For a corporation, by a responsible corporate officer; or
  - (2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
  - (3) For a municipality, Tribe, State, Federal or other public agency, by either a principal executive officer or ranking elected official.
- b. All reports required by this permit, and other information requested by the Regional Administrator or Tribal Director pursuant to the terms of this permit, including DMRs and reports of noncompliance, shall be signed as follows:
  - (1) By a person described in subsection **a.** or by a duly authorized representative of that person.
  - (2) A person is a duly authorized representative only if:
    - (a) The authorization is made in writing by a person described on subsection a.;
    - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company.
    - (c) The written authorization is submitted to U.S. Environmental Protection Agency, Region II, 290 Broadway, 21st Floor, New York City, New York 10007, Attention: Compliance Assistance Program Support Branch, and to the Tribal Director.
  - (3) If a written authorization submitted pursuant to subsection b. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph b. must be submitted to the Regional Administrator and Tribal Director prior to or together with any reports or information to be signed by an authorized representative.



- c. Certification. Any person signing a document under subsection a. or b. shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- d. The Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both.

## 12. Reporting Requirements.

- a. Planned changes. The permittee shall give notice to the Regional Administrator and Tribal Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
- (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a "new source" in 40 CFR §122.29(b);
  - (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification requirement applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Part I.B.5, above; or
  - (3) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Anticipated noncompliance. The permittee shall give advance notice to the Regional Administrator and Tribal Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements as soon as it becomes aware of the circumstances.
- c. Transfers.

- (1) This permit is not transferable to any person except after notice to the Regional Administrator and Tribal Director. Except as provided in paragraph (2), a permit may be transferred by the existing permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the Clean Water Act.
  - (2) This permit may be automatically transferred to a new permittee if:
    - (a) The existing permittee notifies the Regional Administrator and Tribal Director at least 30 days in advance of the proposed transfer date in subparagraph (b);
    - (b) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
    - (c) The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. (A modification under this subparagraph may also be a minor modification under 40 CFR §122.63.) If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in subparagraph (b).
  - (3) If this permit is automatically transferred in accordance with the provisions of paragraph (2), the permit may be modified to reflect the automatic transfer after its effective date.
- d. Monitoring reports.
- (1) Monitoring results shall be reported at the intervals specified in Part I of this permit.
  - (2) Monitoring results shall be reported on a Discharge Monitoring Report (DMR).
  - (3) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
  - (4) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.
- e. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- f. Twenty-four hour reporting.

- (1) The following information shall be reported orally to the Regional Administrator at (732)548-8730 and Tribal Director within 24 hours from the time the permittee becomes aware of the circumstances:
    - (a) Any noncompliance which may endanger health or the environment;
    - (b) Any unanticipated bypass (see 13 below) which violates any effluent limitation in the permit;
    - (c) Any upset (see 14 below) which violates any effluent limitation in the permit; or
    - (d) The violation of a maximum daily discharge limitation for any of the pollutants listed in Part I of this permit is required to be reported within 24 hours. This list includes any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.
  - (2) In addition to the oral 24-hour report, the permittee shall also provide a written submission to the Regional Administrator and Tribal Director within five 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 of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
  - (3) Except with respect to written reports required under paragraph (1)(a) of subsection f., above, the Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.
- g. Other noncompliance. The permittee shall report to the Regional Administrator and Tribal Director all instances of noncompliance not reported under subsections d, e, and f at the time the monitoring report covering the period of noncompliance is submitted. The reports shall contain the information listed in paragraph (2) of subsection f., above.
- h. Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Administrator and Tribal Director, it shall promptly submit such facts or information to the Regional Administrator and Tribal Director.

13. Bypassing

- a. Bypass not violating limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections b. and c.
- b. Notice.
  - (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
  - (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in subsection f. of section 12 above.
- c. Prohibition of bypass.
  - (1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
    - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of unheated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or maintenance; and
    - (c) The permittee submitted notices as required under subsection b.
  - (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (1).

#### 14. Upset

- a. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of subsection b. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- b. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that.

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (2) The permitted facility was at the time being properly operated; and
  - (3) The permittee submitted notice of the upset as required in subsection f. of section 12 above; and
  - (4) The permittee complied with any remedial measures required under section 4 above (duty to mitigate).
- c. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.
15. Removed substances. Solids, sludge, filter backwash or other pollutants removed in the course of treatment or control of wastewater and/or the treatment of intake waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters. The following data shall be reported together with the monitoring data required in Part I, B.2.:
- (a) The sources of the materials to be disposed of;
  - (b) The approximate volumes and weights;
  - (c) The method by which they were removed and transported; and
  - (d) Their final disposal locations.
16. Oil and hazardous substance liability. The imposition of responsibilities upon, or the institution of any legal action against the permittee under Section 311 of the Act shall be in conformance with regulations promulgated pursuant to Section 311 to discharges from facilities with NPDES permits.
17. Reopener clause for toxic effluent limitations. Notwithstanding any other condition of this permit, if any applicable toxic effluent standard or prohibition is promulgated as a Tribal Water Quality Standard or under Sections 301(b)(2)(C) and (D), 304(b)(2) and 307(a)(2) of the Clean Water Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the permit, this permit shall be promptly modified or revoked and reissued to conform to that effluent standard or prohibition.
18. Tribal laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Tribal law or regulation under authority preserved by Section 510 of

the Act. The issuance of this permit does not preempt any duty to obtain Tribal assent required by law for the discharge.

19. Availability of information.

- a. NPDES permits, effluent data, and information required by NPDES application forms provided by the Director under 40 CFR §122.21 (including information submitted on the forms themselves and any attachments used to supply information required by the forms) shall be available for public inspection at the offices of the Regional Administrator and Tribal Director.
- b. In addition to the information set forth in subsection a., any other information submitted to EPA in accordance with the conditions of this permit shall be made available to the public without further notice unless a claim of business confidentiality is asserted at the time of submission in accordance with the procedures in 40 CFR Part 2 (Public Information).
- c. If a claim of confidentiality is made for information other than that enumerated in subsection a., that information shall be treated in accordance with the procedures in 40 CFR Part 2. Only information determined to be confidential under those procedures shall not be made available by EPA for public inspection.

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

**E. EFFECTIVENESS OF PERMIT**

1. This permit shall become effective in its entirety on the date indicated on the first page of this permit unless a petition has been filed with the Environmental Appeals Board to review any condition of the permit decision pursuant to the provisions of 40 CFR Part 124.19. All contested conditions and any uncontested condition(s) that are inseverable from the contested conditions shall be stayed. All other conditions shall become effective thirty (30) days after the date of the notification specified in 40 CFR 124.16(a)(2)(ii).
2. For purposes of judicial review under Section 509(b) of the Clean Water Act, final agency action on a permit does not occur unless and until a party has exhausted its administrative remedies under 40 CFR 124. Any party which neglects or fails to seek review under 40 CFR 124.19, thereby waives its opportunity to exhaust available agency administrative remedies.