

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II**

**AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

**PERMIT NUMBER
PR0022616**

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

Puerto Rico Aqueduct and Sewer Authority
P.O. Box 7066
Barrio Obrero Station
San Juan, Puerto Rico 00916

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

Enrique Ortega Water Treatment Plant
Toa Alta, Puerto Rico

to receiving waters named **Quebrada Piñas** 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 shall become effective on the effective date of the permit (EDP).

This permit and the authorization to discharge shall expire on EDP + 5 years.

Signed this _____ day of _____.

Carl-Axel P. Soderberg, P.E.
Director
Caribbean Environmental Protection Division

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Required Effluent Limitations

During the period beginning on the effective date and lasting until the expiration date of this permit, discharges from outfall 001* shall be limited and monitored by the permittee as specified below:

- a. Permittee shall achieve water quality requirements as determined by the Commonwealth of Puerto Rico. See EQB intent to issue a water quality certificate (IWQC) requirements.
- b. See Table A-1.

*The location of outfall 001 is as follows:

Latitude	18 ° 21' 19 " North
Longitude	66 ° 13' 29 " West

2. Environmental Quality Board Certification Requirements

As required by the Puerto Rico Environmental Quality Board (EQB) Intent to Issue a Water Quality Certification of **September 26, 2006**, for the purpose of assuring compliance with EQB's water quality standards and other appropriate requirements of Commonwealth law as provided by Section 401(d) of the Act, the permittee shall comply with the following effluent limitations and other limitations:

See pages 5 through 13.

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

During the period beginning on the EDP and lasting through the expiration date of the permit, the permittee is authorized to discharge from outfall serial number 001 (filters and settling tanks washwater). Such discharge shall be limited and monitored by the permittee as specified below:

Receiving Water Classification: SD

<u>Effluent Characteristics</u>	<u>Gross Discharge Limitations</u>		<u>Monitoring Requirements</u>	
	Monthly Avg.	Daily Max	Measurements Frequency	Sample Type
2,4,6-Trichlorophenol (µg/L) ^{2,3}		---	Φ	Grab
2,4-Dichlorophenol (µg/L) _{2,3}		---	Φ	Grab
2,4-Dimethylphenol (µg/L) _{2,3}		---	Φ	Grab
2,4-Dinitrophenol (µg/L) _{2,3}		---	Φ	Grab
2-Chlorophenol (µg/L) ^{2,3}		---	Φ	Grab
2-Methyl-4,6-Dinitrophenol (µg/L) ^{2,3}		---	Φ	Grab
Arsenic (As) (µg/L)β ^{2,3}		0.18	Monthly	Grab
BOD ₅ (mg/L) ^{1,2,3}		5.0	Monthly	Grab
Color (Pt-Co Units) ^{2,3}		15	Monthly	Grab

<u>Effluent Characteristics</u>	<u>Gross Discharge Limitations</u>		<u>Monitoring Requirements</u>	
	Monthly Average	Daily Maximum	Measurements Frequency	Sample Type
Copper (Cu) ($\mu\text{g/L}$) ^{2,3}		10	Monthly	Grab
Dissolved Oxygen (mg/L) ^{1,2,3}	Shall contain not less than 5.0 mg/L.		Daily	Grab
Fecal Coliforms (colonies/100 ml) ^{1,2,3}	The geometric mean of a series of representative samples (at least five samples) of the waters taken sequentially shall not exceed 200 colonies/100 ml. Not more than 20 percent of the samples shall exceed 400 colonies/100 ml.		Monthly	Grab
Flow m^3/day (MGD) $\bar{\delta}$ _{1,3,4}		4,546.3 (1.20)	Continuous Recording or Estimated	
Fluoride (F) ($\mu\text{g/l}$) ^{2,3}		700	Quarterly	Grab
Lead (Pb) ($\mu\text{g/L}$) ^{2,3}		4.0	Monthly	Grab
Oil and Grease (mg/L) ^{2,3}	The waters of Puerto Rico shall be substantially free from floating non-petroleum oils and greases as well as petroleum derived oils and greases.		Quarterly	Grab
Pentachlorophenol ($\mu\text{g/L}$) ^{2,3}		---	Φ	Grab
pH (SU) ^{2,3}	Shall always lie between 6.0 – 9.0.		Daily	Grab
Phenol ($\mu\text{g/L}$) ^{2,3}		---	Φ	Grab
Residual Chlorine (mg/L) α ^{2,3}		0.50	Daily	Grab

<u>Effluent Characteristics</u>	<u>Gross Discharge Limitations</u>		<u>Monitoring Requirements</u>	
	Monthly Average	Daily Maximum	Measurements Frequency	Sample Type
Solids and Other Matters ^{2,3}	The waters of Puerto Rico shall not contain floating debris, scum or other floating materials attributable to discharge in amounts sufficient to be unsightly or deleterious to the existing or designed uses of the water body.		---	---
Sulfide (undissociated H ₂ S) (µg/l) γ ^{2,3}		2	Quarterly	Grab
Suspended, Colloidal or Settleable Solids (ml/l) ^{1,2,3}	Solids from wastewater source shall not cause deposition in or be deleterious to the existing or designated uses of the waters.		Daily	Grab
Taste and Odor-producing Substances ²	Shall not be present in amounts that will interfere with the use for potable water supply, or will render any undesirable taste and/or to edible aquatic life.		---	---
Temperature °F (°C) ^{2,3}	Except for natural causes no heat may be added to the waters of Puerto Rico, which would cause the temperature of any site to exceed 90 °F (32.2°C).		Daily	Grab
Total Ammonia (mg/l) _{2,3}		1.000	Monthly	Grab
Total Coliforms (colonies/100 ml) ^{1,2,3}	The coliform geometric mean of a series of representative samples (at least five samples) of the waters taken sequentially shall not exceed 10,000 colonies/100 ml.		Monthly	Grab
Total Dissolved Solids (mg/l) ^{2,3}		500	Monthly	Grab

<u>Effluent Characteristics</u>	<u>Gross Discharge Limitations</u>		<u>Monitoring Requirements</u>	
	Monthly Average	Daily Maximum	Measurements Frequency	Sample Type
Total Phosphorus (P) (mg/L) ^{2,3,4}		1.00	Monthly	Grab
Turbidity (NTU) ^{2,3}		50	Monthly	Grab
Zinc (Zn) (µg/L) ^{2,3}		139.83	Monthly	Grab
Special Conditions	See attached sheet, which contains special conditions that constitute part of this permit.		--	--

1, 2, 3, 4, 5 and 6 see page 13 of the Special Conditions.

To comply with the monitoring requirements specified above, samples shall be taken at the outfall of discharge serial number 001. All flow measurements shall achieve accuracy within the range of plus or minus 10%.

- ° For this facility the term “wastewater” refers to “washwater”.
- α See Special Conditions 6 and 7.
- β See Special Condition 9.
- γ See Special Condition 10.
- δ See Special Condition 11.

Φ The permittee shall implement a monthly monitoring program using the analytical method approved by EPA with the lowest possible detection level, in accordance with Section 6.2.3 of the PRWQSR as amended, for one (1) year period, after which they will be conducted annually. The monitoring program shall commence no later than thirty (30) days after the EQB’s written approval of the Quality Assurance Project Plan (QAPP). The QAPP must be submitted for evaluation and approval of EQB no later than thirty (30) days after the EDP. The results of the monitoring program shall be submitted to EQB and EPA-Region II no later than sixty (60) days of completion of the one year monitoring program. Based on the evaluation of the results obtained, EQB will determine if an

effluent limitation is necessary for these parameters. In such case the WQC will be reopened to include the applicable effluent limitation if considered necessary.

SPECIAL CONDITIONS

1. The flow of discharge 001 shall not exceed the limitation of 4546.3 m³/day (1.20 MGD) as daily maximum. No increase in flow shall be authorized without a recertification from the Environmental Quality Board (EQB).^{1,4}
2. The discharge 001 will consist of washwaters from filters and settling tanks treated in the sludge treatment system constructed for these purposes.
3. Within thirty (30) days after the Effective date of the NPDES Permit (EDP), the permittee shall submit to the EQB for its evaluation and approval the engineering report, plans and specifications of the constructed sludge treatment system.⁴
4. Prior to the construction of any treatment system, the permittee shall obtain the approval of the engineering report, plans and specifications from EQB.⁴
5. The permittee shall install, maintain and operate all water pollution control equipment in such manner as to be in compliance with the applicable Rules and Regulations.³
6. No toxic substances shall be discharged in toxic concentrations other than those allowed as specified in the NPDES permit. Those toxic substances included in the permit application, but not regulated by the NPDES permit, shall not exceed the concentrations specified in the applicable regulatory limitations.^{2,3}
7. The waters of Puerto Rico shall not contain any substance attributable to the discharge 001 at such concentration which, either alone or as result of synergistic effects with other substances is toxic or produces undesirable physiological responses in human, fish or other fauna or flora.²
8. All sample collection, preservation, and analysis shall be carried out in accordance with the Code of Federal Regulation (CFR) Number 40, Part 136. All chemical analyses shall be certified by a chemist licensed to practice the profession in

Puerto Rico. All bacteriological tests shall be certified by a microbiologist or a medical technician licensed to practice the profession in Puerto Rico. ^{1,3}

9. The samples taken for the analysis of arsenic shall be analyzed using the analytical method approved by the EPA with the lowest possible detection level, in accordance with Section 6.8 of the Puerto Rico Water Quality Standards Regulation (PRWQSR), as amended. ³
10. The permittee shall use the approved EPA analytical method, with the lowest possible detection limit, in accordance with the 40 CFR Part 136 for Sulfide (as S). Also, the permittee shall complete the calculations specified in Method 4500-S⁻² F, Calculation of Un-ionized Hydrogen Sulfide, of *Standards Methods* 18th Edition, 1992, to determine the concentration of undissociated H₂S. If the sample results for Dissolved Sulfide are below the detection limit of the approved EPA method established in the 40 CFR Part 136, then, the concentration of undissociated H₂S shall be reported as “below the detection limit”. ^{1,3}
11. Within thirty (30) days after the EDP, the PRASA shall submit to EQB a method to measure or estimate flow at discharge 001. If a flow measuring device is installed, it shall be periodically calibrated and properly maintained. Calibration and maintenance records must be kept in compliance with applicable Rules and Regulations. ^{3,4}
12. If a flow measuring device is installed, the sampling point for discharge 001 shall be located immediately after it. ^{3,4}
13. The sampling point for discharge 001 shall be labeled with a 18 in. X 12 in. (minimum dimensions) sign that reads as follow: ⁴

“Punto de Muestreo para la Descarga 001”

14. All water and wastewater treatment facilities, whether publicly or privately owned, must be operated by a person licensed by the Potable Water and Wastewater Treatment Plants Operators Examining Board of the Commonwealth of Puerto Rico. ^{3,4}
15. Not later than one hundred eighty (180) days after the effective date of this NPDES permit condition (EDPC), the permittee shall conduct semiannually acute toxicity tests for a period of one (1) year, after which the tests shall be performed annually,

of its wastewater discharge through outfall serial number 001 in accordance with the following: ³

- a. The test species should be the *Fathead Minnow* (*Pimephales promelas*) and *Cladocera* (*Daphnia magna*). The test should be static renewal type.
- b. 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.
- c. 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. The test results shall be expressed in terms of *Lethal Concentration* (LC) and reported as 48 hour LC50.
- d. A procedure report shall be submitted ninety (90) days after the EDPC. The following information shall be included in the procedure report:
 1. An identification of the organizations responsible for conducting the tests 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 wastewater treatment facility and discharge monitoring point.
 4. If stream flow monitoring is required, the method used to obtain the stream flow data in estimating the seven-day two-year low flow (7Q2).
- e. The results of the tests conducted shall be submitted to EPA Region 2 and EQB within thirty (30) days of completion of each test. The results shall be submitted to:

Jaime A. Géliga, Chief
Municipal Water Program Branch
Caribbean Environmental Protection Agency
U.S. Environmental Protection Agency
1492 Ponce de Leon Avenue, Suite 417
Centro Europa Building
San Juan, Puerto Rico 00907

- f. Reopener Clause for Toxicity Testing Requirements – Based on a review of the test results, the Regional Administrator of EPA or the EQB can require additional toxicity tests, including chronic tests and toxicity/treatability studies, and may impose toxicity limitations. This permit may be reopened by EPA to include such requirements as enforceable permit conditions.
16. The solid waste (sludge, screening and grit) generated due to the system operation shall be:
- a. Disposed in compliance with the applicable requirements established in the 40 CFR Part 257. A semiannual report shall be submitted to EQB and EPA notifying the method or methods used to dispose the solid wastes generated in the facility. Also, copy of the approval or permit applicable to the disposal method used shall be submitted, if any.
 - b. Transported adequately in such way that access is not gained to any body of water or soil. In the event of a spill of solid waste on land or into a body of water, the permittee shall notify the Point Sources Permits Division of EQB's Water Quality Area in the following manners:
 1. By telephone communication within a term no longer than twenty four (24) hours after the spill ((787) 767-8073).
 2. By letter, within a term no longer than five (5) days after the spill. These notifications shall include the following information:
 - a. Spill material.
 - b. Spill volume.

- c. Measures taken to prevent the spill material to gain access to any body of water.

This special condition does not relieve the permittee from its responsibility to obtain the corresponding permits from the EQB's Solid Waste Program and other state and federal agencies, if any. ⁵

17. A log book must be kept for the material removed detailing the following items:
 - a. Material removed, date and source of it.
 - b. Approximate volume and weight.
 - c. Method by which it is removed and transported.
 - d. Final disposal and location.
 - e. Person that performs the service.

A copy of the Non-Hazardous Solid Waste Collection and Transportation Service Permit issued by the authorized official from EQB must be attached to the log book. ³

18. Within thirty (30) days after the EDP, the permittee shall submit to the EQB a copy of the Emergency Plan (EP), in accordance with Section 6.5 of the PRWQSR, as amended, to prevent and control spills. The EP shall be signed and certified by a professional engineer authorized to practice the profession in Puerto Rico. ³
19. If septic tanks are used to discharge the sanitary wastewater coming from the facility, the permittee must request and obtain from the EQB the corresponding permits for the operation of the septic tanks according to the Underground Injection Control Regulation and the Regulation for the Certification of Plans and Documents under the Consideration of the Environmental Quality Board. ⁴
20. The discharge 001 shall not cause the presence of oil sheen in the receiving water body. ²
21. Each condition of this permit is considered as separate. Therefore, if the applicability of any condition of this permit is stayed due to any circumstance, the remaining conditions of the permit will not be affected.

1, 2, 3, 4, and 5 see next page.

1. According to Article 1, Puerto Rico Water Quality Standards Regulation, as amended.
2. According to Article 3, Puerto Rico Water Quality Standards Regulation, as amended.
3. According to Article 6, Puerto Rico Water Quality Standards Regulation, as amended.
4. According to the Environmental Public Policy Act of September 22, 2004, Law No. 416, effective since March 22, 2005.
5. According to the Section 405 (d) (4) of Federal Clean Water Act, as amended (33 U.S.C. 466 et. seq.).

PART II

A. DEFINITIONS

1. "Average monthly discharge limitation" means 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 of at least 100 milliliters, collected at periodic intervals over the entire discharge day. The composite must be flow proportional; either the time interval between each sample must be proportional to the discharge flow (i.e. samples of equal volume taken every "X" gallons of flow) or the volume of each sample must be proportional to the discharge flow (i.e. a proportional volume sample taken at constant time intervals). Samples may be collected manually or automatically. For a continuous discharge, a minimum of 24 individual samples shall be collected and combined to constitute a 24-hour composite sample. For intermittent discharges of less than four (4) hours duration, samples shall be taken at a minimum of 15 minute intervals. For intermittent discharges of more than four (4) hours duration, samples shall be taken at a minimum of 30 minute intervals.
5. "Daily discharge" means the discharge of a pollutant measured 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 "State Director", as the context requires, or an authorized representative. Until the State has an approved State program authorized by EPA under 40 C.F.R. Part 123, "Director" means the Regional Administrator. When there is an approved State program, "Director" normally means the

State Director. Even in such circumstances, EPA may retain authority to take certain action (see, for example, 40 C.F.R. 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 State Director, regardless of who has permit-issuing authority, the terms "Regional Administrator" and "State 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. "State Director" means the chief administrative officer of the State water pollution control agency, or the authorized representative of the State Director.
16. "Toxic pollutant" means any of the pollutants listed in 40 CFR 401.15 (45 C.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.

B. MONITORING AND REPORTING REQUIREMENTS

1. Monitoring and Records. See Section C.10.
2. Discharge Monitoring Reports.
 - a. See Section C.12.d.
 - b. Monitoring results shall be obtained and recorded monthly on Discharge Monitoring Report Form (EPA-No. 3320-1). The monthly Discharge Monitoring Report Form shall be postmarked no later than the 28th day of the month following the completed reporting period. Signed copies of these, and all other reports required herein, shall be submitted to the Chief of the Compliance Assistance and Program Support Branch and State Director at the following addresses:

U.S. Environmental Protection Agency
Region II
290 Broadway, 21st Floor
New York, New York 10007-1866
ATTN: Chief, Compliance Assistance and
Program Support Branch

Environmental Quality Board of Puerto Rico
P.O. Box 11488
San Juan, Puerto Rico 00910
ATTN: Water Quality Area

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. Duplicate¹ and spiked² 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.
 - 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 numbers 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, $s = ((X-x)^2/(n-1))^{1/2}$, where s is the standard deviation around the mean X, x 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

¹ Duplicate samples are not required for the following parameters: Color, Temperature, and Turbidity.

² Spiked samples are not required for the following parameters listed in Table 1 of 40 C.F.R. 136: Acidity, Alkalinity, Bacteriological, Benzidine, 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.

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.

C. GENERAL CONDITIONS

1. Duty to Comply

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.

- a. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- b. The Clean Water Act provides that any person who violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day for each violation. The Clean Water Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under

sections 402(a)(3) or 402(b)(8) of the Clean Water Act is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than two years, or both. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than three years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than six years, or both. Any person who knowingly violates sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than fifteen years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than thirty years, or both. An organization as, defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

- c. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

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 or sludge use or disposal 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 for collection and treatment (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 include adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

6. Permit Actions.

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.

7. Property Rights.

This permit does not convey any property rights of any sort, or any exclusive privilege.

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 Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon 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. Except for record of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), 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, and records of old data used to complete the application for 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; and
 - (6) The results of such analyses.
- d. Monitoring results must be conducted according to test procedure approved under 40 C.F.R. Part 136 or, in the case of sludge use or disposal approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, unless other test procedures have been specified in the permit.
 - e. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly 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. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.

11. Signatory Requirements.

- a. All applications, reports, or information submitted to the Director shall be signed and certified.
- b. The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished 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 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 §122.29(b); or

- (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under §122.42(a)(1).
 - (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 Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
 - c. Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act.
 - d. Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 - (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.
 - (2) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 C.F.R. 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, 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 or sludge reporting form specified by the Director.
 - (3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director 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 permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within twenty four hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided 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 reoccurrence of the noncompliance.
 - (2) The following shall be included as information which must be reported within twenty four hours under this paragraph.
 - (a) Any unanticipated bypass (see 13 below) which exceeds any effluent limitation in the permit;
 - (b) Any upset (see 14 below) which exceeds any effluent limitation in the permit;
 - (c) The violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within twenty four hours.
 - (3) The Director may waive the written report on a case-by-case basis for report under paragraph (12)(f)(ii) of this section if the oral report has been received within twenty four hours.
- g. Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (12)(a), (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (12)(a) and (f) of this section.
- 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 State Director, it shall promptly submit such facts or information to the Regional Administrator and State 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 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 untreated 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 judgment 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 (13)(c)(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 Section 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 under Section 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. State 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 State law or regulation under authority preserved by Section 510 of the Act. The issuance of this permit does not preempt any duty to obtain State or local 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 C.F.R. 122.4 and 122.53 (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 State 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 C.F.R. 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 C.F.R. 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.

C. 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 124.19. All contested conditions and any uncontested condition(s) that are in severable from the contested conditions shall be stayed. All other conditions shall become effective thirty (30) days after the date of notification specified in 40 CFR Part 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 Part 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.