

SPECIAL CONDITIONS

These special conditions are an integral part of the permit:

1. The flow of discharge 001 shall not exceed the limitation of 436.08 m³/day (0.1152 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 the filters and settling tanks treated in the sludge treatment system constructed for these purposes.
3. Prior to the construction of any treatment system, the permittee shall obtain the approval of the engineering report, plans and specifications from EQB.⁴
4. 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
5. 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}
6. The waters of Puerto Rico shall not contain any substance attributable to discharge 001 at such concentration which, either alone or as result of synergistic effects with other substances is toxic or produces undesirable physiological
7. 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} responses in human, fish or other fauna or flora.
8. The samples taken for the analysis of arsenic shall be analyzed using the analytical method approved by 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
9. 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.³
10. If a flow measuring device is installed, the sampling point for discharge 001 shall be located immediately after it.
11. 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”
12. 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}

13. 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: 3
- 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 test 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 EQB within thirty (30) days of completion of each test. Based on a review of the tests results, EPA or EQB 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, WATER PROGRAMS BRANCH
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION II
290 BROADWAY - 24th FLOOR
NEW YORK, NEW YORK 10007-1866
 - f. Reopener Clause for Toxicity Requirements
This permit may be reopened by EPA to include toxicity/treatability studies, and/or effluent limitation for toxicity.
14. The solid wastes (sludge, screenings and grit) generated due to the sludge treatment 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 waste 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 Permits and Compliance Bureau in the following manners:
1. By telephone communication within a term no longer than twenty four (24) hours after the spill ((787) 751-1891 or (787) 767-8731).
 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 Wastes Program and other state and federal agencies, if any. ⁵

15. A log book must be kept for the material removed from the sludge treatment system 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

16. 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 Consideration of the Environmental Quality Board. ⁴
17. The discharge 001 shall not cause the presence of oil sheen in the receiving water body. 2

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

1. According to Article 1, Puerto Rico Water Quality Standards Regulation and Amendments.
2. According to Article 3, Puerto Rico Water Quality Standards Regulation and Amendments.
3. According to Article 6, Puerto Rico Water Quality Standards Regulation and Amendments.
4. According to the Public Policy Environmental Act of June 18, 1970, as amended, Act No. 9, 12 LPRA SS. 1121-1142.
5. According to the Section 405 (d) (4) of Federal Clean Water Act, as amended (33 U.S.C. 466 et. seq.).

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 **EDP + 1 month + 28 days**. Signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator and State 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

DIRECTOR
US EPA REGION II
CARIBBEAN ENVIRONMENTAL
PROTECTION DIVISION
EDIF CENTRO EUROPA APT 417
1492 AVENIDA PONCE DE LEON
SAN JUAN, PUERTO RICO 00907-4127

ENVIRONMENTAL QUALITY BOARD
OF PUERTO RICO
P.O. BOX 11488
SANTURCE, PUERTO RICO 00910
ATTN: WATER QUALITY BUREAU

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 (1) and spiked (2) 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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- (1) Duplicate samples are not required for the following parameters: Color, Temperature, Turbidity.
 - (2) Spiked samples are not required for the following parameters listed in Table 1 of 40 C.F.R. Part 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.

- 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 State 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 $\mu\text{g/l}$);

- (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.

A. 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 "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 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. 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 \$25,000 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 C.F.R. §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 C.F.R. §122.29 to be applicable.
- c. With the exception of permit modifications which satisfy the criteria in 40 C.F.R. §122.63 for "minor modifications," the applicable procedures required by 40 C.F.R. 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 State or local laws or 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 State water pollution control agency, 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 C.F.R. 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, 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 State 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 State 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 State 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 State 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 C.F.R. §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 State 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 State 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 State 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 C.F.R. §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 C.F.R. 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 908-548-8730 and State 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 State 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 State 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 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 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).
 - (5) 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, sludges, filter backwash or other pollutants removed in the course of treatment or control of wastewaters 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 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. 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. §122.21 (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 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 request for an evidentiary hearing or a panel hearing is granted pursuant to the provisions of 40 C.F.R. Part 124, Subpart E or F.
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 C.F.R. Part 124 Subparts E and F, including 40 C.F.R. §124.91 (appeal to the Environmental Appeals Board of EPA). Any party which neglects or fails to seek review under 40 C.F.R. §124.91, thereby waives its opportunity to exhaust available agency administrative remedies.