

**Attachment A****Standard Conditions and Definitions****I. Standard Conditions****A. General Requirements:**

**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.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under § 405 (d) of the CWA 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.

The CWA provides that any person who violates §§ 301, 302, 306, 307, 308, 318, or 405 of the CWA or any permit condition or limitation implementing any of such sections in a permit issued under § 402, or any requirement imposed in a pretreatment program approved under § 402 (a)(3) or § 402 (b)(8) of the CWA is subject to a civil penalty not to exceed \$25,000 per day for each violation. Any person who negligently violates such requirements is subject to a fine of not less than \$2,500 or more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both. Any person who knowingly violates such requirements is subject to a fine of not less than \$5,000 or more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both. Note: See 40 CFR § 122.41(a)(2) for additional enforcement criteria.

Any person may be assessed an administrative penalty by the Administrator for violating §§ 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under §402 of the CWA. 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. Permit Actions:** This permit may be modified, revoked and reissued, or terminated 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.

**3. Duty to Provide Information:** The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator 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 Regional Administrator, upon request, copies of records required to be kept by this permit.

**4. Reopener Clause:** The Regional Administrator reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the CWA in order to bring all discharges into compliance with the CWA.

**5. Oil and Hazardous Substance Liability:** 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 to which the permittee is or may be subject under §311 of the CWA, or §106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

**6. Property Rights:** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges.

**7. Confidentiality of Information:** In accordance with 40 CFR Part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information).

Claims of confidentiality for the following information will be denied: The name and address of any permit applicant or permittee and permit applications, permits, and effluent data as defined in 40 CFR §2.302(a)(2).

Information required by NPDES application forms provided by the Regional Administrator under §122.21 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

**8. Duty to Reapply:** If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee must apply for and obtain a new permit. The permittee shall submit a new NOI at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Regional Administrator. (The Regional Administrator shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

**9. State Authorities:** Nothing in Part 122, 123, or 124 precludes more stringent State regulation of any activity covered by these regulations, whether or not under an approved State program.

**10. Other Laws:** The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the permittee of its obligation to comply with any other applicable Federal, State, and local laws and regulations.

**B. Operation and Maintenance of Pollution Controls:**

**1. Proper Operation and Maintenance:** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. 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 only when the operation is necessary to achieve compliance with the conditions of the permit.

**2. 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.

**3. 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.

**4. Bypass:**

**a. Definitions:** "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

**b. Bypass not exceeding limitations:**

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Paragraphs B.4.c. and d. below.

**c. Notice of Bypass:**

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.

Unanticipated bypass: The permittee shall submit notice of an unanticipated bypass as required in Section D.5. (24-Hour Reporting).

**d. Prohibition of bypass:** Bypass is prohibited, and the Regional Administrator may take enforcement action against a permittee for bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. 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 preventive maintenance; and

3. The permittee submitted notices as required in Paragraph B.4.c, above.

The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed here.

## **5. Upset:**

**a. Definition:** "Upset" means an exceptional incident in which there is unintentional and temporary non-compliance 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.

**b. Effect of an upset:** An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Paragraph B.5.c (below) of this section 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.

**c. 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: An upset occurred and that the permittee can identify the cause(s) of the upset; the permitted facility was at the time being properly operated; the permittee submitted notice of the upset as required in Paragraph D.5., and the permittee complied with any remedial measures required under B.3. (duty to mitigate) above.

**d. Burden of proof:** In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

## **C. Monitoring and Records:**

### **1. Monitoring and Records:**

**a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.**

**b. Except for records 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 all 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 except for the information concerning storm water discharges which must be retained for a total of 6 years. This retention period may be extended by request of the Regional Administrator at any time.

c. Records of monitoring information shall include the date, exact place, and time of sampling or measurements; the individual(s) who performed the sampling or measurements; the date(s) analyses were performed; the individual(s) who performed the analyses; the analytical techniques or methods used; and the results of such analyses.

d. Monitoring results must be conducted according to test procedures approved under 40 CFR Part 136, 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 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 4 years, or both.

**2. Inspection and Entry:** The permittee shall allow the Regional Administrator 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.

**D. Reporting Requirements:**

**1. Planned changes:** The permittee shall give notice to the Regional Administrator as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR § 122.29(b); or
- b. 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 40 CFR § 122.42(a)(1).

**2. Anticipated noncompliance:** The permittee shall give advanced notice to the Regional Administrator of any planned changes in the permitted facility or an activity which may result in noncompliance with permit requirements.

**3. Transfers:** This permit is not transferable to any person except after notice to the Regional Administrator. The Regional Administrator 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. (See 40 CFR § 122.61; in some cases, modification or revocation and reissuance is mandatory.)

**4. Monitoring reports:** Monitoring results shall be reported at the intervals specified elsewhere in this permit.

- a. Monitoring results must be reported on Discharge Monitoring Report (DMR) forms provided by or specified by the Regional Administrator.

- b. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR form specified by the Regional Administrator.

- c. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

- d. Operators of facilities located in Massachusetts that discharge NCCW intermittently are not required to submit DMRs for periods of no discharge to maintain coverage under this General Permit. Rather, these facilities are required to submit an annual report that verifies that no discharge occurred during the previous calendar year. The annual report must be postmarked by the 15<sup>th</sup> of January. When a facility commences to discharge, it must comply with the monitoring and reporting requirements at Part 6.2.b. of General Permit.

**5. Twenty-four hour reporting:**

- a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period 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.
- b. The following shall be included as information which must be reported within 24 hours under this paragraph:
  - Any unanticipated bypass which exceeds any effluent limitation in the permit. See 40 CFR § 122.41(g).
  - Any upset which exceeds any effluent limitation in the permit.
  - Violation of a maximum daily discharge limitation for any of the pollutants listed by the Regional Administrator in the permit to be reported within 24 hours. See 40 CFR § 122.44(g)
- c. The Regional Administrator may waive the written report on a case-by-case basis for reports under Paragraph D.5. above, if the oral report has been received within 24 hours.

**6. 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.

**7. Other noncompliance:** The permittee shall report all instances of noncompliance not reported under Paragraphs 4, 5, and 6 of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in Paragraph 5 above.

**8. 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, it shall promptly submit such facts or information.

**9. Signatory Requirement:** All applications, reports, or information submitted to the Regional Administrator shall be signed and certified. (See 40 CFR § 122.22). The CWA 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 non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

**10. Availability of Reports:** Except for data determined to be confidential under Paragraph A.7., all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in § 309 of the CWA.

## II. Definitions –

### A. General

**Administrator** means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

**Applicable standards and limitations** means all State, interstate, and Federal standards and limitations which a "discharge" or a related activity is subject to, including water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices", and pretreatment standards under §§ 301, 302, 303, 304, 306, 307, 308, 403, and 405 of CWA.

**Application** means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in "approved States," including any approved modifications or revisions.

**Average** means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

**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.

**Average weekly discharge limitation** 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.

**Best Management Practices (BMPs)** mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Best Professional Judgment (BPJ)** means a case-by-case determination of Best Practicable Treatment (BPT), Best Available Treatment (BAT) or other appropriate standard based on an evaluation of the available technology to achieve a particular pollutant reduction.

**Composite Sample** means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24-hour period (or lesser period as specified in the section on Monitoring and Reporting) and combined proportional to flow, or a sample continuously collected proportionally to flow over that same time period.



**Continuous Discharge** means a "discharge" which occurs without interruption throughout the operating hours of the facility except for infrequent shutdowns for maintenance, process changes, or similar activities.

**CWA or "The Act"** means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub.L. 96-483 and Pub.L. 97- 117; 33 U.S.C. §§ 1251 et seq.

**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 discharged over the day. For pollutants with limitations expressed in other units of measurements, the daily discharge is calculated as the average measurement of the pollutant over the day.

**Director** means the person authorized to sign NPDES permits by EPA and/or the State.

**Discharge Monitoring Report Form (DMR)** means the EPA standard national form, including any subsequent additions, revisions, or modifications, for the reporting of self-monitoring results by permittees. DMRs must be used by "approved States" as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

**Discharge of a pollutant** means any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source," or any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect discharger."

**Effluent limitation** means any restriction imposed by the Director on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean.

**Effluent limitations guideline** means a regulation published by the Administrator under §304(b) of CWA to adopt or revise "effluent limitations."

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

**Grab Sample** means an individual sample collected in a period of less than 15 minutes.

**Hazardous Substance** means any substance designated under 40 CFR Part 116 pursuant to §311 of CWA.

**Maximum daily discharge limitation** means the highest allowable "daily discharge."

**Municipality** means a city, town, borough, county, parish, district, association, or other public body created by or under State law and having jurisdiction over disposal or sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management agency under § 208 of CWA.

**National Pollutant Discharge Elimination System (NPDES)** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under §§307, 402, 318, and 405 of CWA. The term includes an "approved program."

**New discharger** means any building, structure, facility, or installation from which there is or may be a "discharge of pollutants"; that did not commence the "discharge of pollutants" at a particular "site" prior to August 13, 1979; Which is not a "new source"; and, which has never received a finally effective NPDES permit for discharges at that "site".

This definition includes an "indirect discharger" which commences discharging into "waters of the United States" after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a "site" for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a "site" under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Regional Administrator in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Regional Administrator shall consider the factors specified in 40 CFR §§ 125.122. (a)(1) through (10).

An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a "new discharger" only for the duration of its discharge in an area of biological concern.

**New source** means any building, structure, facility, or installation from which there is or may be a "discharge of pollutants," the construction of which commenced after promulgation of standards of performance under § 306 of CWA which are applicable to such sources; and/or after proposal of standards of performance in accordance with § 306 of CWA which are applicable to such a source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal.

**NPDES** means "National Pollutant Discharge Elimination System".

**Non-contact Cooling Water (NCCW)** means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

**Owner or operator** means the owner or operator of any "facility or activity" subject to regulation under the NPDES programs.

**Permit** means an authorization, license, or equivalent control document issued by EPA or an "approved State."

**Person** means an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

**Point source** means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

**Pollutant** means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean sewage from vessels; or water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

**Primary industry category** means any industry category listed in the NRDC settlement agreement (Natural Resources Defense Council et al. v. Train, 8 E.R.C. 2120 (D.D.C. 1976), modified 12 E.R.C. 1833 (D.D.C. 1979)); also listed in Appendix A of 40 CFR Part 122.

**Privately owned treatment works** means any device or system which is used (a) to treat waste from any facility whose operator is not the operator of the treatment works and (b) not a POTW.

**Process wastewater** means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

**Publicly Owned Treatment Works (POTW)** means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial waste of a liquid nature which is owned by a State or municipality. This definition includes sewers, pipes or other conveyance only if they convey wastewater to a POTW providing treatment.

**Regional Administrator** means the Regional Administrator of EPA, New England, Boston, Massachusetts.

**Secondary Industry Category** means any industry category which is not a "primary industry category."

**§ 313 water priority chemical** means a chemical or chemical categories which are listed at 40 CFR §372.65 pursuant to §313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Re-authorization Act (SARA) of 1986); present at or above threshold levels at a facility subject to EPCRA §313 reporting requirements; and satisfies at least one of the following criteria:

- i. are listed in Appendix D of 40 CFR §122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances);
- ii. are listed as a hazardous substance pursuant to §311(b) (2)(A) of the CWA at 40 CFR §116.4;
- or
- iii. are pollutants for which EPA has published acute or chronic water quality criteria.

**Significant materials** includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under §101(14) of CERCLA; any chemical the facility is required to report pursuant to EPCRA §313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

**Significant spills** includes, but is not limited to, releases of oil or hazardous substances in excess of reportable quantities under §311 of the Clean Water Act (see 40 CFR §110.10 and §117.21) or §102 of CERCLA (see 40 CFR §302.4).

**State** means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands.

**Storm Water** means storm water runoff, snow melt runoff, and surface runoff and drainage.

**Storm Water discharge associated with industrial activity** means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. (See 40 CFR §122.26(b)(14) for specifics of this definition.)

**Time-weighted composite** means a composite sample of a mixture of equal volume aliquots collected at a constant time interval.

**Toxic pollutant** means any pollutant listed as toxic in Appendix D of 40 CFR part 122, under §307(a)(1) of the Clean Water Act.

**Uncontaminated storm water** is precipitation to which no pollutants have been added and has not come into direct contact with any raw material, intermediate product, waste product or finished product.

**Wetlands** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**Whole effluent toxicity (WET)** is the total effect of an effluent measured directly with a toxicity test.

**C-NOEC “Chronic (Long-term Exposure Test) – No Observed Effect Concentration”** means the highest tested concentration of an effluent or a toxicant at which no adverse effects are observed on the aquatic test organisms at a specified time of observation.

**LC<sub>50</sub>** is the concentration of a sample that causes mortality of 50% of the test population at a specific time of observation. The LC<sub>50</sub> = 100% is defined as a sample of undiluted effluent.

**B. Definitions for the Design and Operation of Cooling Water Intake Structures (CWIS) applicable to Part 4 of the NCCWGP**

The definitions of the following terms used in this permit are as found in 40 CFR §125.92. For convenience, the definitions, as recorded in 66 Federal Register 65338, Dec. 18, 2001, as amended in 68 Federal Register 36754, June 19, 2003, are included below.

**Annual mean flow** means the average of daily flows over a calendar year. Historical data (up to 10 years) must be used where available.

**Best Technology Available (BTA)** - Section 316(b) of the CWA requires that the location, design, construction and capacity of cooling water intake structures (CWIS) reflect the best technology available (BTA) for minimizing adverse environmental impacts.

**Closed-cycle recirculating system** means a system designed, using minimized makeup and blowdown flows, to withdraw water from a natural or other water source to support contact and/or non-contact cooling uses within a facility. The water is usually sent to a cooling canal or channel, lake, pond, or tower to allow waste heat to be dissipated to the atmosphere and then is returned to the system. (Some facilities divert the waste heat to other process operations.) New source water (make-up water) is added to the system to replenish losses that have occurred due to blowdown, drift, and evaporation.

**Cooling water** means water used for contact or non-contact cooling, including water used for equipment cooling, evaporative cooling tower makeup, and dilution of effluent heat content. The intended use of the cooling water is to absorb waste heat rejected from the process or processes used, or from auxiliary operations on the facility's premises. Cooling water that is used in a manufacturing process either before or after it is used for cooling is considered process water for the purposes of calculating the percentage of a new facility's intake flow that is used for cooling purposes in 40 CFR §125.81(c).

**Cooling water intake structure (CWIS)** means the total physical structure and any associated constructed waterways used to withdraw cooling water from waters of the U.S. The CWIS extends from the point at which water is withdrawn from the surface water source up to, and including, the intake pumps.

**Design intake flow** means the value assigned (during the facility's design) to the total volume of water withdrawn from a source water body over a specific time period.

**Design intake velocity** means the value assigned (during the design of a CWIS) to the average speed at which intake water passes through the open area of the intake screen (or other device) against which organisms might be impinged or through which they might be entrained.

**Entrainment** means the incorporation of all life stages of fish and shellfish with intake water flow entering and passing through a CWIS and into a cooling water system.

**Estuary** means a semi-enclosed body of water that has a free connection with open seas and within which the seawater is measurably diluted with fresh water derived from land drainage.

The salinity of an estuary exceeds 0.5 parts per thousand (by mass) but is typically less than 30 parts per thousand (by mass).

**Freshwater river or stream** means a lotic (free-flowing) system that does not receive significant inflows of water from oceans or bays due to tidal action. For the purposes of this rule, a flow-through reservoir with a retention time of 7 days or less will be considered a freshwater river or stream.

**Impingement** means the entrapment of all life stages of fish and shellfish on the outer part of an intake structure or against a screening device during periods of intake water withdrawal.

**Lake or reservoir** means any inland body of open water with some minimum surface area free of rooted vegetation and with an average hydraulic retention time of more than 7 days. Lakes or reservoirs might be natural water bodies or impounded streams, usually fresh, surrounded by land or by land and a man-made retainer (e.g., a dam). Lakes or reservoirs might be fed by rivers, streams, springs, and/or local precipitation. Flow-through reservoirs with an average hydraulic retention time of 7 days or less should be considered a freshwater river or stream.

**Ocean** means marine open coastal waters with salinity greater than or equal to 30 parts per thousand (by mass).

**Source water** means the water body (waters of the U.S.) from which the cooling water is withdrawn.

**Tidal river** means the most seaward reach of a river or stream where the salinity is typically less than or equal to 0.5 parts per thousand (by mass) at a time of annual low flow and whose surface elevation responds to the effects of coastal lunar tides.