



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

MAY 19 2015

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (7014 0150 0000 2452 5059)

REPLY TO: 6WQ-NP

Mr. Matthew McNeely
Regency Field Services, Inc.
1880 FM 2924 IH-37
Karnes City, TX 78118

Re: NPDES Application No. TX0086720 – Fashing Gas Plant

Dear Mr. McNeely:

This package constitutes EPA's final permit decision for the above referenced facility. Enclosed are the responses to comments received during the public comment period and the final permit. According to EPA regulations at 40 CFR 124.19, within 30 days after a final permit decision has been issued, any person who filed comments on the draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision.

Should you have any questions regarding the final permit, please feel free to contact Maria Okpala of the NPDES Permits Branch at the above address or by telephone: (214) 665-3152, by fax: (214) 665-2191, or by E-mail: okpala.maria@epa.gov. Should you have any questions regarding compliance with the conditions of this permit, please contact the Water Enforcement Branch at the above address or by telephone: (214)-665-6468.

Sincerely yours,

A handwritten signature in black ink, appearing to read "W. Honker".

William K. Honker, P.E.
Director

Water Quality Protection Division

Enclosures

cc w/enclosures:
Texas Railroad Commission



2000 1 YAM

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

1200 POND AVENUE, SUITE 1000
DALLAS, TEXAS 75208-3300
PHONE (214) 767-1000
FAX (214) 767-1000

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

The following information was obtained from the records of the Agency concerning the release of hazardous materials from the site located at 1200 Pond Avenue, Dallas, Texas. The release occurred on 1/15/88. The release was caused by a fire in the building. The release was contained and no further action was required.

The following information was obtained from the records of the Agency concerning the release of hazardous materials from the site located at 1200 Pond Avenue, Dallas, Texas. The release occurred on 1/15/88. The release was caused by a fire in the building. The release was contained and no further action was required.

1200 POND AVENUE
DALLAS, TEXAS 75208-3300
PHONE (214) 767-1000
FAX (214) 767-1000

WASHINGTON, D.C. 20460

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**NPDES PERMIT NO. TX0086720
RESPONSE TO COMMENTS**

**RECEIVED ON THE SUBJECT DRAFT
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
PERMIT IN ACCORDANCE WITH REGULATIONS LISTED AT 40CFR124.17**

APPLICANT:

Regency Field Services, L.L.C
Fashing Gas Plant
1880 FM2924
Karnes City, TX 78118

ISSUING OFFICE:

U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

PREPARED BY:

Maria Okpala
Environmental Engineer
Permits Section (6WQ-PP)
NPDES Permits Branch
Water Quality Protection Division
Telephone: 214-665-3152
FAX: 214-665-2191
EMAIL: okpala.maria@epa.gov

PERMIT ACTION: Final permit decision and response to comments received on the proposed NPDES permit publicly noticed on January 31, 2015.

DATE PREPARED: April 14, 2015

Introduction. For brevity, Region 6 used acronyms and abbreviated terminology in this response to comments document whenever possible. The following acronyms were used frequently in this document: Act (Clean Water Act), BOD(Biochemical Oxygen Demand), DMR (Discharge Monitoring Report), CFS (cubic feet per second), EPA (Environmental Protection Agency), MQL (Minimum Quantification Level), NPDES (National Pollutant Discharge Elimination System), POTW (Publicly Owned Treatment Works), RRC (Railroad Commission of Texas), SOB(Statement of Basis), TRC(Total Residual Chlorine), WET(Whole Effluent Toxicity) and WQS (Water Quality Standards).

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of March 20, 2015.

CHANGES FROM DRAFT PERMIT

EPA made the following change to the draft NPDES permit publicly noticed on January 31, 2015:

1. The dilution series is changed from 32%, 42%, 56%, 75%, and 100% to 7.36%, 9.81%, 13.08%, 17.44%, and 23.25% based on the recalculated critical conditions.
2. TRC limit is changed from 11 µg/L to 19 µg/L limit in the final permit

STATE CERTIFICATION

In a letter from Leslie Savage, Water Quality Certification Agent (RRC) to Maria Okpala, Water Quality Protection Division (EPA) dated March 19, 2015; the RRC certifies that the permitted activities will be conducted in a manner which will not violate any applicable water quality requirements. The Commission hereby grants certification of the referenced permit for compliance with applicable state water quality laws.

COMMENTS FROM DCP MIDSTREAM, EAGLE GAS PLANT

Comment No. 1: The permittee commented on the proposed permit limit for TRC of 0.011 mg/l stating that it would prefer a limit of 0.033 mg/l reinstated in the permit. The permittee noted that the SOB included a comment that EPA has established an MQL for TRC at 0.033 mg/l, and that a measured value less than 0.033 mg/l may be reported as zero.

Response No. 1: EPA notes that TRC is toxic at measurable amounts. The effluent shall contain NO MEASURABLE TRC at any time. The average daily discharge of TRC at Fashing Gas plant is 100µg/l, and the maximum concentration is also 100µg/l. Since recalculated the critical low flow is 0.1 cfs cubic feet per second, limits must be protective of WQS per 40 CFR 122.4(d) and 122.44(d). Although the previous permit established a limit of 0.033 mg/l, EPA has revised the permit limit to reflect the EPA established criteria. MQLs ensures that the sensitive analytical methodology is used for analysis and resolves data management issues where water quality limitations are below concentrations which can reasonably be quantified. EPA also notes that the

current MQL for TRC is 0.033 mg/l, and that a measured value less than 0.033 mg/l may be reported as zero.

Comment No. 2: The permittee stated that the modeling data provided in the SOB indicates that chlorine is not a concern and TRC was present in discharge water from the plant in the past. The facility noted that it underwent significant facility upgrades, with process analysis performed and the facility has been in compliance for the past 3 years. The permittee believes that TRC is not a concern at the facility and should be removed from the draft permit.

The permittee requested that the draft permit be revised to reflect a TRC limitation of 0.033 mg/l. The permittee also noted that field tests require additional equipment, training, coordination and other expenses. The permittee believes that sufficient information was not provided on purpose or regulatory requirement for 0.011 mg/l daily max for TRC.

Response No. 2: EPA notes that the information contained in the renewal application indicated that chlorine is present in the plant's effluent and TRC is toxic at measurable amount. There is no modeling data in the SOB that indicated chlorine is not a pollutant of concern.

The Statement of Basis stated that wastewater discharges from the facility flows into an unnamed tributary of Water Creek, which is an intermittent water body. Water Creek is a tributary of Lipan Creek, which flows in the Atascosa River, Texas Segment 2107. The Statement of Basis also stated that the designated uses of Segment 2107 are public contact recreation, high aquatic life, and public water supply. The permittee also provided a map which showed its Outfall location. Based on these, EPA determined that the facility discharges to an intermittent water body within 3 miles of a freshwater perennial stream. According to TCEQ implementation procedures, permits for discharges within three miles of perennial waters or perennial pools with significant aquatic life uses are designated to protect against chronic toxicity and to protect human health in those waters. The designated uses of Segment No. 2107, Lower Atascosa River of the Nueces River Basin must be protected.

TCEQ has not adopted a TRC criterion and may impose a BPJ limit for chlorine if necessary. As the permitting authority, EPA must assure compliance with State water quality standards. EPA has chlorine criterion as well as an MQL for TRC. EPA National Recommended Water Quality Criteria (the "Criteria," FR Notice December 10, 1998 updated in EPA publication #822-R-02-047, Nov 2002) sets recommended freshwater and saltwater standards for chlorine for both acute and chronic toxicity which guide the development of TRC effluent limits in NPDES permits. See also EPA publication, EPA 440/5-84-030 entitled "Ambient Water Quality Criteria for Chlorine - 1984." The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" (EPA 440/5-84-030) indicate that except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of total residual chlorine does not exceed 11 µg/L more than once every three years on the average and if the one-hour average concentration does not exceed 19 µg/L more than once every three years on the average. (See Page 17/18 of the 1985 Ambient Water Quality Criteria for Chlorine). See also comment #1.

EPA recalculated the critical conditions for the facility. As a result, the updated 7-day, 2-year discharge flow (7Q2) is 0.1 cfs and the harmonic mean is 0.723 cfs. As a result, the recalculated critical dilution is 17.44% (See Response #4). Hence the TRC effluent concentration after allowing for dilution is $11/0.1744 = 63.07 \mu\text{g/L}$. Since this value is greater than the $19 \mu\text{g/L}$ end-of-pipe acute standard, the $19 \mu\text{g/L}$ is more stringent and will be more protective. As a result, TRC limit is changed from $11 \mu\text{g/L}$ to $19 \mu\text{g/L}$ limit in the final permit.

Based on the above a TRC limit of $33 \mu\text{g/l}$ has not been reinstated in the final permit.

Comment No. 3: The permittee requested that the BOD₅ pounds per day and daily maximum be increased to the highest water discharge rates instead of the average discharge rates. The permittee noted that the heat in summer months results in increased water discharge as compared to winter months when less equipment cooling is needed. The permittee also noted that averaging water discharge flow rates over an annual period is not representative of actual plant operations.

Response No.3: EPA understands your concern regarding using the highest water discharge rates instead of average discharge rates. The discharge rates for industrial facilities are based on the average flow rates and not the maximum or design flow. It has been EPA's practice to use average flow rate for industrial facilities. The discharge rates for POTW are based on the design flow. 40 CFR §122.45(b)(2)(i) states that "except in the case of POTWs or as provided in paragraph (b)(2)(ii) of this section, calculation of any permit limitations, standards, or prohibitions which are based on production (or other measure of operation) shall be based not upon the designed production capacity but rather upon a reasonable measure of actual production of the facility. For new sources or new dischargers, actual production shall be estimated using projected production. The time period of the measure of production shall correspond to the time period of the calculated permit limitations; for example, monthly production shall be used to calculate average monthly discharge limitations."

Comment No. 4: The permittee noted that the draft permit proposed a critical dilution of 100% for future WET testing, a significant increase from the 5.9% prescribed in the last permitting cycle. The permittee does not entirely object to an increase in the dilution factor, but believes that the 100% effluent testing does not appear to meet the data provided in the SOB. The permittee noted that the rationale offered in the SOB is that the nearest perennial water body is 3 miles away or further. The permittee also affirmed that Water Creek is a perennial stream and is 1.5 streambed miles from the Outfall 001 discharge point. The permittee then noted that TEXTTOX Menu1 used in the draft permit does not appear to be the appropriate selection. The permittee requested a review of criteria and rationale for critical dilution factor increase and specifically requested that critical dilution factor of no more than 20%, or less if modeling data supports that decision.

Response No. 4: The critical conditions for Fashing Gas Plant have been recalculated using the following assumptions: 1) Water Creek, within 3 miles downstream of Outfall 001, is perennial, 2) Natural Flow estimates using gage regressions are an accurate estimate for Harmonic Mean Flows, and 3) since, gages in South Central Texas of 100 square miles or less of contributing

area have a 7Q2 of 0.0 cubic feet per second, the estimated 7Q2 for Water Creek will be the minimum for perennial streams of 0.1 cubic feet per second. It is also assumed that Outfall 001 and other upstream sources may contribute a moderate proportion of flow to Water Creek.

Outfall 001 is MENU 2 (Discharge is to an intermittent water body within three miles of a perennial freshwater ditch, stream or river.) It discharges into an unnamed tributary, which is an intermittent water body. Water Creek is a perennial stream located 1.32 miles upstream from the outfall. Water Creek is a tributary of Lipan Creek, which flows into the Atascosa River, Texas Segment 2107.

There are no gages on the unnamed tributary or Water Creek. As an alternative, NHD Plus, Version 2 Natural Flow estimates using gage regressions were used. The Natural Flow estimate for the confluence of Water Creek gave an approximate Harmonic Mean of 0.723 cubic feet per second (CFS).

Outfall 001 Critical Flows:

Assigned 7Q2 = 0.1 CFS

Harmonic Mean = 0.723 CFS

There are no NPDES outfalls upstream or downstream before the confluence with Water Creek.

EPA recalculated the reasonable potential for toxic pollutants using Menu 2, but none of the pollutants showed reasonable potential to exceed the Texas WQS.

Since 7Q2 for Outfall 001 is 0.1 cfs (0.0645 MGD), critical dilution is:

$$\begin{aligned} \text{Critical Dilution} &= \frac{\text{Effluent Flow}}{\text{Effluent flow} + 7\text{Q2}} \\ &= \frac{0.013625}{0.013625 + 0.06452} \\ &= 17.44\% \end{aligned}$$

The draft permit requires five (5) dilutions in addition to the control (0% effluent) to be used in the toxicity tests based on a 0.75 dilution series. These additional effluent concentrations shall be 7.36%, 9.81%, 13.08%, 17.44%, and 23.25%. As a result, the dilution series is changed from 32%, 42%, 56%, 75%, and 100% to 7.36%, 9.81%, 13.08%, 17.44%, and 23.25%.

Comment No. 5: The permittee requested semi-annual WET testing schedule and noted that the draft permit stipulates that it shall perform sampling and WET testing analysis every three months. The permittee reminded EPA that it has been in compliance with the previous permit, and should be granted the opportunity to demonstrate compliance on the same semi-annual basis.

Response No. 5: EPA understands the permittee's concern regarding WET testing frequency requirement established in the draft permit. The recalculated reasonable potential calculation is

based on the proposed critical dilution of 17.44% (See reasonable potential analysis). The critical dilution is changed from 5.9% (during the last permit cycle) to the recalculated critical dilution of 17.44% based on the assumption that Water Creek, within 3 miles downstream of Outfall 001, is perennial. The reasonable potential performed with the recalculated critical dilution shows that there is reasonable potential for the vertebrate specie, *Pimephales promelas* and no reasonable potential exist for the invertebrate species, *Ceriodaphnia dubia*. As a result, the final permit requires WET monitoring and WET Limit for the vertebrate specie, *Pimephales promelas* and no reasonable potential for the invertebrate species, *Ceriodaphnia dubia*. Because reasonable potential analyzer shows that that there is reasonable potential to exceed biomonitoring requirement for the vertebrate specie, *Pimephales promelas*, the monitoring frequency is changed from semi-annually to quarterly. A 3-year compliance schedule is established in the proposed permit species for *Pimephales promelas*. (See recalculated WET reasonable potential analyzer).

OUTFALL 001

During the period beginning the effective date of the permit and lasting through the expiration date of the permit, the permittee is authorized to discharge from Outfall 001 - the discharge to unnamed tributary of Water Creek to Water Creek, thence to Lipan Creek, which empties into Atascosa River in Segment No. 2107 of the Nueces River Basin. Discharges shall be monitored by the permittee as specified below:

Effluent Characteristics	Discharge Limitations	
	30-Day Average Minimum	7-Day Minimum
Whole Effluent Toxicity Limits (PSC 22414) (7-Day NOEC) 1/	17.44%	17.44%
<i>Pimephales promelas</i>	Report	Report

<u>Effluent Characteristics</u>	<u>Monitoring Requirements</u>	
<u>Whole Effluent Toxicity Limits (7-Day NOEC) 1/</u>	<u>Frequency</u>	<u>Type</u>
<i>Pimephales promelas</i>	1/3 months	24-Hr. Composite

FOOTNOTES

1/ Monitoring and reporting requirements begin on the effective date of this permit. Compliance with the Whole Effluent Toxicity limitations is required after 3 years from the permit effective date. See PART I, Compliance Schedules, and PART II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.

OUTFALL 001

During the period beginning the effective date of the permit and lasting through the expiration date of the permit, the permittee is authorized to discharge from Outfall 001 - the discharge to unnamed tributary of Water Creek to Water Creek, thence to Lipan Creek, which empties into Atascosa River in Segment No. 2107 of the Nueces River Basin. Discharges shall be monitored by the permittee as specified below:

Effluent Characteristics	Discharge Limitations	
	30-Day Average Minimum	7-Day Minimum
Whole Effluent Toxicity (7-Day NOEC) ^{1/}		
<i>Ceriodaphnia dubia</i>	Report	Report

Effluent Characteristics	Monitoring Requirements	
	Frequency	Type
Whole Effluent Toxicity (7-Day NOEC) ^{1/}		
<i>Ceriodaphnia dubia</i>	1/3 months	24-Hr. Composite

FOOTNOTES

^{1/} Monitoring and reporting requirements begin on the effective date of this permit. See Part II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.

Comment No. 6: The permittee requested quarterly WET testing in the event of non-passing semi-annual WET test. It noted that this was the process utilized in previous permit. The permittee noted that the proposed monthly WET testing requirement does not appear to be supported by information in the SOB or the facility's past 3 years of compliance.

Response No. 6: EPA notes that the draft permit has a quarterly frequency requirement for WET and not monthly frequency requirement. See also Comment No. 5.

Comment No. 7: The permittee noted that the footnote in Section A (1.) table indicates the 24 hour composite samples shall be composited through discharge water collection every 2 hours. The permittee pointed out that the plant is operated by two or three individuals who have many responsibilities at the plant. The permittee noted that the water flow rate is consistent on a daily basis and requested that the footnote in Section A (1) be removed entirely. The permittee also requested that any other reference in the permit to 2 hour intervals also be removed or revised.

Response No. 7: EPA notes that the sample type remains 24-Hr. Composite sample which indicates that a minimum of 12 effluent portions shall be collected at equal time intervals over

the 24 hour period and combined proportional to flow or a sample collected at frequent intervals proportional to flow over the 24 hour period.” Footnote No. 4 was in the previous permit in Part III of the permit and is included in Part I of the Permit, under footnote No. 4 for clarity. As a result, footnote No. 4 has not been not removed from the final permit.



REGION 6
 1445 ROSS AVENUE
 DALLAS, TEXAS 75202-2733

NPDES Permit No TX0086720

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

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

Regency – Fashing Gas Plant
 1880 FM2924
 Karnes City, TX 78118

is authorized to discharge from a facility located two miles north of Fashing, and West of Karnes City, Atascosa County, Texas

to an unnamed tributary of Water Creek, about 460 feet from the western edge of the plant boundary, thence to Lipan Creek, which empties into the Atascosa River in waterbody Segment No. 2107 of the Nueces River Basin.

Outfall 001: Latitude 98° 10' 54"; Longitude 28° 48' 6"

in accordance with this cover page and the effluent limitations, monitoring requirements, and other conditions set forth in Part I, Part II and Part III hereof.

This permit shall become effective on July 1, 2015

This permit and the authorization to discharge shall expire at midnight, JUNE 30, 2020

Issued on **MAY 19 2015**

Prepared by

William K. Hooper, P.E.
 Director
 Water Quality Protection Division (6WQ)

Maria E. Okpala
 Environmental Engineer
 Permits & Technical Section (6WQ-PP)

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PART I - REQUIREMENTS FOR NPDES PERMITS

SECTION A. LIMITATIONS AND MONITORING REQUIREMENTS

1. Outfall 001 - 0.013625 MGD

During the period beginning on the effective date of the permit and lasting until the expiration date, the permittee is authorized to discharge cooling tower blowdown and reverse osmosis reject water from outfall number 001 to an unnamed tributary of Water Creek, about 460 feet from the western edge of the plant boundary, thence to Lipan Creek, which empties into the Atascosa River in waterbody Segment No. 2107 of the Nueces River Basin. Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	STORET CODE	Standard Units	MAXIMUM	MEASUREMENT FREQUENCY	SAMPLE TYPE
POLLUTANT	00400	MINIMUM	9.0	2/Month *1	Grab
pH		6.5			

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	STORET CODE	lbs/day, unless noted	DAILY AVG	DAILY MAX	DAILY AVG	DAILY MAX
Flow	50050	Report, MGD	N/A	N/A	N/A	N/A
BOD5	00310	2.27	3.41	20	30	Daily 2/Month *1 Instantaneous
Total Residual Chlorine	50060	N/A	N/A	N/A	0.019	2/Month *1 Instantaneous Grab *2
Dissolved Oxygen, minimum	00300	N/A	N/A	N/A	4	2/Month *1 Grab

EFFLUENT CHARACTERISTICS	DISCHARGE MONITORING			MONITORING REQUIREMENTS	
	30-DAY AVG MINIMUM	7-DAY MINIMUM	Report	MEASUREMENT FREQUENCY	SAMPLE TYPE
WHOLE EFFLUENT TOXICITY LIMITS (PSC 22414) (7-Day NOEC) (*3)	17.44 %	17.44 %	Report	Once/3 months	24-Hr Composite*4
Pimephales promelas	Report	Report	Report	Once/3 months	24-Hr Composite*4

EFFLUENT CHARACTERISTICS	DISCHARGE MONITORING		MONITORING REQUIREMENTS	SAMPLE TYPE
	30-DAY AVG MINIMUM	7-DAY MINIMUM	MEASUREMENT FREQUENCY	
WHOLE EFFLUENT TOXICITY (7-Day NOEC) (*5)				
Ceriodaphnia dubia	Report	Report	Once/3 months	24-Hr Composite*4

Footnotes:

- *1 For any reporting period, samples shall be taken at least ten (10) days from the first sample of the previous reporting period.
- *2 Regulations at 40 CFR Part 136 define "instantaneous grab" as analyzed within 15 minutes of collection. The effluent limitation for TRC is the instantaneous maximum and cannot be averaged for reporting purposes.
- *3 Monitoring and reporting requirements begin on the effective date of this permit. Compliance with the Whole Effluent Toxicity limitations is required 3 years from the permit effective limit. See PART I, Compliance Schedules, and PART II Whole Effluent Toxicity Testing requirements for additional WET monitoring and reporting conditions.
- *4 24-HOUR COMPOSITE SAMPLE consists of a minimum of 12 effluent portions collected at equal time intervals over the 24-hour period and combined proportional to flow or a sample collected at frequent intervals proportional to flow over the 24-hour period.
- *5 Monitoring and reporting requirements begin on the effective date of this permit. See Part II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.

SAMPLING LOCATION(S) AND OTHER REQUIREMENTS

Samples taken in compliance with the monitoring requirements specified above shall be taken at the discharge from the final treatment from Outfall 001.

FLOATING SOLIDS, VISIBLE FOAM AND/OR OILS

There shall be no discharge of floating solids or visible foam in other than trace amounts. There shall be no discharge of visible films of oil, globules of oil, grease or solids in or on the water, or coatings on stream banks.

SECTION B: SCHEDULE OF COMPLIANCE

The permittee shall comply with the following schedule of activities for the attainment of state water quality standards-based final effluent limitations for **Pimephales promelas**:

- a. Determine exceedance cause(s);
- b. Develop control options, if needed;
- c. Evaluate and select control mechanisms;
- d. Implement corrective action; and
- e. Attain final effluent limitations for **Pimephales promelas** no later than 36 months from the permit effective date.

The permittee shall submit quarterly progress reports, to both EPA and Texas Railroad Commission, in accordance with the following schedule. The requirement to submit quarterly progress reports for **Pimephales promelas** shall expire 36 months from the permit effective date. No later than 14-days after the date compliance with the **Pimephales promelas** final limits have been met, the permittee shall submit a written final report both to EPA and the State Agency, stating that compliance has been completed. If at any time during the compliance periods the permittee determines that full compliance will not be met within the time allowed, a separate report shall be sent to both EPA and the State Agency stating the explanation for this delay and proposed remedial actions.

PROGRESS REPORT DATES

January 30
April 30
July 30
October 30

The permittee should note that each date applies to the prior three month period.

Send progress and final reports to the following addresses:

EPA:
Compliance Assurance and
Enforcement Division
Water Enforcement Branch (6EN-W)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Texas Railroad Commission:
Railroad Commission of Texas
Oil & Gas Division
ATTN: Program Manager
1701 North Congress Avenue
Environmental Services Section
P.O. Box 12967
Austin, TX 78711-12967

SECTION C. MONITORING AND REPORTING (MINOR DISCHARGERS)

1. Monitoring results must be reported to EPA on either the electronic or paper Discharge Monitoring Report (DMR) approved formats. Monitoring results can be submitted electronically in lieu of the paper DMR Form. To submit electronically, access the NetDMR website at www.epa.gov/netdmr and contact the R6NetDMR@epa.gov in-box for further instructions. Until you are approved for Net DMR, you must report on the Discharge Monitoring Report (DMR) Form EPA No. 3320-1 in accordance with the "General Instructions" provided on the form. No additional copies are needed if reporting electronically, however when submitting paper form EPA No. 3320-1, the permittee shall submit the original DMR signed and certified as required by Part III.D.11 and all other reports required by Part III.D. to the EPA and other agencies as required. (See Part III.D.IV of the permit.)

Discharge Monitoring Report Form(s) shall be submitted quarterly. Each quarterly submittal shall include separate forms for each month of the reporting period.

2. Reporting periods shall end on the last day of the months March, June, September, and December.

3. The first Discharge Monitoring Report(s) shall represent facility operations from the effective date of the permit through the last day of the current reporting period.

4. Thereafter, the permittee is required to submit regular quarterly reports as described above and shall submit those reports postmarked no later than the 28th day of the month following each reporting period.

5. **NO DISCHARGE REPORTING** - If there is no discharge from any outfall during the sampling month, place an "X" in the NO DISCHARGE box located in the upper right corner of the Discharge Monitoring Report.

6. If any daily maximum or monthly average value exceeds the effluent limitations specified in Part I. A, the permittee shall report the excursion in accordance with the requirements of Part III. D.

7. Any daily maximum or monthly average value reported in the required Discharge Monitoring Report which is in excess of the effluent limitation specified in Part I. A shall constitute evidence of violation of such effluent limitation and of this permit.

8. The permittee shall effectively monitor the operation and efficiency of all treatment and control facilities and the quantity and quality of the treated discharge.

9. All reports shall be sent both to EPA and the Texas Railroad Commission at the addresses shown in Part III of the permit.

PART II - OTHER REQUIREMENTS**GENERAL:****A. MINIMUM QUANTIFICATION LEVEL (MQL)**

See list of MQL's at Appendix A of Part II below. For pollutants listed on Appendix A of Part II with MQL's, analyses must be performed to the listed MQL. If any individual analytical test result is less than the MQL listed, a value of zero (0) may be used for that pollutant result for the Discharge Monitoring Report (DMR) calculations and reporting requirements.

In addition, any additional pollutant sampling for purposes of this permit, including renewal applications or any other reporting, shall be tested to the MQL shown on the attached Appendix A of Part II. Results of analyses that are less than the listed MQL maybe reported as "non detect" (ND).

B. 24-HOUR ORAL REPORTING: DAILY MAXIMUM LIMITATION VIOLATIONS

Under the provisions of Part III.D.7.b.(3) of this permit, violations of daily maximum limitations for the following pollutants shall be reported orally to EPA Region 6, Compliance and Assurance Division, Water Enforcement Branch (6EN-W), Dallas, Texas, at (214) 665-6595 and concurrently to Railroad Commission of Texas, at (512) 463-7058 within 24 hours from the time the permittee becomes aware of the violation followed by a written report in five days.

C. 40 CFR PART 136 ANALYTICAL REQUIREMENTS

Unless otherwise specified in this permit, monitoring shall be conducted according to the analytical, apparatus and materials, sample collection, preservation, handling, etc., procedures listed at 40 CFR Part 136 in effect on the effective date of this permit. Appendices A, B, and C to 40 CFR Part 136 are specifically referenced as part of this requirement. Amendments to 40 CFR Part 136 promulgated after the effective date of this permit shall supersede these requirements as applicable.

D. REOPENER

The permit may be reopened and modified during the life of the permit if relevant portions of the Texas Commission on Environmental Quality (TCEQ) Water Quality Standards for Interstate and Intrastate Streams are revised or remanded. In addition, the permit may be reopened and modified during the life of the permit if relevant procedures implementing the Water Quality Standards are either revised or promulgated by the TCEQ. Should the State adopt a State water quality standard, this permit may be reopened to establish effluent limitations for the parameter(s) to be consistent with that approved State standard in accordance with 40CFR122.44(d). Modification of the permit is subject to the provisions of 40CFR124.5.

Additionally, in accordance with 40 CFR Part 122.62 (s) (2), the permit may be reopened and modified if new information is received that was not available at the time of permit issuance that would have justified the application of different permit conditions at the time of permit issuance. Permit modifications shall reflect the results of any of these actions and shall follow regulations listed at 40 CFR Part 124.5.

E. WHOLE EFFLUENT TOXICITY LIMITS (7-DAY CHRONIC NOEC FRESHWATER)

It is unlawful and a violation of this permit for a permittee or his designated agent, to manipulate test samples in any manner, to delay sample shipment, or to terminate or to cause to terminate a toxicity test. Once initiated, all toxicity tests must be completed unless specific authority has been granted by EPA Region 6 or the State NPDES permitting authority.

1. SCOPE AND METHODOLOGY

- a. The permittee shall test the effluent for toxicity in accordance with the provisions in this section.

APPLICABLE TO FINAL OUTFALL(S): 001

REPORTED ON DMR AS FINAL OUTFALL: 001

CRITICAL DILUTION (%): 17.44%

EFFLUENT DILUTION SERIES (%): 7.36%, 9.81%, 13.08%,
17.44%, and 23.25%

COMPOSITE SAMPLE TYPE: Defined at PART I

TEST SPECIES/METHODS: 40 CFR Part 136

Ceriodaphnia dubia chronic static renewal survival and reproduction test, Method 1002.0, EPA-821-R-02-013, or the most recent update thereof. This test should be terminated when 60% of the surviving females in the control produce three broods or at the end of eight days, whichever comes first.

Pimephales promelas (Fathead minnow) chronic static renewal 7-day larval survival and growth test, Method 1000.0, EPA-821-R-02-013, or the most recent update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

- b. The NOEC (No Observed Effect Concentration) is herein defined as the greatest effluent dilution at and below which toxicity that is statistically different from the control (0% effluent) at the 95% confidence level does not occur. Chronic lethal test failure is defined as a demonstration of a statistically significant lethal effect at test completion to a test species at or below the critical dilution. Chronic sub-lethal test failure is defined as a

demonstration of a statistically significant sub-lethal effect (i.e., growth or reproduction) at test completion to a test species at or below the critical dilution.

- c. The conditions of this item are effective beginning with the effective date of the WET limit. When the testing frequency stated above is less than monthly and the effluent fails the lethal or sub-lethal endpoint at or below the critical dilution, the permittee shall be considered in violation of this permit limit and the frequency for the affected species will increase to monthly until such time compliance with the No Observed Effect Concentration (NOEC) effluent limitation is demonstrated for a period of three consecutive months, at which time the permittee may return to the testing frequency stated in PART I of this permit. During the period the permittee is out of compliance, test results shall be reported on the DMR for that reporting period. The purpose of additional tests (also referred to as 'retests' or confirmation tests) is to determine the duration of a toxic event. A test that meets all test acceptability criteria and demonstrates significant toxic effects does not need additional confirmation. Such testing cannot confirm or disprove a previous test result.
- d. This permit may be reopened to require chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.

2. REQUIRED TOXICITY TESTING CONDITIONS

a. Test Acceptance

The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied, including the following additional criteria:

- i. The toxicity test control (0% effluent) must have survival equal to or greater than 80%.
- ii. The mean number of Ceriodaphnia dubia neonates produced per surviving female in the control (0% effluent) must be 15 or more.
- iii. 60% of the surviving control females must produce three broods.
- iv. The mean dry weight of surviving Fathead minnow larvae at the end of the 7 days in the control (0% effluent) must be 0.25 mg per larva or greater.
- v. The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent) for: the young of surviving

females in the Ceriodaphnia dubia reproduction test, the growth and survival of the Fathead minnow test.

- vi. The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal or nonlethal effects are exhibited for: the young of surviving females in the Ceriodaphnia dubia reproduction test; the growth and survival endpoints in the Fathead minnow test.
- vii. A Percent Minimum Significant Difference (PMSD) range of 13 - 47 for Ceriodaphnia dubia reproduction;

A PMSD range of 12 - 30 for Fathead minnow growth.

Test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%. A repeat test shall be conducted within the required reporting period of any test determined to be invalid

b. Statistical Interpretation

- i. For the Ceriodaphnia dubia survival test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be Fisher's Exact Test as described in EPA-821-R-02-013 or the most recent update thereof.
- ii. For the Ceriodaphnia dubia reproduction test and the Fathead minnow larval survival and growth test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in EPA-821-R-02-013, or the most recent update thereof.
- iii. If the conditions of Test Acceptability are met in Item 2.a above and the percent survival of the test organism is equal to or greater than 80% in the critical dilution concentration and all lower dilution concentrations, the test shall be considered to be a passing test, and the permittee shall report a survival NOEC of not less than the critical dilution for the DMR reporting requirements found in Item 3 below.

c. Dilution Water

- i. Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but

unaffected by the discharge. The permittee shall substitute synthetic dilution water of similar pH, hardness, and alkalinity to the closest downstream perennial water where the receiving stream is classified as intermittent or where the receiving stream has no flow due to zero flow conditions.

- ii. If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria of Item 2.a), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:
 - (A) a synthetic dilution water control which fulfills the test acceptance requirements of Item 2.a was run concurrently with the receiving water control;
 - (B) the test indicating receiving water toxicity has been carried out to completion (i.e., 7 days);
 - (C) the permittee includes all test results indicating receiving water toxicity with the full report and information required by Item 3.a below; and
 - (D) the synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or closest downstream perennial water not adversely affected by the discharge, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water.

d. Samples and Composites

- i. The permittee shall collect a minimum of three flow-weighted composite samples from the outfall(s) listed at Item 1.a above.
- ii. The permittee shall collect second and third composite samples for use during 24-hour renewals of each dilution concentration for each test. The permittee must collect the composite samples such that the effluent samples are representative of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on an intermittent basis.
- iii. The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 72 hours. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first composite

sample. Samples shall be chilled to 6 degrees Centigrade during collection, shipping, and/or storage.

- iv. If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum number of effluent portions and the sample holding time are waived during that sampling period. However, the permittee must collect an effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item 3 of this section.
- v. MULTIPLE OUTFALLS: If the provisions of this section are applicable to multiple outfalls, the permittee shall combine the composite effluent samples in proportion to the average flow from the outfalls listed in Item 1.a above for the day the sample was collected. The permittee shall perform the toxicity test on the flow-weighted composite of the outfall samples.

3. REPORTING

- a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this section in accordance with the Report Preparation Section of EPA-821-R-02-013, or the most current publication, for every valid or invalid toxicity test initiated whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of PART III.C.3 of this permit. The permittee shall submit full reports upon the specific request of the Agency. For any test which fails, is considered invalid or which is terminated early for any reason, the full report must be submitted for agency review.
- b. The permittee shall report the Whole Effluent Toxicity values for the 30-Day Average Minimum and the 7-Day Minimum under Parameter No. 22414 on the DMR for that reporting period in accordance with PART III.D.4 of this permit.

If more than one valid test for a species was performed during the reporting period, the test NOECs will be averaged arithmetically and reported as the DAILY AVERAGE MINIMUM NOEC for that reporting period.

If more than one species is tested during the reporting period, the permittee shall report the lowest 30-Day Average Minimum NOEC and the lowest 7-Day Minimum NOEC for Whole Effluent Toxicity.

A valid test for each species must be reported on the DMR during each reporting period specified in PART I of this permit. Only ONE set of biomonitoring data for each species is to be recorded on the DMR for each reporting period. The data submitted should reflect the LOWEST lethal and sub-lethal effects results for each species during the reporting period. All invalid tests, repeat tests (for invalid tests), and retests (for tests previously failed) performed during the reporting period must be attached to the DMR for EPA review.

- c. The permittee shall submit the results of the valid toxicity test on the DMR for that reporting period in accordance with PART III.D.4 of this permit, as follows below. Submit retest information clearly marked as such with the following month's DMR. Only results of valid tests are to be reported on the DMR.
- i. Pimephales promelas (Fathead Minnow)
 - A. If the No Observed Effect Concentration (NOEC) for lethal effects is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TLP6C
 - B. Report the NOEC value for survival, Parameter No. TOP6C
 - C. Report the Lowest Observed Effect Concentration (LOEC) value for survival, Parameter No. TXP6C
 - D. Report the NOEC value for growth, Parameter No. TPP6C
 - E. Report the LOEC value for growth, Parameter No. TYP6C
 - F. If the No Observed Effect Concentration (NOEC) for growth is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TGP6C
 - G. Report the highest (critical dilution or control) Coefficient of Variation, Parameter No. TQP6C
 - ii. Ceriodaphnia dubia

- A. If the NOEC for lethal effects is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TLP3B
- B. Report the NOEC value for survival, Parameter No. TOP3B
- C. Report the LOEC value for survival, Parameter No. TXP3B
- D. Report the NOEC value for reproduction, Parameter No. TPP3B
- E. Report the LOEC value for reproduction, Parameter No. TYP3B
- F. If the No Observed Effect Concentration (NOEC) for reproduction is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TGP3B
- G. Report the higher (critical dilution or control) Coefficient of Variation, Parameter No. TQP3B

APPENDIX A of PART II

The following Minimum Quantification Levels (MQL's) are to be used for reporting pollutant data for NPDES permit applications and/or compliance reporting.

POLLUTANTS	MQL µg/l	POLLUTANTS	MQL µg/l
METALS, RADIOACTIVITY, CYANIDE and CHLORINE			
Aluminum	2.5	Molybdenum	10
Antimony	60	Nickel	0.5
Arsenic	0.5	Selenium	5
Barium	100	Silver	0.5
Beryllium	0.5	Thallium	0.5
Boron	100	Uranium	0.1
Cadmium	1	Vanadium	50
Chromium	10	Zinc	20
Cobalt	50	Cyanide	10
Copper ⁰	.5	Cyanide, weak acid dissociable	10
Lead	0.5	Total Residual Chlorine	33
Mercury *1	0.0005 0.005		
DIOXIN			
2,3,7,8-TCDD	0.00001		
VOLATILE COMPOUNDS			
Acrolein	50	1,3-Dichloropropylene	10
Acrylonitrile	20	Ethylbenzene	10
Benzene	10	Methyl Bromide	50
Bromoform	10	Methylene Chloride	20
Carbon Tetrachloride	2	1,1,2,2-Tetrachloroethane	10
Chlorobenzene	10	Tetrachloroethylene	10
Chlorodibromomethane	10	Toluene	10
Chloroform	50	1,2-trans-Dichloroethylene	10
Dichlorobromomethane	10	1,1,2-Trichloroethane	10
1,2-Dichloroethane	10	Trichloroethylene	10
1,1-Dichloroethylene	10	Vinyl Chloride	10
1,2-Dichloropropane	10		
ACID COMPOUNDS			
2-Chlorophenol	10	2,4-Dinitrophenol	50
2,4-Dichlorophenol	10	Pentachlorophenol	5
2,4-Dimethylphenol	10	Phenol	10
4,6-Dinitro-o-Cresol	50	2,4,6-Trichlorophenol	10

POLLUTANTS	MQL µg/l	POLLUTANTS	MQL µg/l
BASE/NEUTRAL			
Acenaphthene	10	Dimethyl Phthalate	10
Anthracene	10	Di-n-Butyl Phthalate	10
Benzidine	50	2,4-Dinitrotoluene	10
Benzo(a)anthracene	5	1,2-Diphenylhydrazine	20
Benzo(a)pyrene	5	Fluoranthene	10
3,4-Benzofluoranthene	10	Fluorene	10
Benzo(k)fluoranthene	5	Hexachlorobenzene	5
Bis(2-chloroethyl)Ether	10	Hexachlorobutadiene	10
Bis(2-chloroisopropyl)Ether	10	Hexachlorocyclopentadiene	10
Bis(2-ethylhexyl)Phthalate	10	Hexachloroethane	20
Butyl Benzyl Phthalate	10	Indeno(1,2,3-cd)Pyrene	5
2-Chloronaphthalene	10	Isophorone	10
Chrysene	5	Nitrobenzene	10
Dibenzo(a,h)anthracene	5	n-Nitrosodimethylamine	50
1,2-Dichlorobenzene	10	n-Nitrosodi-n-Propylamine	20
1,3-Dichlorobenzene	10	n-Nitrosodiphenylamine	20
1,4-Dichlorobenzene	10	Pyrene	10
3,3'-Dichlorobenzidine	5	1,2,4-Trichlorobenzene	10
Diethyl Phthalate	10		
PESTICIDES AND PCBS			
Aldrin	0.01	Beta-Endosulfan	0.02
Alpha-BHC	0.05	Endosulfan sulfate	0.02
Beta-BHC	0.05	Endrin	0.02
Gamma-BHC	0.05	Endrin Aldehyde	0.1
Chlordane	0.2	Heptachlor	0.01
4,4'-DDT and derivatives	0.02	Heptachlor Epoxide	0.01
Dieldrin	0.02	PCBs	0.2
Alpha-Endosulfan	0.01	Toxaphene	0.3

(MQL's Revised November 1, 2007)

Footnotes:

*1 Default MQL for Mercury is 0.005 unless Part I of your permit requires the more sensitive Method 1631 (Oxidation / Purge and Trap / Cold vapor Atomic Fluorescence Spectrometry), then the MQL shall be 0.0005.

PART III - STANDARD CONDITIONS FOR NPDES PERMITS

A. GENERAL CONDITIONS

1. INTRODUCTION

In accordance with the provisions of 40 CFR Part 122.41, et. seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the "Act") as well as ALL applicable regulations.

2. DUTY TO COMPLY

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. TOXIC POLLUTANTS

- a. Notwithstanding Part III.A.5, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.
- b. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

4. DUTY TO REAPPLY

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit. The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date. Continuation of expiring permits shall be governed by regulations promulgated at 40 CFR Part 122.6 and any subsequent amendments.

5. PERMIT FLEXIBILITY

This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR 122.62-64. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. PROPERTY RIGHTS

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

7. 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.

8. CRIMINAL AND CIVIL LIABILITY

Except as provided in permit conditions on "Bypassing" and "Upsets", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.

9. 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 Section 311 of the Act.

10. 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.

11. 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.

B. PROPER OPERATION AND MAINTENANCE1. 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. The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators or retention of inadequately treated effluent.

2. 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.

3. PROPER OPERATION AND MAINTENANCE

a. 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 permittee as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will 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 backup 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 this permit.

b. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

4. BYPASS OF TREATMENT FACILITIESa. 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 Parts III.B.4.b. and 4.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, within 24 hours, submit notice of an unanticipated bypass as required in Part III.D.7.

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 preventive maintenance; and,
 - (c) The permittee submitted notices as required by Part III.B.4.b.
- (2) The Director may allow an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed at Part III.B.4.c(1).

5. UPSET CONDITIONS

a. 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 Part III.B.5.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;
- (3) The permittee submitted notice of the upset as required by Part III.D.7; and,
- (4) The permittee complied with any remedial measures required by Part III.B.2.

c. BURDEN OF PROOF

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. REMOVED SUBSTANCES

Unless otherwise authorized, solids, sewage sludges, filter backwash, or other pollutants removed in the course of treatment or wastewater control shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

7. PERCENT REMOVAL (PUBLICLY OWNED TREATMENT WORKS)

For publicly owned treatment works, the 30-day average (or Monthly Average) percent removal for Biochemical Oxygen Demand and Total Suspended Solids shall not be less than 85 percent unless otherwise authorized by the permitting authority in accordance with 40 CFR 133.103.

C. MONITORING AND RECORDS

1. INSPECTION AND ENTRY

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by the 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 purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. REPRESENTATIVE SAMPLING

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

3. RETENTION OF RECORDS

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. This period may be extended by request of the Director at any time.

4. RECORD CONTENTS

Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) and time(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

5. MONITORING PROCEDURES

- a. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.
- b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurements and shall maintain appropriate records of such activities.
- c. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.

6. FLOW MEASUREMENTS

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than 10% from true discharge rates throughout the range of expected discharge volumes.

D. REPORTING REQUIREMENTS

1. PLANNED CHANGES

a. INDUSTRIAL PERMITS

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 40 CFR Part 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 listed at Part III.D.10.a.

b. MUNICIPAL PERMITS

Any change in the facility discharge (including the introduction of any new source or significant discharge or significant changes in the quantity or quality of existing discharges of pollutants) must be reported to the permitting authority. In no case are any new connections, increased flows, or significant changes in influent quality permitted that will cause violation of the effluent limitations specified herein.

2. 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.

3. 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 Act.

4. DISCHARGE MONITORING REPORTS AND OTHER REPORTS

Monitoring results must be reported on Discharge Monitoring Report (DMR) Form EPA No. 3320-1 in accordance with the "General Instructions" provided on the form. The permittee shall submit the original DMR signed and certified as required by Part III.D.11 and all other reports required by Part III.D. to the EPA at the address below. Duplicate copies of DMR's and all other reports shall be submitted to the appropriate State agency(ies) at the following address(es):

EPA:

Compliance Assurance and Enforcement Division
Water Enforcement Branch (6EN-W)
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Texas:

Program Manager
Environmental Services
Railroad Commission of Texas
1701 North Congress Avenue
P.O. Box 12967
Austin, Texas 7871-2967

5. ADDITIONAL MONITORING BY THE PERMITTEE

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report (DMR). Such increased monitoring frequency shall also be indicated on the DMR.

6. AVERAGING OF MEASUREMENTS

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

7. 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 be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain the following information:

- (1) A description of the noncompliance and its cause;
 - (2) 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,
 - (3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.
- b. The following shall be included as information which must be reported within 24 hours:
- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - (2) Any upset which exceeds any effluent limitation in the permit; and,
 - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part II (industrial permits only) of the permit to be reported within 24 hours.
- c. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

8. OTHER NONCOMPLIANCE

The permittee shall report all instances of noncompliance not reported under Parts III.D.4 and D.7 and Part I.B (for industrial permits only) at the time monitoring reports are submitted. The reports shall contain the information listed at Part III.D.7.

9. 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 Director, it shall promptly submit such facts or information.

10. CHANGES IN DISCHARGES OF TOXIC SUBSTANCES

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the 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 listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- (1) One hundred micrograms per liter (100 µg/L);
 - (2) Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitro-phenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - (4) The level established by the Director.
- b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine 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 level established by the Director.

11. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Director shall be signed and certified.

a. ALL PERMIT APPLICATIONS shall be signed as follows:

- (1) FOR A CORPORATION - by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) FOR A PARTNERSHIP OR SOLE PROPRIETORSHIP - by a general partner or the proprietor, respectively.
- (3) FOR A MUNICIPALITY, STATE, FEDERAL, OR OTHER PUBLIC AGENCY - by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - (a) The chief executive officer of the agency, or
 - (b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

b. ALL REPORTS required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (1) The authorization is made in writing by a person described above;
- (2) 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, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,
- (3) The written authorization is submitted to the Director.

c. CERTIFICATION

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my 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."

12. AVAILABILITY OF REPORTS

Except for applications, effluent data, permits, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

E. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS1. CRIMINALa. NEGLIGENT VIOLATIONS

The Act provides that any person who negligently violates permit conditions implementing Section 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of 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.

b. KNOWING VIOLATIONS

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of 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.

c. KNOWING ENDANGERMENT

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.

d. FALSE STATEMENTS

The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, 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 shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309.c.4 of the Clean Water Act)

2. CIVIL PENALTIES

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$27,500 per day for each violation.

3. ADMINISTRATIVE PENALTIES

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

a. CLASS I PENALTY

Not to exceed \$16,000 per violation nor shall the maximum amount exceed \$37,500.

b. CLASS II PENALTY

Not to exceed \$16,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$177,500.

F. DEFINITIONS

All definitions contained in Section 502 of the Act shall apply to this permit and are incorporated herein by reference. Unless otherwise specified in this permit, additional definitions of words or phrases used in this permit are as follows:

1. ACT means the Clean Water Act (33 U.S.C. 1251 et. seq.), as amended.

2. ADMINISTRATOR means the Administrator of the U.S. Environmental Protection Agency.

3. APPLICABLE EFFLUENT STANDARDS AND LIMITATIONS means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards or performance, toxic effluent standards and prohibitions, and pretreatment standards.
4. APPLICABLE WATER QUALITY STANDARDS means all water quality standards to which a discharge is subject under the Act.
5. BYPASS means the intentional diversion of waste streams from any portion of a treatment facility.
6. 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 terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day. "Daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be arithmetic average (weighted by flow value) of all samples collected during that sampling day.
7. DAILY MAXIMUM discharge limitation means the highest allowable "daily discharge" during the calendar month.
8. DIRECTOR means the U.S. Environmental Protection Agency Regional Administrator or an authorized representative.
9. ENVIRONMENTAL PROTECTION AGENCY means the U.S. Environmental Protection Agency.
10. GRAB SAMPLE means an individual sample collected in less than 15 minutes.
11. INDUSTRIAL USER means a nondomestic discharger, as identified in 40 CFR 403, introducing pollutants to a publicly owned treatment works.
12. MONTHLY AVERAGE (also known as DAILY AVERAGE) discharge limitations means the highest allowable average of "daily discharge(s)" over a calendar month, calculated as the sum of all "daily discharge(s)" measured during a calendar month divided by the number of "daily discharge(s)" measured during that month. When the permit establishes daily average concentration effluent limitations or conditions, the daily average concentration means the arithmetic average (weighted by flow) of all "daily discharge(s)" of concentration determined during the calendar month where C = daily concentration, F = daily flow, and n = number of daily samples; daily average discharge =

$$\frac{C_1F_1 + C_2F_2 + \dots + C_nF_n}{F_1 + F_2 + \dots + F_n}$$
13. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the Act.
14. 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.
15. SEWAGE SLUDGE means the solids, residues, and precipitates separated from or created in sewage by the unit processes of a publicly owned treatment works. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and storm water runoff that are discharged to or otherwise enter a publicly owned treatment works.
16. TREATMENT WORKS means any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage and industrial wastes of a liquid nature to implement Section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and their appurtenances, extension, improvement,

remodeling, additions, and alterations thereof.

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. FOR FECAL COLIFORM BACTERIA, a sample consists of one effluent grab portion collected during a 24-hour period at peak loads.
19. The term "MGD" shall mean million gallons per day.
20. The term "mg/L" shall mean milligrams per liter or parts per million (ppm).
21. The term "µg/L" shall mean micrograms per liter or parts per billion (ppb).
22. MUNICIPAL TERMS
 - a. 7-DAY AVERAGE or WEEKLY AVERAGE, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during 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. The 7-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
 - b. 30-DAY AVERAGE or MONTHLY AVERAGE, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during 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. The 30-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar month.
 - c. 24-HOUR COMPOSITE SAMPLE consists of a minimum of 12 effluent portions collected at equal time intervals over the 24-hour period and combined proportional to flow or a sample collected at frequent intervals proportional to flow over the 24-hour period.
 - d. 12-HOUR COMPOSITE SAMPLE consists of 12 effluent portions collected no closer together than one hour and composited according to flow. The daily sampling intervals shall include the highest flow periods.
 - e. 6-HOUR COMPOSITE SAMPLE consists of six effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.
 - f. 3-HOUR COMPOSITE SAMPLE consists of three effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.