NPDES PERMIT NUMBER PR0000345

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"),

Commonwealth Oil Refining Company, Inc.
Firm Delivery
600 State Road No. 127
Peñuelas, Puerto Rico 00624

hereinafter referred to as "the permittee" is authorized to discharge from a facility named "Commonwealth Oil Refining Company, Inc." located at:

600 State Road No. 127
Peñuelas, Puerto Rico 00624

to receiving waters named:

Outfall 001: Tallaboa Bay
Outfall 002: Tallaboa Bay
Outfall 003: Tallaboa Bay

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

This permit shall become effective on **January 1, 2013**.

This permit and the authorization to discharge shall expire at midnight, **December 31, 2017**.

Signed this 26th day of September, 2012

Joan Leary Matthews
Director
Clean Water Division
U.S. Environmental Protection Agency
Region 2

During the period beginning on **January 1, 2013** and lasting through **December 31, 2017**, the permittee is authorized to discharge from outfall serial number 001 to Tallaboa Bay (Bahía de Tallaboa) (**subject to the prohibition discussed in Part I.C.1**) treated wastewaters coming from its operations(β) and Kuwait Water(γ). Such discharge shall be limited and monitored by the permittee as specified below:

Receiving Water Name and Classification: Tallaboa Bay, SC				
Effluent Characteristics	**Gross Discharge Limitations**		**Monitoring Requirements**	
	Monthly Average	**Daily Maximum**	**Measurements Frequency**	**Sample Type**
2,4,6-Trichlorophenol (µg/L) [2,3]	----	----	α	Grab
2-Chlorophenol (µg/L) [2,3]	----	----	α	Grab
Antimony (Sb) (µg/L) [2,3]	----	----	α	Grab
Arsenic (As) (µg/l) [2,3]	----	36	Monthly	Grab
Benzene (µg/L) [2,3]	----	510	Monthly	Grab
Bis(2-Chloroethyl)Ether (µg/L) [2,3]	----	5.3	Monthly	Grab
Bis(2-Ethylhexyl)Phthalate (µg/L) [2,3]	----	----	α	Grab
BOD_5 (mg/L) [1,2,3]	30.0	----	Monthly	Composite
Cadmium (Cd) (µg/L) [2,3]	----	8.85	Monthly	Grab
Chromium VI (Cr^{+6}) (µg/L) [2,3]	----	----	α	Grab
Color (Pt-Co Units) [2,3]	Shall not be altered by other than natural causes.		Monthly	Grab
Copper (Cu) (µg/L) [2,3]	----	3.73	Monthly	Grab
Cyanide, Free (CN) (µg/L) φ [2,3]	----	1.0	Monthly	Grab
Dissolved Oxygen (mg/L) [1,2,3]	Shall not be less than 4.0.		Daily	Grab
Flow m^3/day (MGD) [1,3,4]	----	1,090.20 (0.288)	Continuous Recording	
Lead (Pb) (µg/L) [2,3]	----	8.52	Monthly	Grab
Mercury (Hg) (µg/L) φ [2,3,5]	----	0.025	Monthly	Grab
Nickel (Ni) (µg/L) [2,3]	----	8.28	Monthly	Grab
Nitrogen (NO_3, NO_2, NH_3) (mg/L) [2,3]	----	----	α	Grab

Receiving Water Name and Classification: Tallaboa Bay, SC				
Effluent Characteristics	**Gross Discharge Limitations**		**Monitoring Requirements**	
	Monthly Average	**Daily Maximum**	**Measurements Frequency**	**Sample Type**
Oil and Grease (mg/L) [2,3]	The water of Puerto Rico shall be substantially free from floating non-petroleum oils and greases as well as petroleum derived oils and greases.		Twice per Month	Grab
Pentachlorophenol (µg/L) [2,3]	----	----	α	Grab
pH (SU) [2,3]	Shall always lie between 7.3 and 8.5.		Daily	Grab
Selenium (Se) (µg/L) [2,3]	----	71.14	Monthly	Grab
Silver (Ag) (µg/L) [2,3]	----	----	α	Grab
Solids and Other Matter [2,3]	The waters of Puerto Rico shall not contain floating debris, scum or other floating materials attributable to the discharge in amounts sufficient to be unsightly or deleterious to the existing or designated uses of the water body.		----	----
Sulfate (SO_4) (mg/L) [2, 3]	----	----	α	Grab
Sulfide (undissociated H_2S) (µg/L) [2,3] δ ε	----	2.0	Monthly	Grab
Surfactants (as Methylene Blue Activate Substances) (µg/L) [1,2,3]	----	500	Monthly	Grab
Suspended, Colloidal or Settleable Solids (mL/L) [1,2,3] @	Solids from wastewater source shall not cause deposition in or be deleterious to the existing or designated uses of the water body.		Daily	Grab
Thallium (Tl) (µg/L) [2,3]	----	0.47	Monthly	Grab
Taste and Odor-producing Substances [2,3]	Shall contain none in amounts that will render any undesirable taste or odor to edible aquatic life.		----	----

Receiving Water Name and Classification: Tallaboa Bay, SC				
Effluent Characteristics	**Gross Discharge Limitations**		**Monitoring Requirements**	
	Monthly Average	**Daily Maximum**	**Measurements Frequency**	**Sample Type**
Temperature °F (°C) [2,3]	Except by natural causes, no heat may be added to the waters of Puerto Rico, which would cause the temperature of any site to exceed 90°F (32.2°C).		Daily	Grab
Toluene (µg/L) [2,3]	----	----	α	Grab
Turbidity (NTU) [2,3]	----	10	Monthly	Grab
Zinc (Zn) (µg/L) [2,3]	----	85.62	Monthly	Grab
Special Conditions	See Part I, A. Special Conditions below, which contain special conditions that constitute part of this permit.		----	----

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Notes:

To comply with the monitoring requirements specified above, samples shall be taken at the sampling point for discharge serial number 001.

All flow measurements shall achieve accuracy within the range of plus or minus (±) 10%.

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Receiving Water Name and Classification: Tallaboa Bay, SC

Notes (continued):

β Operations wastewaters from the following:

a) tank and line product displacement water
b) groundwater from product recovery
c) lab sink drain water
d) oily sewer/dock sump water
e) RCRA unit closure water
f) tank and line testing water
g) tank and line cleaning water
h) wastewater from maintenance jobs
i) ballast water

γ Kuwait Water = Separation wastewater that was generated from the separation from weathered Kuwaiti crude oil, generated during post-Persian Gulf War firefighting.

@ The permittee shall perform sampling for Settleable Solids.

φ See Special Condition 11.

δ See special condition 12.

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Receiving Water Name and Classification: Tallaboa Bay, SC

Notes (continued):

α The permittee shall implement a monthly monitoring program using the analytical method approved by the U.S. Environmental Protection Agency (EPA) with the lowest possible detection level, in accordance with Rule 1306.2 (C) of the Puerto Rico Water Quality Standards Regulation (PRWQSR), as amended, for one (1) year period, after which they will be conducted annually. The monitoring program shall commence not later than thirty (30) days after the Environmental Quality Board of Puerto Rico's (EQB's) written approval of the Quality Assurance Project Plan (QAPP). The QAPP must be submitted for evaluation and approval of EQB not later than **February 1, 2013**. The results of the monitoring program shall be submitted to EQB and EPA-Region 2 no later than sixty (60) days after completion of the one year monitoring program. Based on the evaluation of the results obtained, EQB will determine if an effluent limitation is necessary for this parameter. In such case, the WQC will be reopened to include the applicable effluent limitation.

ε The permittee shall use the approved EPA analytical method with the lowest possible detection limit, currently, EPA Method 376.2, Standard Methods 4500-S2- D (18th Edition), or HACH Company Method 8131 for the determination of the dissolved Sulfide (as S) concentration in the sample. Using the dissolved Sulfide concentration, the permittee shall calculate the Undissociated Hydrogen Sulfide concentration using Standard Methods Method 4500-S2- F (18th Edition). If the sample result for dissolved Sulfide is below the detection limit of EPA Method 376.2 or Standard Methods 4500-S2- D (18th Edition), i.e., $\leq$ 100 ug/l, then the permittee has demonstrated that the sample result for Undissociated Hydrogen Sulfide is below that same detection limit, and that compliance with the permit limit of 2 ug/l for Undissociated Hydrogen Sulfide was achieved.

Notes 1, 2, 3, 4 and 5 see page 17 (Part I. A References of Special Conditions).

During the period beginning on **January 1, 2013** and lasting through **December 31, 2017**, the permittee is authorized to discharge from outfall serial numbers 002 and 003 to Tallaboa Bay (Bahía de Tallaboa), waters composed entirely of stormwater. Such discharge shall be limited and monitored by the permittee as specified below:

Receiving Water Name and Classification: Tallaboa Bay, SC				
Effluent Characteristics	**Gross Discharge Limitations**		**Monitoring Requirements**	
	Monthly Average	**Daily Maximum**	**Measurements Frequency**	**Sample Type**
Flow m^3/day (MGD) [1,3,4]		N/A	Ω	
Oil and Grease (mg/L) [2,3]	The waters of Puerto Rico shall be substantially free from floating non-petroleum oils and greases as well as petroleum derived oils and greases.		WFO	Grab
pH (SU) [2,3]	Shall always lie between 7.3 and 8.5.		WFO	Grab
Solids and Other Matter [2,3]	The waters of Puerto Rico shall not contain floating debris, scum or other floating materials attributable to the discharge in amounts sufficient to be unsightly or deleterious to the existing or designated uses of the water body.		----	----
Suspended, Colloidal or Settleable Solids (mL/L) [1,2,3] @	Solids from wastewater source shall not cause deposition in or be deleterious to the existing or designated uses of the water body.		WFO	Grab
Taste and Odor-producing Substances [2,3]	Shall contain none in amounts that will render any undesirable taste or odor to edible aquatic life.		----	----
Temperature °F (°C) [2,3]	Except by natural causes, no heat may be added to the waters of Puerto Rico, which would cause the temperature of any site to exceed 90°F (32.2°C).		WFO	Grab

Receiving Water Name and Classification: Tallaboa Bay, SC				
Effluent Characteristics	**Gross Discharge Limitations**		**Monitoring Requirements**	
	Monthly Average	**Daily Maximum**	**Measurements Frequency**	**Sample Type**
Total Organic Carbon (TOC) (mg/l)	----	Outfall 002: 110.0 Outfall 002: 142.0 (α) Outfall 003: 142.0	WFO	Grab
Total Suspended Solids (TSS) (mg/l)	----	Outfall 002: 50.0 Outfall 002: 277.0 (α) Outfall 003: 277.0	WFO	Grab
Special Conditions	See Part I, A. Special Conditions below, which contain special conditions that constitute part of this permit.		----	----

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Notes:

To comply with the monitoring requirements specified above, samples shall be taken at the sampling points of discharge serial numbers 002 and 003.

WFO See Special Condition 19.

Ω Continuous recording for discharge 003, estimated when flow occurs (WFO) for discharge 002.

@ The permittee shall perform sampling for Settleable Solids.

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Receiving Water Name and Classification: Tallaboa Bay, SC

Notes (continued):

α The TOC limit of 142.0 mg/l and TSS limit of 277.0 mg/l for Outfall 002 only apply during emergencies when the permittee diverts part of the discharge from Outfall 003 through Outfall 002. In any month in which there is such an emergency diversion, the permittee must report, in a cover letter attaching the monthly Discharge Monitoring Report (DMR), 1) the details of this emergency diversion including date and flow, and 2) confirmation that the diverted storm water through Outfall 002 has undergone the same treatment/control measures as the normal discharge through Outfall 003, and the permittee must report in the monthly DMR for Outfall 002 the results for TOC and TSS according to the following instructions:

For reporting sampling results for the daily maximum TOC and TSS limits in Outfall 002, when there is an emergency diversion of a portion of Outfall 003 through Outfall 002, report an effluent gross value in the row marked as "See Comments" corresponding to the 142.0 mg/l limit for TOC and the 277.0 mg/l limit for TSS. Otherwise, when there is a normal discharge (i.e., no emergency diversion) through Outfall 002, enter a value of "NODI C" meaning "No discharge" in the row marked as "See Comment" corresponding to the 142.0 mg/l limit for TOC and the 277 mg/l limit for TSS, and also report an effluent gross value in the row marked as "Effluent Gross" corresponding to the 110.0 mg/l limit for TOC and the 50.0 mg/l limit for TSS.

Notes 1, 2, 3, 4 and 5 see page 17 (Part I.A. References of Special Conditions).

These special conditions are an integral part of the permit:

1. The flow of discharge 001 shall not exceed the limitation of 1,090.20 m^3/day (0.288 MGD) as daily maximum. No increase in flow of discharge 001 shall be authorized without a recertification from the Environmental Quality Board (EQB). [1,4]

2. The discharge from the Outfalls 002 and 003 will consist of waters composed entirely of stormwater. [4]

3. Prior to the construction of any additional treatment system, or the modification of the existing one, the permittee shall obtain the approval from EQB of the engineering report, plans and specifications. [4]

4. The permittee shall install, maintain and operate all water pollution control equipment in such manner as to be in compliance with the applicable Rules and Regulations. [1,3]

5. No toxic substances shall be discharged, in toxic concentrations, other than those allowed as specified in the NPDES permit. Those toxic substances included in the permit renewal application, but not regulated by the NPDES permit, shall not exceed the concentrations specified in the applicable regulatory limitations. [2,3]

6. The waters of Puerto Rico shall not contain any substance attributable to discharge 001, at such concentration which, either alone or as result of synergistic effects with other substances, is toxic or produces undesirable physiological responses in human, fish or other fauna or flora. [2]

7. The discharges 001, 002 and 003 shall not cause the presence of oil sheen in the receiving water body. [2]

8. The sampling point for discharges 002 and 003 shall be accessible and free of vegetation, debris, trash, etc., at any time. [4]

9. All water or wastewater treatment facilities, whether publicly or privately owned, must be operated by a person licensed by the Potable Water and Wastewater Treatment Plants Operators Examining Board of the Commonwealth of Puerto Rico.[3]

10. All sample collection, preservation, and analysis shall be carried out in accordance with the Title 40 of the Code of Federal Regulations (40 CFR) Part 136. A licensed chemist authorized to practice the profession in Puerto Rico shall certify all chemical analyses. All bacteriological tests shall be certified by a licensed microbiologist or medical technologist authorized to practice the profession in Puerto Rico. [1,3]

11. The samples taken for the analysis of Cyanide and Mercury shall be analyzed using the analytical method approved by the Environmental Protection Agency (EPA) with the lowest possible detection level, in accordance with Rule 1306.8 of the Puerto Rico Water Quality Standards Regulation (PRWQSR), as amended. [3]

12. The permitee shall use the approved EPA analytical method, with the lowest possible detection limit, in accordance with 40 CFR, Part 136 for Sulfide (as S). Also, the permitee shall complete the calculations specified in Method 4500-S^{-2} F, Calculation of Un-ionized Hydrogen Sulfide, of Standards Methods 18th Edition, 1992, to determine the concentration of undissociated H_2S. If the sample results of Dissolved Sulfide are below the detection limit of the approved EPA method established in the 40 CFR, Part 136, then the concentration of undissociated H_2S should be reported as "below detection limit". [2,3]

13. The flow-measuring device for the discharge 001 shall be periodically calibrated and properly maintained. Calibration and maintenance records must be kept in compliance with applicable Rules and Regulations. [3,4]

14. The sampling point for discharge 001 shall be located immediately after the primary flow-measuring device of the effluent of the treatment system.

15. The sampling points for discharges 001, 002 and 003 shall be labeled with an 18 inches by 12 inches (minimum dimensions) sign that read as follows, according to the discharge:

"Punto de Muestreo para la Descarga 001"
"Punto de Muestreo para la Descarga 002"
"Punto de Muestreo para la Descarga 003"

16. The permittee shall keep daily records of rain, indicating the date and duration of the events. Copy of these records shall be submitted monthly to EQB.

17. STORM WATER POLLUTION PREVENTION PLAN (SWPP PLAN)/BEST MANAGEMENT PRACTICES PLAN (BMP PLAN) [4]

a. By **March 1, 2013**, the permittee shall submit to the EQB for review and approval a modified SWPP Plan, which shall be implemented within ninety (90) days after the EQB has approved the modified SWPP Plan. Meanwhile, the permittee shall comply with the terms and conditions included in the SWPP Plan of the facility as approved by the EQB on February 4, 2004.

b. A copy of the approved SWPP Plan shall be maintained at the facility and shall be available upon request.

c. The SWPP Plan shall be modified whenever changes at the facility materially increase the potential for releases of pollutants or when situations occur that reflect that the plan is inadequate. The modified SWPP Plan shall be submitted to EQB for review and approval within ninety (90) days from the date when the changes occurred and shall be implemented within ninety (90) days after the EQB has approved the modified SWPP Plan.

18. The permittee shall comply at all times with the provisions, measures or practices included in the most recent version of the SWPP Plan/BMP Plan (Special Condition 17) approved by EQB. [4]

19. WHEN FLOW OCCURS (WFO) [4]

WFO - For our purposes means when flow occurs during normal business hours of the facility, but not more often than one rainfall runoff sampling per month.

a. First Half of Month

During the first fifteen (15) days of the month, sampling shall be as follows: A minimum period of 48 hours without measurable precipitation (measurable precipitation being rainfall greater than 0.1 inch) shall precede the storm event to be sampled. For those parameters which require grab samples, the sample shall be taken during the first thirty (30) minutes of stormwater discharge.

b. Second Half of Month

In the event that the permittee is unable to satisfy the above condition during the first fifteen (15) days of the month, beginning on the sixteenth (16^{th}) day of the month, the permittee shall sample any stormwater discharge which occurs during normal business hours for the facility.

c. General Requirements

The permittee must report in a cover letter attached to each Discharge Monitoring Report (DMR), details of the conditions under which the stormwater samples were taken and the date of sampling.

Alternatively, if no sample was taken during the month, the permittee shall be deemed to have met the sampling requirements if the permittee certifies that it was not possible to satisfy the specified sampling protocol during the first fifteen (15) days of the month and that there was no measurable discharge of stormwater during normal business hours from the sixteenth (16^{th}) day of the month until the last day of the month.

20. The stormwater discharges associated with industrial activities covered by this permit will not cause violations to the applicable water quality standards at the receiving water body. [3]

21. Whole Effluent Toxicity Requirements. Not later than one hundred eighty (180) days after the startup of the treatment system for Outfall 001 and operation of the facility, the permittee shall conduct quarterly acute toxicity tests for a period of one (1) year, after which the tests shall be performed annually, of its wastewater through Outfall Serial Number 001 in accordance with the following: 3

a. TRE Workplan

By **July 1, 2013**, the permittee shall prepare and submit a Toxicity Reduction Evaluation (TRE) Workplan to EPA Region 2. This plan shall include steps the permittee intends to follow if toxicity is measured in the effluent. The plan must include, at a minimum:

1. A description of the investigation and evaluation techniques that would be used to identify potential causes and sources of toxicity, effluent variability, and treatment system efficiency.

2. A description of methods for maximizing in-house treatment system efficiency, good housekeeping practices, and a list of all chemicals used in operations at the facility.

3. Potential actions to be undertaken by the permittee to investigate, identify, and correct the causes, and prevent the recurrence of toxicity.

4. Identification of responsible persons/parties for conducting the TRE.

5. Possible source reduction measures and pollution prevention measures opportunities to reduce toxicity.

b. Accelerated Toxicity Testing and Commencement of TRE

1. If the discharge displays an acute toxicity result with an LC50 of less than 100% effluent, the permittee shall conduct six additional toxicity tests of the discharge using the same species and test method, every two weeks, over a 12 week period.

2. Accelerated testing shall begin within 14 days of the permittee's receipt of test results violating the effluent limit. If none of the additional toxicity tests exceeds the chronic toxicity effluent limit, then the permittee may return to

its regular testing frequency. All laboratory test results shall be submitted to EPA and EQB within 30 days of receipt by the permittee, as required in item a.3 of this Special Condition.

3. If one of the additional toxicity tests for the discharge (in paragraph d.1.A) demonstrates an LC50 of less than 100% effluent, then, within 14 days of receipt of this test result, the permittee shall initiate the TRE workplan prepared in compliance with paragraph c.2 of this Special Condition. The TRE shall use the same species and test method as that of the observed exceedance. The permittee shall use the following guidance manual:

   Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations (EPA/600/2-88/070, 1989).

4. The permittee may also use the following manuals for Toxicity Identification Evaluation (TIE) to identify and abate the causes of toxicity:

   A. *Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I* (EPA/600/6-91/005F, 1992);

   B. *Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/080, 1993);

   C. *Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/081, 1993); and

   D. *Marine Toxicity Identification Evaluation (TIE): Phase I Guidance Document* (EPA/600/R-96-054, 1996).

5. The permittee must submit test results within 30 days after the permittee's receipt of the laboratory reports for accelerated monitoring in order to comply with the reporting requirements of item a.3 of this Special Condition. Test results that were received by the permittee due to accelerated monitoring may be used to satisfy the requirements of Section c.3 of this Special Condition, provided that all requirements of Section c.3 (including species, test type, frequency, timing, and sample requirements) are met.

c. Test Methods

1. The acute toxicity tests shall be conducted in accordance with the EPA publication, EPA-821-R-02-012 *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*

(Fifth Edition), October 2002, or the most recent edition of this publication, if such edition is available.

2. The tests shall provide a measure of the acute toxicity as determined by the wastewater concentration, which cause 50 percent mortality of the organisms over a 48 hour period. Test results shall be expressed in terms of *Lethal Concentration* (LC) and reported as 48 hour LC50.

3. The test species shall be the silverside (Menidia beryllina) and mysid (Mysidopsis bahia). The tests shall be static renewal type.

d. Reporting of Toxicity Monitoring Results

1. A procedure report shall be submitted within ninety (90) days after the startup of the treatment system for Outfall 001 and operation of the facility. The following information shall be included in the procedure report:

   A. An identification of the organizations responsible for conducting the test and the species to be tested.

   B. A detailed description of the methodology to be utilized in the conduct of the tests, including equipment, sample collection, dilution water and source of test organisms.

   C. A schematic diagram which depicts the effluent sampling location. The diagram shall indicate the location of effluent sampling in relation to wastewaters treatment facility and discharge monitoring point.

2. For any chronic toxicity testing event, a full laboratory report shall be submitted and shall include: the toxicity test results in NOEC, LOEC, IC25, and the results reported at each effluent dilution. For any acute toxicity testing event, the results shall include the LC50 result and the results reported at each effluent dilution. The results shall be reported according to the test methods manual chapter on report preparation and test review; the dates of sample collection and initiation of each toxicity test; all results for effluent parameters monitored concurrently with the toxicity test(s); and progress reports on TRE/TIE investigations.

3. Full laboratory reports of analytical results shall be submitted to EPA Region 2 and EQB within thirty (30) days of completion of each test. Based on a review of the test results, EPA or the EQB may require additional toxicity tests, including chronic toxicity analyses. In addition to submitting

the procedures report and test results to the addresses listed in Part I.B. of this permit, results shall be submitted to:

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

4. The permittee shall notify the permitting authority in writing within 14 days of results with LC50 of less than 100% effluent. This notification shall describe actions the permittee has taken or will take to investigate, identify, and correct the causes of toxicity; the status of actions required by this permit; and schedule for actions not yet completed; or reason(s) that no action has been taken.

e. Reopener Clause for Toxicity Requirements

In accordance with 40 CFR Parts 122 and 124, this permit may be reopened by EPA to include toxicity/treatability studies, chronic toxicity monitoring, additional effluent limitations, or other special conditions to address toxicity in the effluent or receiving water body.

22. The sludge produced within the facility due to the operation of the treatment system shall be analyzed and all constituents shall be identified as required by "Resources Conservation and Recovery Act" (RCRA) and by "Toxic Substances Control Act" (TSCA). The permittee shall obtain appropriate federal and state permits prior to the final disposal of such wastes. The sludge shall be disposed properly in such manner that water pollution or other adverse effects to surface waters or to underground waters do not occur. The pertinent permit from EQB's Solid Wastes Program must be obtained. [3,4]

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

1. According to Rule 1301 of the Puerto Rico Water Quality Standards Regulation, as amended.

2. According to Rule 1303 of the Puerto Rico Water Quality Standards Regulation, as amended.

3. According to Rule 1306 of the Puerto Rico Water Quality Standards Regulation, as amended.

4. According to the Environmental Public Policy Act of September 22, 2004, Act No. 416, as amended.

5. According to the Code of Federal Regulation Number 40 (40 CFR), Part 131.36, as amended (Federal Register/Volume 57, No. 246/Tuesday, December 22, 1992).

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

2. Discharge monitoring reports.

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

b. Monitoring results obtained during the previous month shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. The first report is due on **February 28, 2013**. Duplicate signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator and State Director at the following addresses:

COMPLIANCE ASSISTANCE
PROGRAM SUPPORT BRANCH
REGION II
U.S. ENVIRONMENTAL PROTECTION AGENCY
290 BROADWAY - 21ST FLOOR
NEW YORK, NEW YORK 10007-1866

DIRECTOR
US EPA REGION II
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
CITY VIEW PLAZA II
#48 RD. 165 KM 1.2
GUAYNABO, PUERTO RICO 00968-8069

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

3. Twenty-four hour reporting.

a. Pollutants for which the permittee must report violations of maximum daily discharge limitations under paragraph 12.f of Part II.B (40 CFR §122.41(1)(6)(ii)(C)) (24 hour reporting) shall be listed in the permit as follows: Not Applicable

4. Additional reporting requirements. *Existing manufacturing, commercial, mining, and silvicultural dischargers.* In addition to the reporting requirements under 40 C.F.R. §122.41(1), all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director as soon as they know or have reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(1) One hundred micrograms per liter (100 ug/l);

(2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2, 4-dinitrophenol 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 in accordance with 40 C.F.R. §122.21(g)(7); or

(4) The level established as follows by the Director in accordance with 40 C.F.R. §122.44(f): Not Applicable

b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(1) Five hundred micrograms per liter (500 ug/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 in accordance with 40 C.F.R. §122.21(g)(7); or

(4) The level established as follows by the Director in accordance with 40 C.F.R. §122.44(f): Not Applicable

1. Prohibition until Proposed Treatment System is Installed and Operational, Prohibition until Adequate Written Certification Provided, and Submission of Start-Up Plan and Monitoring Equipment Certification for the Discharge Through Outfall 001.

a. Prohibition until Proposed Treatment System is Installed and Operational - The complete NPDES permit application for Outfall 001 was submitted under cover letter dated January 31, 2004 with revised pages submitted under cover letter dated June 10, 2004, and additional information submitted under cover letter dated September 20, 2004. It indicates that the treatment system for the discharge through Outfall 001 is proposed. The permittee is prohibited from discharging through Outfall 001 until this proposed treatment system is installed and operational (i.e., according to the final engineering report, plans and specifications approved on September 30, 2008 by the Environmental Quality Board of Puerto Rico (EQB)), any necessary additional control measures/treatment required in item 1.b below are installed and operational, and until all of the provisions in items 1.b and 1.c below are also satisfied.

b. Prohibition until Adequate Written Certification Provided and Any Necessary Approval from EQB Provided - The complete application for Outfall 001 includes effluent data estimates (taken from the pilot study summary report) which are based on the normal operation of the proposed treatment system. Based on these effluent estimates, the discharge through Outfall 001 would exceed the water quality-based effluent limits in Table A-1 of the permit for the following parameters: Benzene, Dissolved Oxygen, Lead, Mercury, Selenium, Sulfide, Surfactants, and Turbidity. Also, the analytical method used for effluent estimates was not low enough to determine whether compliance can be achieved for the following parameters: Arsenic, Bis(2-Chloroethyl) Ether, Cadmium, Copper, Cyanide (Free), Nickel, Thallium, and Zinc. Therefore, the permittee is prohibited from discharging through Outfall 001 until the provisions in items 1.a and 1.c are satisfied and until each of the following 3 provisions are met:

(1) The permittee must provide EPA an initial written certification which certifies that the treatment system for Outfall 001 is designed to meet the effluent limits in Table A-1 of the permit for all of the water quality-based parameters (including the above parameters) and which specifies whether this treatment system is only based on the proposed treatment system specified in the complete application or also includes any necessary **additional control measures/treatment** (see item 1.b.(2) below). The initial written certification must also include the estimated level of each of these parameters in the effluent (this estimate must be at or below the effluent limit of the water quality-based parameters in Table A-1), specifically document the treatment and other control measures necessary to achieve these estimated effluent levels, indicate the size, flow rate, and retention time for each treatment unit, and provide the basis for the estimated effluent level for each of these parameters.

The initial written certification must also certify that the treatment system for Outfall 001 is designed to meet the following water quality-based daily maximum

limits shown in the prior permit which were not included in the draft permit but which must still be met based on anti-degradation requirements: 45 mg/l limit for BOD_5, 5 mg/l limit for Nitrogen (NO3, NO2, NH3), 2 ug/l limit for Silver, 200 ug/l limit for Iron and 10 ug/l limit for Phenolic Substances. The initial written certification must also include the estimated level of each of these parameters in the effluent (this estimate must be at or below the removed limit), specifically document the treatment and other control measures necessary to achieve these estimated effluent levels, indicate the size, flow rate, and retention time for each treatment unit, and provide the basis for the estimated effluent level for each of these parameters.

(2) Before providing EPA the written certification in item 1.b.(1) above, if it is based on the need for additional treatment/control measures, then the permittee must first receive any necessary written approval from EQB (e.g., approval of the permittee's written engineering report, plans and specifications for these additional control measures/treatment to meet the effluent limits in Table A-1 of the permit for all of the water quality-based parameters), and submit any necessary written approval to EPA by cover letter indicating it is in response to this provision of the permit.

(3) If EPA's review of the written certification determines that it is inadequate, EPA will provide the permittee a timely written notice explaining the reason. A timely written notice will be postmarked within 60 days of EPA's receipt of the initial or any subsequent revised written certification. If EPA requires additional time beyond 60 days for review (not to exceed an additional 90 day in addition to the 60 days), EPA will provide timely written notice to the permittee of the additional time necessary (e.g., to account for the length/complexity of the submittal, etc.). The permittee must provide EPA a revised written certification including the information specified in item 1.b.(1) and addressing EPA's written notice which explains the reason that it was inadequate.

[*NOTE FOR DRAFT PERMIT ONLY: If the permittee provides an adequate written certification described in Item 1.b prior to EPA's finalization of the NPDES permit, then EPA may revise the final permit to remove this prohibition.]*

c. Submission of Start-up Plan and Monitoring Equipment Certification - In addition to satisfying the provisions in items 1.a and 1.b above, the permittee shall comply with the following requirements concerning the treatment system for the discharge from Outfall 001:

(1) The permittee shall submit to EPA and EQB a written start-up plan at least thirty (30) days in advance of the commencement of the start-up and debugging period of the treatment system.

(2) The permittee shall notify the EPA and the EQB in writing at least seven (7)

days prior to the commencement of the start-up and debugging period of the treatment system, and

(3) Prior to the start-up of the treatment system, the permittee shall certify in writing to the EPA and the EQB that all monitoring equipment are in operational condition and are capable of meeting monitoring requirements specified in the permit.

If the permittee is in non-compliance with permit limitations for the discharge through Outfall 001 (not including upset), EPA may take necessary actions as prescribed in the permit including enforcement, etc.

2. Reopener Clause for Endangered Species Protection - This permit may be modified or revoked and reissued based on the results of Endangered Species Act (ESA) section 7 consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service (FWS, NMFS, or collectively the "Services").

3. Protection of Endangered Species

[RESERVED PENDING COMPLETION OF ENDANGERED SPECIES ACT SECTION 7 CONSULTATION.]

4. Reopener Clause for Essential Fish Habitat Protection - This permit may be modified or revoked and reissued based on the results of consultation with NMFS pursuant to Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act regarding any of their actions authorized, funded or undertaken that may adversely affect Essential Fish Habitat (EFH).

5. Protection of Essential Fish Habitat

[RESERVED PENDING COMPLETION OF CONSULTATION WITH THE NATIONAL MARINE FISHERIES SERVICE PURSUANT TO SECTION 305(B) (2) OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT REGARDING ANY OF THEIR ACTIONS AUTHORIZED, FUNDED OR UNDERTAKEN THAT MAY ADVERSELY AFFECT ESSENTIAL FISH HABITAT.]

6. Existing Effluent Quality Limit Reopener Clause - In addition to any other grounds specified herein, this permit may be modified to include alternate daily maximum effluent limits for Total Organic Carbon (TOC) and Total Suspended Solids (TSS) in Outfall 003 based on the existing effluent quality (EEQ). Any such alternate effluent limit will be developed in accordance with the "EPA Region II Guidance for Calculating Permit Effluent Limitations Based on Existing Effluent Quality".

7. Reopener Clause for Coastal Zone Management Consistency - This permit may be modified or revoked and reissued based on conditions required by the Puerto Rico Planning Board as part of a determination of consistency with the State Coastal Zone Management program.

1. "Average monthly discharge limitation" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

2. "Average weekly discharge 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.

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

4. "Composite" means a combination of individual (or continuously taken) samples obtained at regular intervals over the entire discharge day. The volume of each sample shall be proportional to the discharge flow rate. For a continuous discharge, a minimum of 24 individual grab samples (at hourly intervals) shall be collected and combined to constitute a 24-hour composite sample. For intermittent discharges of more than four (4) hours duration, grab samples shall be taken at a minimum of 30 minute intervals.

5. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharge over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of pollutant over the day. For purposes of sampling, "daily" means an operating day or 24-hour period.

6. "Director" means the "Regional Administrator" or the "State Director", as the context requires, or an authorized representative. Until the State has an approved State program authorized by EPA under 40 C.F.R. Part 123, "Director" means the Regional Administrator. When there is an approved State program, "Director" normally means the State Director. Even in such circumstances, EPA may retain authority to take certain action (see, for example, 40 C.F.R. 123.1(d), 45 Federal Register 14178, April 1, 1983, on the retention of jurisdiction over permits EPA issued before program approval). If any condition of this permit requires the reporting of information or other actions to both the Regional Administrator and the State Director, regardless of who has permit-issuing authority, the terms "Regional Administrator" and "State Director" will be used in place of "Director".

7. "Discharge Monitoring Report" or "DMR" means the EPA uniform national form, including any subsequent additions, revisions, or modifications, for the reporting of self-monitoring results by permittees.

8. "Grab" means an individual sample collected in less than 15 minutes.

9. "Gross" means the weight or the concentration contained in the discharge. (Unless a limitation is specified as a net limitation, the limitation contained in this permit is a gross limitation).

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

11. "Monthly" means one day each month (the same day each month) and a normal operating day (e.g., the 2nd Tuesday of each month).

12. "Net" means the amount of a pollutant contained in the discharge measured in appropriate units as specified herein, less the amount of a pollutant contained in the surface water body intake source, measured in the same units, over the same period of time, provided:

a. The intake water source must be drawn for the same body of water into which the discharge is made; and

b. In cases where the surface water body intake source is pretreated for the removal of pollutants, the intake level of a pollutant to be used in calculating the net is that level contained after the pretreatment steps.

13. "Regional Administrator" means the Regional Administrator of Region II of EPA or the authorized representative of the Regional Administrator.

14. "Severe property damage" means 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. "State Director" means the chief administrative officer of the State water pollution control agency, or the authorized representative of the State Director.

16. "Toxic pollutant" means any of the pollutants listed in 40 C.F.R. §401.15 (45 F.R. 44503, July 30, 1979) and any modification to that list in accordance with Section 307 (a)(1) of the Clean Water Act.

17. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

18. "Weekly" means every seventh day (the same day of each week) and a normal operating day.

TABLE OF REGULATORY REFERENCES FOR GENERAL CONDITIONS

Note: General Condition language in Part II, Sections B.1 through B.14, and B.17 is based on the July 1, 2010 Code of Federal Regulations (C.F.R.). Reference to language in the U.S.C. (United States Code) is based on the date of permit issuance.

Section	Section Title	Reference
B.1.	Duty to Comply	40 C.F.R. §122.41(a)
B.2.	Duty to Reapply	40 C.F.R. §122.41(b)
B.3.	Need to Halt or Reduce not a Defense	40 C.F.R. §122.41(c)
B.4.	Duty to Mitigate	40 C.F.R. §122.41(d)
B.5.	Proper operation and maintenance	40 C.F.R. §122.41(e)
B.6.	Permit actions	40 C.F.R. §122.41(f)
B.7.	Property rights	40 C.F.R. §122.41(g)
B.8.	Duty to provide information	40 C.F.R. §122.41(h)
B.9.	Inspection and Entry	40 C.F.R. §122.41(i)
B.10.	Monitoring and records	40 C.F.R. §122.41(j)
B.11.	Signatory requirements	40 C.F.R. §122.41(k)
B.12.	Reporting Requirements	40 C.F.R. §122.41(l)
B.13.	Bypass	40 C.F.R. §122.41(m)
B.14.	Upset	40 C.F.R. §122.41(n)
B.15.	Removed substances	33 U.S.C. §1311
B.16.	Oil and hazardous substance liability	33 U.S.C. §1321
B.17.	Reopener clause for toxic effluent limitations	40 C.F.R. §122.44(b)(1)
B.18.	State laws	33 U.S.C. §1370
B.19.	Availability of information	33 U.S.C. §1318
B.20.	Severability	----

1. Duty to Comply.

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

b. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

c. The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Clean Water Act, is subject to a civil penalty not to exceed $25,000 per day for each violation (as adjusted by 40 C.F.R. Part 19).

d. The Clean Water Act provides that any person who negligently violates Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act, or any permit condition or limitation implementing any such sections in ~~a~~ permit issued under section 402 of the Clean Water Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Clean Water Act, is subject to criminal penalties of not less than $2,500 nor more than $25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation of the Clean Water Act, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

e. The Clean Water Act provides that any person who knowingly violates Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act, or any permit condition or limitation implementing any of such sections in ~~a~~ permit issued under section 402 of the Clean Water Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Clean Water Act, is subject to criminal penalties of not less than $5,000 nor more than $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation of the Clean Water Act, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both.

f. Any person who knowingly violates Sections 301, 302, 303, 306, 307, 308, 318 or 405 of the Clean Water Act, or any permit condition or limitation implementing any of such

sections in a permit issued under section 402 of the Clean Water Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person which is an organization, as defined at 33 U.S.C. 309(c)(3)(B)(iii), shall, upon conviction be subject to a fine of not more than $1,000,000. In the case of a second or subsequent conviction for a knowing endangerment violation of the Clean Water Act, the maximum punishment shall be doubled with respect to both fine and imprisonment.

g. 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 Clean Water Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction, be punished by a fine of not more than $10,000, or imprisonment for not more than 2 years, or both. In the case of a second or subsequent conviction, 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 both.

h. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed $10,000 per violation (as adjusted by 40 C.F.R. Part 19), with the maximum amount of any Class I penalty assessed not to exceed $25,000 (as adjusted by 40 C.F.R. Part 19). Penalties for Class II violations are not to exceed $10,000 per day for each day during which the violation continues (as adjusted by 40 C.F.R. Part 19), with the maximum amount of any Class II penalty not to exceed $125,000 (as adjusted by 40 C.F.R. Part 19).

2. Duty to Reapply. This permit and the authorization to discharge shall terminate on the expiration date indicated on the first page. In order to receive authorization to discharge after the expiration date of this permit, the permittee must apply for and obtain a new permit. If the permit issuing authority remains EPA, the permittee shall complete, sign, and submit an application to the Regional Administrator no later than 180 days before the expiration date.

3. Need to Halt or Reduce not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

6. Permit actions.

a. This permit may be modified, revoked and reissued, or terminated during its term pursuant to 40 C.F.R. Part 122, Subpart D. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

7. Property rights. This permit does not convey any property rights of any sort, or any exclusive privileges.

8. Duty to provide information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

9. Inspection and Entry. The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

10. Monitoring and records.

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

b. Except for 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 C.F.R. 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. This period may be extended by request of the Director at any time.

c. Records of monitoring information shall include:

(1) The date, exact place, and time of sampling or measurements;

(2) The individual(s) who performed the sampling or measurements;

(3) The date(s) analyses were performed;

(4) The individual(s) who performed the analyses;

(5) The analytical techniques or methods used; and

(6) The results of such analyses.

d. Monitoring must be conducted according to test procedures approved under 40 C.F.R. Part 136 and any subsequent changes to the methods contained therein unless another method is required under 40 C.F.R. subchapters N or O.

e. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or both. (See U.S.C. §1319(c)(4)).

11. Signatory requirements. All applications, reports, or information submitted to the Director shall be signed and certified. (See 40 C.F.R. §122.22)

a. Applications. 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: (i) 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 (ii) 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.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in 40 C.F.R. §122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under 40 C.F.R. §122.22(a)(1)(ii) rather than to specific individuals.

(2) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

b. All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph 11.a of Part II.B, 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 in paragraph 11.a of Part II.B;

(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, 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 any individual occupying a named position.) and,

(3) The written authorization is submitted to the Regional Administrator, U.S. Environmental Protection Agency, Region II, 290 Broadway, New York, New York, 10007-1866, Attention: Compliance Assistance Program Support Branch, and to the State Director.

c. Changes to authorization. If an authorization under paragraph 11.b of Part II.B is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph 11.b of Part II.B must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing a document under paragraph 11.a or 11.b of Part II.B 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.

e. The Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by imprisonment for not more than 6 months per violation, or by both. If a conviction 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 four years, or both. (See section 309.c.4 of the Clean Water Act).

12. Reporting Requirements.

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

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

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under paragraph 4.a of Part I.B (40 C.F.R. §122.42(a)(1)); or

(3) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

b. Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c. Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See 40 C.F.R. §122.61; in some cases, modification or revocation and reissuance is mandatory.)

d. Monitoring reports. Monitoring results shall be reported at the intervals specified in Part I of this permit.

(1) Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.

(2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 C.F.R. 136, or another method required for an industry-specific waste stream under 40 C.F.R. subchapters N or O,

the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.

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

e. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

f. Twenty-four hour reporting.

(1) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances to the Regional Administrator at (732) 548-8730 and State Director. 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.

(2) The following shall be included as information which must be reported within 24 hours under this paragraph.

(a) Any unanticipated bypass (see 13 below) which exceeds any effluent limitation in the permit. (See 40 C.F.R. §122.41(g)).

(b) Any upset (see 14 below) which exceeds any effluent limitation in the permit.

(c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See 40 C.F.R. §122.44(g)).

(3) The Director may waive the written report on a case-by-case basis for reports under paragraph 12.f.(2) of Part II.B if the oral report has been received within 24 hours.

g. Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs 12.d, e, and f of Part II.B, at the time the monitoring reports are submitted. The reports shall contain the information listed in paragraph 12.f of Part II.B.

h. Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

13. Bypass

a. 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 13.b. and 13.c of Part II.B.

b. Notice.

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph 12.f of Part II.B (24-hour notice).

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 judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The permittee submitted notices as required under paragraph 13.b of Part II.B.

(2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 13.b.(1) of Part II.B.

14. Upset.

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 paragraph 14.(b) of Part II.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 in paragraph 12.f.(2)(b) of Part II.B (24 hour notice); and

(4) The permittee complied with any remedial measures required under paragraph 4 of Part II.B (duty to mitigate).

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

15. Removed substances. Pursuant to section 301 of the Clean Water Act, solids, sludges, filter backwash or other pollutants removed in the course of treatment or control of wastewaters and/or the treatment of intake waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters. The following data shall be reported together with the monitoring data required in paragraph 2 of Part I.B:

a. The sources of the materials to be disposed of;

b. The approximate volumes and weights;

c. The method by which they were removed and transported; and

d. Their final disposal locations.

16. Oil and hazardous substance liability. The imposition of responsibilities upon, or the institution of any legal action against the permittee under Section 311 of the Clean Water Act

shall be in conformance with regulations promulgated pursuant to Section 311 to discharges from facilities with NPDES permits.

17. Reopener clause for toxic effluent limitations. Other effluent limitations and standards under sections 301, 302, 303, 307, 318 and 405 of the Clean Water Act. If any applicable 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 Clean Water Act for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the Director shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition. See also 40 C.F.R. §122.41(a).

18. State laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Clean Water Act. The issuance of this permit does not preempt any duty to obtain State or local assent required by law for the discharge.

19. Availability of information. (Section 308 of the Clean Water Act)

a. NPDES permits, effluent data, and information required by NPDES application forms provided by the Director under 40 C.F.R. §122.21 (including information submitted on the forms themselves and any attachments used to supply information required by the forms) shall be available for public inspection at the offices of the Regional Administrator and State Director.

b. In addition to the information set forth in subsection a., any other information submitted to EPA in accordance with the conditions of this permit shall be made available to the public without further notice unless a claim of business confidentiality is asserted at the time of submission in accordance with the procedures in 40 C.F.R. Part 2 (Public Information).

c. If a claim of confidentiality is made for information other than that enumerated in subsection a., that information shall be treated in accordance with the procedures in 40 C.F.R. Part 2. Only information determined to be confidential under those procedures shall not be made available by EPA for public inspection.

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

1. This permit shall become effective in its entirety on the date indicated on the first page of this permit unless a petition has been filed with the Environmental Appeals Board to review any condition of the permit decision pursuant to the provisions of 40 C.F.R. Part 124.19. All contested conditions and any uncontested condition(s) that are inseverable from the contested conditions shall be stayed. All other conditions shall become effective thirty (30) days after the date of the notification specified in 40 C.F.R. §124.16(a)(2)(ii).

2. For purposes of judicial review under Section 509(b) of the Clean Water Act, final agency action on a permit does not occur unless and until a party has exhausted its administrative remedies under 40 C.F.R. 124. Any party which neglects or fails to seek review under 40 C.F.R. §124.19, thereby waives its opportunity to exhaust available agency administrative remedies.