



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

n-73-2

SEP 18 1973

OFFICE OF  
ENFORCEMENT AND GENERAL COUNSEL

MEMORANDUM

Permit Program Policy Advice  
#1973-12

To: All Regional Permit Program Chiefs

From: Director, Permit Programs Division

Subject: Permit Form

The attached draft of the "permit form" is final as far as the language is concerned. Alan Kirk has signed off on it and an EPA form number is presently being assigned. An outside forms specialist has been retained to make it look more like a legal document. Once printed, copies will be furnished to each region with a small number held in Washington for further distribution.

As is readily apparent, the conditions have been reorganized, numbered and captions added to make them easier to read and understand. The language was made less legalistic wherever it did not seriously impair the intent of the condition.

This form is to be utilized for all industrial and most other non-municipal dischargers. It may be better in the case of certain agricultural operations to devise a more appropriate Parts I and II. If you attempt to do so, please obtain our concurrence before issuing the permit. We will soon attempt to develop the more appropriate language for the agricultural operations and when completed, we will provide a draft for review. The Office of Air and Water Programs is also devising a permit form for use with municipalities. As with this one, once finalized, no deviations from the printed conditions will be authorized except as noted below. Part III will be used for your inspirational-type conditions unique to the facility being permitted or those conditions requested by the State.

The signature (first) page has sufficient room for both State and EPA signatures and titles. State signing is encouraged when EPA is issuing the permits. Note, it is called an "authorization to discharge" rather than a discharge permit. When issuing permits to some industries being put on implementation schedules leading to no discharge, it might be possible to modify the title to something which connotes an authorization to operate but not discharge. At this time we have not given adequate thought to that point but are open to suggestions. Requests from facilities clearly not having a discharge (i.e., feedlots near no

water course) could better be handled by a letter stating no permit is needed rather than issuance of this form. A suggested letter on this point with a discussion of the relevant issues will be forthcoming.

Several copies of Page 1 of Part I will be provided to you for use as supplementary sheets on which can be listed final, interim and initial effluent limits - one set per page. It can also be used each time specific limits are going to be set for different outfalls. Since we have removed the condition which clearly stated when the abatement units had to be achieving the authorized level, it becomes increasingly important for the first date on Page 1 (A.1. - identifying the first day of enforceable effluent limits) to take the start-up and equipment shake-down periods into consideration. Condition C (Schedule of Compliance) will also be available as extras so that lengthy schedules for separate outfalls can be listed in an uncluttered manner. We simplified the opening language of the condition, so be sure and type in the outfall numbers that the schedule concerns. Please note that #2 of Item C is now understandable without six readings.

We have also modified the condition dealing with retention of data. The permittee will no longer automatically retain data for more than three years at the initiation of any litigation. It now reads that it will be up to the Regional Administrator to advise him that this must be done.

In cases where a permit condition is deemed to be totally inappropriate to the situation, the offending language may be lined out, but only with prior approval. You can, however, consider that you now have such prior approval to line out the appropriate words in Condition B.1. of Part II (Right of Entry) whenever the permittee is a Federal facility. We cannot require the Federal agency to allow the State the same right of entry as EPA.

In Condition #2 of Part II, we ask that EPA and the State only be notified of the transfer since the NPDES is transferrable. State permits may not be. In these cases, the State is expected to write to the new owner and advise him of the need to obtain a new State permit.

At this time we intend to publish the "authorization" in the Federal Register for information purposes after it has been put into the final printing format. It is also quite likely that copies will be transmitted to the States by Headquarters explaining the forms use and encouraging its adoption in States having the program.

Should any further explanations regarding changes or use of conditions be needed, please give us a call:



Albert C. Frantz, Jr.

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

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

is authorized to discharge from a facility located at

to receiving waters named

in accordance with effluent limitations, monitoring requirements and other conditions set forth  
in Parts I, II, and III hereof.

This permit shall become effective on

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

Signed this       day of

**EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

During the period beginning \_\_\_\_\_ and lasting through \_\_\_\_\_  
the permittee is authorized to discharge from outfall(s) serial number(s) \_\_\_\_\_

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	kg/day (lbs/day)		Other Units (Specify)		Measurement Frequency	Sample Type
	Daily Avg	Daily Max	Daily Avg	Daily Max		
Flow—m <sup>3</sup> /Day (MGD)	—	—	—	—		

The pH shall not be less than \_\_\_\_\_ standard units nor greater than \_\_\_\_\_ standard units and shall be monitored

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

**EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

During the period beginning \_\_\_\_\_ and lasting through \_\_\_\_\_  
the permittee is authorized to discharge from outfall(s) serial number(s) \_\_\_\_\_

Such discharges shall be limited and monitored by the permittee as specified below:

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Such discharges shall be limited and monitored by the permittee as specified below:

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	<u>kg/day (lbs/day)</u>		<u>Other Units (Specify)</u>		<u>Measurement Frequency</u>	<u>Sample Type</u>
	<u>Daily Avg</u>	<u>Daily Max</u>	<u>Daily Avg</u>	<u>Daily Max</u>		
Flow—m <sup>3</sup> /Day (MGD)	—	—	—	—		

The pH shall not be less than \_\_\_\_\_ standard units nor greater than \_\_\_\_\_ standard units and shall be monitored

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

1. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedule:
2. No later than 14 calendar days following a date identified in the above schedule of compliance, the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

## C. MONITORING AND REPORTING

### 1. *Representative Sampling*

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

### 2. *Reporting*

Monitoring results obtained during the previous        months shall be summarized for each month 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        Duplicate signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator and the State at the following addresses:

### 3. *Definitions*

- a. The "daily average" discharge means the total discharge by weight during a calendar month divided by the number of days in the month that the production or commercial facility was operating. Where less than daily sampling is required by this permit, the daily average discharge shall be determined by the summation of all the measured daily discharges by weight divided by the number of days during the calendar month when the measurements were made.
- b. The "daily maximum" discharge means the total discharge by weight during any calendar day.

### 4. *Test Procedures*

Test procedures for the analysis of pollutants shall conform to regulations published pursuant to Section 304(g) of the Act, under which such procedures may be required.

### 5. *Recording of Results*

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The exact place, date, and time of sampling;
- b. The dates the analyses were performed;
- c. The person(s) who performed the analyses;



- d. The analytical techniques or methods used; and
- e. The results of all required analyses.

**6. *Additional Monitoring by Permittee***

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report Form (EPA No. 3320-1). Such increased frequency shall also be indicated.

**7. *Records Retention***

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed and calibration and maintenance of instrumentation and recordings from continuous monitoring instrumentation shall be retained for a minimum of three (3) years, or longer if requested by the Regional Administrator or the State water pollution control agency.

**A. MANAGEMENT REQUIREMENTS****1. *Change in Discharge***

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit. Any anticipated facility expansions, production increases, or process modifications which will result in new, different, or increased discharges of pollutants must be reported by submission of a new NPDES application or, if such changes will not violate the effluent limitations specified in this permit, by notice to the permit issuing authority of such changes. Following such notice, the permit may be modified to specify and limit any pollutants not previously limited.

**2. *Noncompliance Notification***

If, for any reason, the permittee does not comply with or will be unable to comply with any daily maximum effluent limitation specified in this permit, the permittee shall provide the Regional Administrator and the State with the following information, in writing, within five (5) days of becoming aware of such condition:

- a. A description of the discharge and cause of noncompliance; and
- b. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the noncomplying discharge.

**3. *Facilities Operation***

The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit.

**4. *Adverse Impact***

The permittee shall take all reasonable steps to minimize any adverse impact to navigable waters resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

**5. *Bypassing***

Any diversion from or bypass of facilities necessary to maintain compliance with the terms and conditions of this permit is prohibited, except (i) where unavoidable to prevent loss of life or severe property damage, or (ii) where excessive storm drainage or runoff would damage any facilities necessary for compliance with the effluent limitations and prohibitions of this permit. The permittee shall promptly notify the Regional Administrator and the State in writing of each such diversion or bypass.

**6. *Removed Substances***

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

**7. *Power Failures***

In order to maintain compliance with the effluent limitations and prohibitions of this permit, the permittee shall either:

- a. In accordance with the Schedule of Compliance contained in Part I, provide an alternative power source sufficient to operate the wastewater control facilities;

or, if such alternative power source is not in existence, and no date for its implementation appears in Part I,

- b. Halt, reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

**B. RESPONSIBILITIES**

**1. *Right of Entry***

The permittee shall allow the head of the State water pollution control agency, the Regional Administrator, and/or their authorized representatives, upon the presentation of credentials:

- a. To enter upon the permittee's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this permit; and
- b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect any monitoring equipment or monitoring method required in this permit; and to sample any discharge of pollutants.

**2. *Transfer of Ownership or Control***

In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Regional Administrator and the State water pollution control agency.

**3. *Availability of Reports***

Except for data determined to be confidential under Section 308 of the Act, all reports prepared in accordance with the terms of this permit shall be available for public

inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Act.

#### **4. *Permit Modification***

After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

- a. Violation of any terms or conditions of this permit;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

#### **5. *Toxic Pollutants***

Notwithstanding Part II, B-4 above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.

#### **6. *Civil and Criminal Liability***

Except as provided in permit conditions on "Bypassing" (Part II, A-5) and "Power Failures" (Part II, A-7), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

#### **7. *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.

#### **8. *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.

## PART II

Page        of  
Permit No.

### 9. *Property Rights*

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

### 10. *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.

## PART III

### OTHER REQUIREMENTS