



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

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

**NPDES PERMIT NO. GU0020273**

In compliance with the provisions of the Clean Water Act (CWA) (Public Law 92-500, as amended, 33 U.S.C. 1251 et seq.), the following discharger is authorized to discharge from the identified facility at the outfall location(s) specified below, in accordance with the effluent limits, monitoring requirements, and other conditions set forth in this permit:

<b>Discharger Name</b>	Guam Waterworks Authority
<b>Discharger Address</b>	P.O. Box 3010 Agana, Guam 96910
<b>Facility Name</b>	Umatac-Merizo Wastewater Treatment Plant
<b>Facility Address</b>	Route 2 Merizo Merizo, Guam 96915
<b>Facility Rating</b>	Minor

<b>Discharge Point No.</b>	<b>Discharge Point Description</b>	<b>Discharge Point Latitude</b>	<b>Discharge Point Longitude</b>	<b>Receiving Water</b>
001	Secondary Treated Wastewater (Non-disinfected)	13° 17' 02" N	144° 40' 00" E	Toguan River

<b>This permit was issued on:</b>	January 13, 2009
<b>This permit shall become effective on:</b>	March 1, 2009
<b>This permit shall expire at midnight on:</b>	February 28, 2014
<b>In accordance with 40 CFR 122.21(d), the discharger shall submit a new application for a permit at least 180 days before the expiration date of this permit, unless permission for a date no later than the permit expiration date has been granted by the Director.</b>	

Signed this 13th day of January, 2009,

For the Regional Administrator

                    //s//                      
Alexis Strauss, Director  
Water Division

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## **PART I - EFFLUENT LIMITATIONS**

- A. During the period beginning on the effective date of this permit and ending on the expiration date of this permit, Guam Waterworks Authority (hereinafter, the “permittee”) is authorized to discharge municipal wastewater from its Umatac-Merizo Wastewater Treatment Plant (Umatac-Merizo WWTP) from Discharge Point Number 001 to the Toguan River, tributary to Toguan Bay of the Philippine Sea, Guam. Such discharge shall be limited and monitored by the permittee as specified in Table 1. The permittee shall maintain compliance with all effluent limitations specified in Table 1 and requirements identified in this permit.
- B. Except as authorized in Table 1 of this permit, the discharge shall not cause the following conditions in the receiving water:
1. The discharge shall be free from substances, conditions or combinations that cause visible floating materials, grease, oil, scum, foam, and other floating material which degrades water quality or use;
  2. The discharge shall be free from substances, conditions or combinations that produce visible turbidity, settle to form deposits or otherwise adversely affect aquatic life;
  3. The discharge shall be free from substances, conditions or combinations that produce objectionable color, odor or taste, directly or by chemical or biological action;
  4. The discharge shall be free from substances, conditions or combinations that injure or are toxic or harmful to humans, animals, plants or aquatic life;
  5. The discharge shall be free from substances, conditions or combinations that induce the growth of undesirable aquatic life;
  6. The discharge shall not cause the temperature in the receiving water to deviate more than 1.0 degree Centigrade (1.8 of the degree Fahrenheit) from ambient conditions;
  7. The discharge shall not cause the turbidity in the receiving water to exceed 1.0 NTU;
  8. The discharge of any radioactive wastes and contaminated radioactive materials from research facilities is strictly prohibited.
  9. The discharge shall not cause the concentration of DO in the receiving water to be less than 75% of saturation.
  10. The discharge shall not cause the pH in the receiving water to exceed the range of 6.5 to 9.0 standard units.

Table 1 - Effluent Limitations, Monitoring Frequency, and Sample Type for Each Pollutant or Parameter for Discharge Point No. 001 for the Umatac-Merizo WWTP facility.

Parameter	Units <sup>1</sup>	Effluent Limitations					Monitoring Requirements	
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum	Monitoring Frequency	Sample Type
Flow Rate	MGD	0.391	-- <sup>2</sup>	--	--	--	Weekly	Measured
Biochemical Oxygen Demand (5-day)	mg/L	30	45	--	--	--	Weekly	8-hr Composite <sup>3</sup>
	lbs/day	98	147	--	--	--		
	Both the influent and the effluent shall be monitored. The arithmetic mean of the BOD values, by concentration, for effluent samples collected over a calendar month shall not exceed 15 percent of the arithmetic mean, by concentration, for influent samples collected at approximately the same times during the same period. The 30-day average percent removal shall not be less than 85 percent.							
Temperature	°C	--	--	Monitoring Only	--	--	Weekly	Grab
pH	Std. Units	--	--	--	6.5	8.5	Weekly	Grab
Total Suspended Solids	mg/L	30	45	--	--	--	Weekly	8-hr Composite
	lbs/day	98	147	--	--	--		
	Both the influent and the effluent shall be monitored. The arithmetic mean of the TSS values, by concentration, for effluent samples collected over a calendar month shall not exceed 15 percent of the arithmetic mean, by concentration, for influent samples collected at approximately the same times during the same period. The 30-day average percent removal shall not be less than 85 percent.							
E. coli	CFU/100 mL	126	--	406	--	--	Weekly	Grab
Fecal Coliform	CFU/100 mL	200	400	--	--	--	Weekly	Grab
Enterococcus	CFU/100 mL	Monitoring Only	--	Monitoring Only	--	--	Weekly	Grab

Table 1 Continued - Effluent Limitations, Monitoring Frequency, and Sample Type for Each Pollutant or Parameter for Discharge Point No. 001 for the Umatac-Merizo WWTP facility.

Parameter	Units <sup>1</sup>	Effluent Limitations					Monitoring Requirements	
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum	Monitoring Frequency	Sample Type
Total Chlorine Residual <sup>4</sup>	µg/L	6.1	--	12	--	--	Weekly	Grab
	lbs/day	0.020	--	0.039	--	--		
Orthophosphate (PO <sub>4</sub> -P)	mg/L	0.08	--	0.16	--	--	Weekly	8-hr Composite
	lbs/day	0.26	--	0.52	--	--		
Nitrate-Nitrogen (NO <sub>4</sub> -N)	mg/L	0.41	--	0.82	--	--	Weekly	8-hr Composite
	lbs/day	1.33	--	2.67	--	--		
Ammonia-Nitrogen (NH <sub>3</sub> +NH <sub>4</sub> -N)	mg/L	0.31	--	0.61	--	--	Weekly	8-hr Composite
	lbs/day	0.98	--	1.99	--	--		
Heavy Metals <sup>5</sup>	mg/L or µg/L	--	--	Monitoring Only	--	--	1x/Permit Term	8-hr Composite
Hardness as CaCO <sub>3</sub>	mg/L	--	--	Monitoring Only	--	--	Annually	8-hr Composite
Pesticides <sup>6</sup>	mg/L or µg/L	--	--	Monitoring Only	--	--	1x/Permit Term	8-hr Composite
Oil and Grease	mg/L	10	--	15	--	--	Annually	Grab
	lbs/day	33	--	49	--	--		

Table 1 Continued - Effluent Limitations, Monitoring Frequency, and Sample Type for Each Pollutant or Parameter for Discharge Point No. 001 for the Umatac-Merizo WWTP facility.

Parameter	Units <sup>1</sup>	Effluent Limitations					Monitoring Requirements	
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum	Monitoring Frequency	Sample Type
Whole Effluent Toxicity	TU <sub>C</sub>	Monitoring Only	--	Monitoring Only	--	--	Annually	8-hr Composite

<sup>1</sup> Mass limits based on a design flow of 0.391 MGD

<sup>2</sup> Not applicable

<sup>3</sup> 8-hr composite sampling based on the operation of the facility 8 hours per day

<sup>4</sup> Total Residual Chlorine effluent limitation and effluent monitoring requirement is effective upon implementation of a disinfection system using chlorination; the permittee is required to notify EPA and Guam EPA 30 days prior to operation of a disinfection system

<sup>5</sup> Heavy metals mean: As, Cd, Cr<sup>3+</sup>, Cr<sup>6+</sup>, Cu, Hg, Pb, Ni, Ag, and Zn; both total recoverable and dissolved metal concentrations shall be reported; monitoring of heavy metals is part of the Priority Toxic Pollutants Scan required to be conducted on the fourth year of the permit term

<sup>6</sup> For a listing of all pesticides (organochlorines, organophosphates, carbonates, herbicides, fungicides, defoliants, and botanicals) see EPA Water Quality Criteria Blue Book; monitoring of pesticides is part of the Priority Toxic Pollutants Scan required to be conducted on the fourth year of the permit term

## **PART II - MONITORING AND REPORTING REQUIREMENTS**

### **A. Monitoring and Reporting**

#### **1. Sampling**

- a. Samples and measurements taken as required in this permit shall be representative of the volume and nature of the monitored discharge.
- b. Influent samples shall be taken after the last addition to the collection system and prior to any in-plant return flows and the first treatment process, where representative samples of the influent can be obtained.
- c. Effluent samples shall be taken after any in-plant return flows and the last treatment process and prior to mixing with the receiving waters, where representative samples of the effluent discharged to Toguan River can be obtained. The location for effluent samples for fecal coliform and total residual chlorine is specified in Section A.1.d of this Part.
- d. Effluent samples for fecal coliform and total residual chlorine shall be taken after the Waste Stabilization Pond Treatment System and disinfection, if applicable, and prior to the Wetlands Treatment System, where representative samples of the effluent discharged to the Wetland Treatment System can be obtained.
- e. The permittee shall conduct effluent monitoring within 24 hours of any discharge. The effluent monitoring shall be conducted on the same day as the receiving water monitoring.

#### **2. Influent Monitoring and Reporting**

The permittee shall conduct influent monitoring of BOD and TSS to evaluate compliance with the permit conditions. The permittee shall perform all monitoring, sampling and analyses in accordance with the methods described in the most recent edition of 40 CFR 136, unless otherwise specified in the draft permit. All monitoring data shall be reported on monthly DMR forms and submitted quarterly to EPA and Guam EPA, as specified in this permit.

#### **3. Effluent Monitoring and Reporting**

The permittee shall conduct effluent monitoring to evaluate compliance with the permit conditions. The permittee shall perform all monitoring, sampling and analyses in accordance with the methods described in the most recent edition of 40 CFR 136, unless otherwise specified in this permit. All monitoring data shall be reported on monthly DMR forms and submitted quarterly to EPA and Guam EPA.

- a. Effluent monitoring and analyses must be conducted in accordance with EPA test procedures approved under Title 40, Code of Federal Regulations (CFR), Part 136, *Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act*, as amended. (For biosolids analytical methods, please see Part VI of this permit.) For effluent analyses, the permittee shall utilize



a Method Detection Limit<sup>1</sup> (MDL) or Minimum Level<sup>2</sup> (ML) that is lower than the effluent limitations described in Table 1 of this permit. If all published MDLs or MLs are higher than the effluent limitations, the permittee shall utilize the test method procedure with the lowest MDL or ML. The permittee shall ensure that the laboratory utilizes a standard calibration where the lowest standard point is equal to or less than the ML. Priority pollutant analysis for metals shall measure “total recoverable metal,” except as provided under 40 CFR 122.45(c).

#### 4. Effluent Quality Reporting

- a. For samples collected each month of the quarterly reporting period, the permittee shall report on the monthly Discharge Monitoring Report (DMR) the following for each pollutant or parameter:
  - i. The maximum value, if the result is greater than or equal to the ML; or
  - ii. NODI(Q), if result is greater than or equal to the laboratory’s MDL but less than the ML; or
  - iii. NODI(B), if result is less than the laboratory’s MDL.
- b. For pollutants with effluent limitations expressed in both concentration and mass, the permittee shall report monitoring results on the DMRs in both concentration and mass. To convert concentration to mass, the permittee shall use the following equation:

$$\text{lbs pollutants per day} = \text{flow (MGD)} \times \text{concentration (mg/L)} \times 8.34 \text{ lbs/(MGD mg/L)}$$

- c. As an attachment to each DMR form submitted during the quarterly reporting period, the permittee shall report for all pollutants or parameters with monitoring requirements specified in Table 1 of this permit the following:
  - i. The analytical method number or title, preparation and analytical test procedure utilized by the laboratory, published MDL or ML, the laboratory’s MDL;
  - ii. The standard deviation from the laboratory’s MDL study;
  - iii. The number of replicate analyses (*n*) used to compute the laboratory’s MDL; and
  - iv. The lowest calibration standard.

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<sup>1</sup> The Method Detection Limit (MDL) is the minimum concentration of an analyte that can be detected with 99% confidence, as defined by a specific laboratory method in 40 CFR 136, Appendix B.

<sup>2</sup> The Minimum Level (ML) is the concentration in a sample equivalent to the concentration of the lowest calibration standard analyzed in a specific analytical procedure, assuming that all of the method-specific sample weights, volumes, and processing steps have been followed. Where a promulgated ML is not available, an interim ML is calculated by multiplying the MDL by a factor of 3.18 and then rounding this calculated value to the nearest multiple of 1, 2, or 5 x 10<sup>n</sup>, where *n* is zero or an integer. Alternatively, interim MLs for metals may be rounded to the nearest whole number.

- f. In addition to information requirements specified under 40 CFR 122.41(j)(3), records of monitoring information shall include: the laboratory which performed the analyses and any comment, case narrative, or summary of results produced by the laboratory. The records should identify and discuss quality assurance (QA) and quality control (QC) analyses performed concurrently during sample analyses and whether project and 40 CFR 136 requirements were met. The summary of results must include information on initial and continuing calibration, surrogate analyses, blanks, duplicates, laboratory control samples, matrix spike and matrix spike duplicate results, and sample receipt condition, holding time, and preservation.
- g. All monitoring results shall be submitted in such a format as to allow direct comparison with effluent limitations and requirements in this permit. Monitoring results must be reported on a monthly DMR form. Monthly DMR forms shall be submitted quarterly within 45 days following the previous quarterly reporting period. For example, the three DMR forms for the reporting period January through March shall be submitted by the 15th of May.
- h. Report for Average Monthly Discharge Limitation (or if no limitation applies but samples are collected during the monthly reporting period):
  - i. As directed for Maximum Daily Discharge Limitation, if only one sample is collected during the monthly reporting period, as specified under Part II.A.3.a, or
  - ii. The average value of all analytical results where 0 (zero) is substituted for NODI(B) and the laboratory's MDL is substituted for NODI(Q), if more than one sample is collected during the monthly reporting period.
- i. Duplicate signed copies of these, and all other reports required herein, shall be submitted to EPA and Guam EPA at the following addresses:

EPA - Region IX  
Pacific Islands Office, CED-6  
75 Hawthorne Street  
San Francisco, California 94105

Administrator  
Guam EPA  
P.O. Box 22439 GMF  
Barrigada, GU 96921

## 5. Quality Assurance

- a. The permittee shall develop a QA Manual for the field collection and laboratory analysis of samples. The purpose of the QA Manual is to assist in planning for the collection and analysis of samples and explaining data anomalies if they occur. The QA Manual shall be prepared, submitted to Guam EPA, and implemented **within 90 days from the effective date of this permit. At a minimum**, the QA Manual shall include the following:
  - i. Identification of project management and a description of the roles and responsibilities of the participants; purpose of sample collection; matrix to be

- sampled; the analytes or compounds being measured; applicable technical, regulatory, or program-specific action criteria; personnel qualification requirements for collecting samples;
- ii. Description of sample collection procedures; equipment used; the type and number of samples to be collected including QA/QC samples; preservatives and holding times for the samples (see 40 CFR 136.3); and chain of custody procedures;
  - iii. Identification of the laboratory used to analyze the samples; provisions for any proficiency demonstration that will be required by the laboratory before or after contract award such as passing a performance evaluation sample; analytical method to be used; MDL and ML to be reported; required QC results to be reported (e.g., matrix spike recoveries, duplicate relative percent differences, blank contamination, laboratory control sample recoveries, surrogate spike recoveries, etc.) and acceptance criteria; and corrective actions to be taken in response to problems identified during QC checks;
  - iv. Discussion of how the permittee will perform data review and reporting results to EPA and Guam EPA and how the permittee will resolve data quality issues and identify limits on the use of data; and
  - v. Description of the effluent and receiving water monitoring schedule.
- b. Throughout all field collection and laboratory analyses of samples, the permittee shall use the QA/QC procedures documented in their QA Manual. If samples are tested by a contract laboratory, the permittee shall ensure that the laboratory has a QA Manual on file. The QA plan shall be submitted to GEPA for review prior to implementation. A copy of the permittee's QA Manual shall also be retained on the permittee's premises and available for review by EPA or Guam EPA upon request. The permittee shall review its QA Manual annually and revise it, as appropriate.

## **B. Whole Effluent Toxicity Monitoring and Reporting**

### **1. Chronic Whole Effluent Toxicity Monitoring**

#### **a. Definition of Toxicity**

Chronic Toxicity measures a sub-lethal effect (e.g., reduced growth) to test organisms exposed to an effluent compared to that of control organisms. The no observed effect concentration (NOEC) is the highest effluent concentration to which organisms are exposed in a chronic test that causes no observable adverse effect on the test organisms (e.g., the highest concentration of toxicant to which the values for the observed responses are not statistically significantly different from the controls). Test results shall be reported in  $TU_C$ , where  $TU_C = 100/NOEC$ .

b. Monitoring Frequency for Chronic Toxicity

- i. Since Umatac-Merizo WWTP discharges effluent from Discharge Point No. 001, the permittee shall conduct annual chronic toxicity tests on 8-hour composite effluent samples.<sup>3</sup>
- ii. Chronic toxicity test samples shall be collected for each point of discharge at the designated NPDES sampling station for the effluent (i.e., downstream from the last treatment process and any in-plant return flows where a representative effluent sample can be obtained). During each year of the permit term, a split of one toxicity test sample shall be analyzed for all other monitored parameters at the minimum frequency of analysis specified by the effluent monitoring program.

c. Freshwater Species and Test Methods for Chronic Toxicity

Species and short-term test methods for estimating the chronic toxicity of NPDES effluents are found in the fourth edition of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (EPA/821/R-02/013, 2002; Table IA, 40 CFR Part 136). The permittee shall conduct static renewal toxicity tests with the daphnid, *Ceriodaphnia dubia* (Survival and Reproduction Test Method 1002.01).

d. Monitoring Triggers for Chronic Toxicity

To evaluate compliance with the narrative Guam water quality standards for toxicity, this permit establishes monitoring requirements for chronic toxicity. This permit also establishes numeric chronic thresholds, or toxicity triggers to assess chronic toxicity of the effluent. The numeric thresholds trigger a requirement for the permittee to perform accelerated chronic toxicity monitoring, and to initiate a Toxicity Reduction Evaluation/Toxicity Identification Evaluation (TRE/TIE) if a pattern of effluent toxicity is demonstrated. For this discharge, a mixing zone or dilution allowance is not authorized and the chronic WET permit triggers are any one test result greater than 1.0 TU<sub>c</sub>. Results shall be reported in TU<sub>c</sub>, where TU<sub>c</sub> = 100/NOEC. This permit requires additional toxicity testing if a chronic WET permit trigger is exceeded.

e. Quality Assurance for Chronic Toxicity

- i. Quality assurance measures, instructions, and other recommendations and requirements are found in the chronic test methods manual previously referenced.
- ii. To assess chronic toxicity, the permittee shall perform tests on a series of at least five effluent dilutions and a control. The dilution series shall be based

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<sup>3</sup> The permittee shall attempt to ensure a total holding time from collection of the last portion of the composite sample until arrival at the laboratory of not more than 36 hours. Should longer than a 36-hour holding time be anticipated, the permittee shall petition EPA Region IX for an extension of the holding time. The extended holding time shall not exceed 72 hours.

on chronic instream waste concentrations (IWC) of 62.5 and 100 percent effluent. **At a minimum**, the dilution series shall include the following:

- maximum daily trigger IWC of 62.5 percent effluent ( $100 \div 1.6 \text{ TU}_C$ );
  - median monthly trigger IWC of 100 percent effluent ( $100 \div 1.0 \text{ TU}_C$ ); and
  - three dilutions below the median monthly trigger IWC such as 50 percent, 25 percent and 12.5 percent effluent.
- iii. Effluent dilution water and control water should be prepared and used as specified in the test methods manual *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (EPA, 2002). If the dilution water is different from test organism culture water, then a second control using culture water also shall be used.
- iv. If organisms are not cultured in-house, concurrent testing with a reference toxicant shall be conducted. Where organisms are cultured in-house, monthly reference toxicant testing is sufficient. Reference toxicant tests and effluent toxicity tests shall be conducted using the same test conditions (e.g., same test duration, etc.).
- v. If either the reference toxicant or effluent toxicity tests do not meet all test acceptability criteria in the test methods manual, the permittee must re-sample and re-test within 14 days.
- vi. Because this permit requires sub lethal hypothesis testing endpoints from test methods in *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (EPA, 2002), within test variability must be reviewed for acceptability and variability criteria (upper percent MSD bound) must be applied, as directed under each test methods. Based on this review, only accepted effluent toxicity test results shall be reported on the DMR form.
- vii. When effluent monitoring frequencies for whole effluent toxicity and priority pollutants are concurrent, the permittee shall perform chemical analyses for priority pollutants on a split sample collected for whole effluent toxicity testing.
- viii. Where total ammonia concentrations in the effluent are  $> 5 \text{ mg/L}$ , toxicity may be contributed by unionized ammonia. During the toxicity test, pH drift may contribute to artifactual toxicity when ammonia or other pH-dependent toxicants (e.g., metals) are present. If sample toxicity is confirmed to be artifactual and due to pH drift (as determined through parallel testing described in section 11.3.6.1 of the test methods manual *Short-term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Waters to Freshwater Organisms* (EPA, 2002)), then, following written approval by the permitting authority, the permittee may use procedures outlined in section 11.3.6.2 of the test methods manual to control sample pH during the toxicity test.

## **2. Reporting of Toxicity Monitoring Results for Chronic Toxicity**

- a. A full laboratory report for all toxicity testing shall be submitted as an attachment to the DMR for the month in which the toxicity test was conducted and shall also include: the toxicity test results reported in Pass or Fail, NOEC and  $TU_c$ , and  $EC_{25}$  in accordance to the test methods manual chapter on report preparation and test review; the dates and times 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. If the initial investigation TRE workplan is used to determine that additional accelerated toxicity testing is unnecessary, these results shall be submitted with the DMR for the month in which investigations conducted under the TRE workplan occurred.
- b. The permittee shall notify the permitting authority in writing within 14 days of exceedance of a chronic toxicity monitoring trigger. 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.

## **C. Priority Toxic Pollutants Scan**

1. In accordance with federal regulations, the permittee shall conduct a Priority Toxics Pollutants scan during the fourth year of the five-year permit term to ensure that the discharge does not contain toxic pollutants in concentrations that may cause a violation of water quality standards. The permittee shall perform all effluent sampling and analyses for the priority pollutants scan in accordance with the methods described in the most recent edition of 40 CFR 136, unless otherwise specified in this draft permit by EPA. 40 CFR 131.36 provides a complete list of Priority Toxic Pollutants.

## **D. Twenty-four Hour Reporting of Noncompliance**

1. In accordance with 40 CFR 122.41(l)(6), the permittee shall report any noncompliance which may endanger human health or the environment. An example of noncompliance is an exceedance of a monthly average effluent limitation. Any information shall be provided orally, within 24 hours from the time the permittee becomes aware of the circumstances, to EPA and Guam EPA.

The permittee shall notify EPA and Guam EPA at the following telephone numbers:

Pacific Islands Office, CED-6	Administrator
EPA - Region IX	Guam EPA
(415) 972-3769	(671) 475-1658

A written submission also shall be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; and, if noncompliance has not been corrected, the anticipated time the noncompliance is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

### **PART III - REOPENER PROVISIONS**

- A.** In accordance with 40 CFR 122 and 124, this permit may be modified by EPA to include effluent limits, monitoring, or other conditions to implement new regulations, including EPA-approved water quality standards or EPA-approved Total Maximum Daily Load for nutrients; or to address new information indicating the presence of effluent toxicity or the reasonable potential for the discharge to cause or contribute to exceedances of water quality standards.
- B.** In accordance with 40 CFR and Parts 122 and 124, this permit may be modified to include effluent limitations or permit conditions to address chronic toxicity in the effluent or receiving waterbody, as a result of the discharge; or implement new, revised, or newly interpreted water quality standards applicable to chronic toxicity.

### **PART IV - STANDARD CONDITIONS**

- A.** The permittee shall comply with all EPA Region IX Standard Conditions included as an attachment to this permit.

### **PART V - SPECIAL CONDITIONS**

#### **A. Development and Implementation of Best Management Practices**

##### **1. Pollution Prevention Program**

- a.** The permittee is required to develop and implement appropriate pollution prevention measures or Best Management Practices (BMPs) designed to control site runoff, spillage or leaks, sludge or waste disposal, and drainage from collection system, storage/supply, and treatment/operational/process areas that may contribute pollutants to surface waters within 90 days from the effective date of this permit (section 304(e) of the CWA and 40 CFR 122.44(k)). BMPs shall include but are not limited to those necessary to control total suspended solids and oil and grease. Through the implementation of BMPs described in a BMP Plan, the permittee shall prevent or minimize the generation and discharge of wastes and pollutants from the facility to waters of the United States. The BMP plan shall be submitted to Guam EPA for review prior to implementation. The BMP plan shall also be located at the facility and be made available upon request by EPA and/or Guam EPA.

#### **B. Constructed Wetlands Waste Water Treatment System Operations and Maintenance Plan**

The permittee shall develop a Wetlands Waste Water Treatment System Operations and Maintenance (O&M) Plan for the Wetlands Treatment System. This plan shall include a description of all appropriate physical and biological measures necessary to efficiently manage the Wetlands Treatment System based on the site monitoring results and design considerations, including, but not limited to, pretreatment (prior to wetland polishing), vegetation, soil<sup>4</sup>, and hydrological management as determined by the final system design.

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<sup>4</sup> Including a soils monitoring plan designed to assess toxic accumulation of metals, nutrients, and oil and grease in each cell of the constructed wetland wastewater treatment system.

This plan shall be submitted to Guam EPA and EPA within 90 days of the effective date of this permit for review. The Plan shall be updated annually to account for seasonal variations, wetlands physiological development, and other factors.

### C. Receiving Water Monitoring Program

#### 1. Receiving Water Monitoring Requirements

- a. The permittee shall conduct the following monitoring program (water column).
  - i. Receiving Water Stations

Station Name	Location
TR1 - Toguan River Station 1 (control)	200 feet upstream of Discharge Serial No. 001
TR2 -Toguan River Station 2	100 feet downstream of Discharge Serial No. 001
TB – Toguan Bay Station*	Midway between shoreline and reef margin (reef flat)

\* Toguan Bay Station (TB) shall be representative of an area of Toguan Bay where complete mixing of fresh surface water from the Toguan River and marine surface waters of Toguan Bay occurs. This station shall not be located in Toguan Bay channel or Toguan estuary.

#### ii. Receiving Water Monitoring

Receiving Water Characteristic	Units	Station	Sample Type
Surface Water Flow	cfs	TR1	Discrete
E. coli	CFU/ 100 mL	TR1, TR2, TB	Discrete
			Discrete
Enterococcus	CFU/ 100 mL	TR1, TR2, TB	Discrete
pH	Standard Units	TR1, TR2	Discrete
Orthophosphate (PO <sub>4</sub> -P)	mg/L	TR1, TR2, TB	Discrete
Nitrate-Nitrogen (NO <sub>3</sub> -N)	mg/L	TR1, TR2, TB	Discrete
Dissolved Oxygen	mg/L	TR1, TR2	Discrete
Turbidity	NTU	TR1, TR2, TB	Nephelometer
Temperature	°C	TR1, TR2	Discrete



- iii. The permittee shall prepare a receiving water monitoring plan that verifies all station locations (latitude and longitude) and provides details of monitoring schedule and QA/QC procedures used for collecting and analyzing receiving water data. The plan shall be submitted to EPA and Guam EPA within 90 days of the effective date of this permit.
- iv. The permittee shall conduct receiving monitoring when the facility discharges through Discharge Point No. 001.
- v. The permittee shall conduct receiving water monitoring within 24 hours of the discharge. Receiving water monitoring shall be conducted on the same day as the effluent monitoring. Both receiving water and effluent monitoring should occur on the same day of the week and coordinated with the weekly Guam EPA recreational water monitoring (which samples Toguan Bay recreational waters located nearby and downstream of the discharge).
- vi. The permittee shall conduct weekly receiving water monitoring for discharges that last greater than 24 hours.
- vii. The permittee shall establish the monitoring schedule with the concurrence of Guam EPA.
- b. The permittee shall submit quarterly receiving water monitoring reports to EPA and Guam EPA quarterly, within 45 days following the previous quarterly reporting period. These reports shall include:
  - i. A description of climatic and receiving water characteristics at the time of sampling (*e.g.*, weather observations, floating debris, discoloration, time of sampling, tide, etc.).
  - ii. A description of the sample collection and preservation procedures used in the receiving water monitoring program.
  - iii. Description of the specific method used for laboratory analysis.
  - iv. An in-depth discussion of the results of the effluent and receiving water monitoring programs with regard to compliance with this permit. All tabulations and computations shall be explained.

#### **D. TRE Workplan and Accelerated Toxicity Testing for Chronic Toxicity**

##### **1. Initial Investigation TRE Workplan for Chronic Toxicity**

- a. The permittee shall develop and implement, in the event effluent toxicity is triggered, an Initial Investigation Toxics Reduction Evaluation (TRE) Workplan. **Within 90 days of the effective date of this permit**, the permittee shall prepare and submit a copy of a TRE Workplan (1-2 pages) specific to chronic toxicity to EPA and Guam EPA for review. This plan shall include steps the permittee intends to follow if toxicity is measured above chronic toxicity monitoring triggers and should include, at minimum the following:

- i. A description of the investigation and evaluation techniques that would be used to identify potential causes and sources of chronic toxicity, effluent variability, and treatment system efficiency;
- ii. 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; and
- iii. If a Toxicity Identification Evaluation (TIE) is necessary, an indication of who would conduct the TIE (i.e., an in-house expert or outside contractor).

## 2. Accelerated Toxicity Testing and TRE/TIE Process for Chronic Toxicity

- a. If a chronic WET permit limit or trigger is exceeded and the **source of toxicity is known** (e.g., a temporary plant upset), then the permittee shall conduct one additional toxicity test using the same species and test method. This test shall begin within 14 days of receipt of test results exceeding a chronic WET permit limit or trigger. If the additional toxicity test does not exceed a chronic WET permit limit or trigger, then the permittee may return to their regular testing frequency.
- b. If a chronic WET permit limit or trigger is exceeded and the source of toxicity is not known, then the permittee shall conduct six additional toxicity tests using the same species and test method, approximately every two weeks, over a 12 week period. This testing shall begin within 14 days of receipt of test results exceeding a chronic WET permit limit or trigger. If none of the additional toxicity tests exceed a chronic WET permit limit or trigger, then the permittee may return to their regular testing frequency.
- c. If one of the additional toxicity tests (as stated paragraphs 2a and 2b above) exceeds a chronic WET permit limit or trigger, then, within 14 days of receipt of this test result, the permittee shall initiate a TRE, based on the type of treatment facility, EPA guidance manual *Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants* (EPA, 1999) or EPA guidance manual *Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations* (EPA, 1989). In conjunction, the permittee shall develop and implement a Detailed TRE Workplan which shall include: further actions undertaken by the permittee to investigate, identify, and correct the causes of toxicity; actions the permittee will take to mitigate the impact of the discharge and prevent the recurrence of toxicity; and a schedule for these actions.
- d. The permittee may initiate a Toxicity Identification Evaluation (TIE) as part of a TRE to identify the causes of chronic toxicity using the same species and test method and EPA test method guidance manuals: *Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I* (EPA, 1992); *Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA, 1993a); and *Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA, 1993b).

## **PART VI - SLUDGE/BIOSOLIDS LIMITATIONS AND MONITORING REQUIREMENTS**

“Biosolids” means non-hazardous sewage sludge, as defined in 40 CFR 503.9. Sewage sludge that is hazardous, as defined in 40 CFR 261, must be disposed of in accordance with the Resource Conservation and Recovery Act.

### **A. General Requirements**

1. All biosolids generated by the permittee shall be used or disposed of in compliance with the applicable portions of:
  - a. 40 CFR 503 - for biosolids that are land applied, placed in a surface disposal site (dedicated land disposal site, monofill, or sludge-only parcel at a municipal landfill), or incinerated;
  - b. 40 CFR 258 - for biosolids disposed of in a municipal solid waste landfill (with other material);
  - c. 40 CFR 257 - for all biosolids use and disposal practices not covered under 40 CFR 258 or 503.

40 CFR 503, Subpart B (land application) sets requirements for biosolids that are applied for the purpose of enhancing plant growth or for land reclamation. 40 CFR 503, Subpart C (surface disposal) sets requirements for biosolids that are placed on the land for the purpose of disposal.

The permittee is responsible for assuring that all biosolids produced at its facility are used or disposed of in accordance with these rules, whether the permittee uses or disposes of the biosolids itself, or transfers the biosolids to another party for further treatment, use, or disposal. The permittee is responsible for informing subsequent preparers, applicators, and disposers of the requirements that they must meet under these rules.

2. Duty to mitigate: The permittee shall take all reasonable steps to prevent or minimize any biosolids use or disposal which has a likelihood of adversely affecting human health or the environment.
3. No biosolids shall be allowed to enter wetlands or other waters of the United States.
4. Biosolids treatment, storage, use, or disposal shall not contaminate groundwater.
5. Biosolids treatment, storage, use, or disposal shall not create a nuisance such as objectionable odors or flies.
6. The permittee shall assure that haulers transporting biosolids off site for treatment, storage, use, or disposal take all necessary measures to keep the biosolids contained. All haulers must have spill clean-up procedures. Trucks hauling biosolids that are not classified as Class A, as defined at 40 CFR 503.32(a), shall be cleaned as necessary after loading and after unloading so as to have no biosolids on the exterior of the truck body or wheels. Trucks hauling biosolids that are not Class A shall be tarped. Trucks hauling biosolids that are not Class A may not be used for hauling food or feed crops after unloading the biosolids, unless the permittee submits, for EPA

approval, a hauling description of how trucks will be thoroughly cleaned prior to adding food or feed.

7. If biosolids are stored over two years from the time they are generated, then the permittee must ensure compliance with all surface disposal requirements under 40 CFR 503, Subpart C, or must submit a written notification to EPA and Guam EPA with the information under 40 CFR 503.20(b) demonstrating the need for longer temporary storage. During temporary storage (of any length of time) for biosolids that are not Class A, whether on the facility site or off-site, adequate procedures must be taken to restrict public access and access by domestic animals.
8. Any biosolids treatment, disposal, or storage site shall have facilities adequate to: divert surface runoff from adjacent areas, protect the site boundaries from erosion, and prevent any conditions that would cause drainage from the materials at the site to escape from the site. Adequate protection is defined as protection from at least a 100-year storm event and from the highest tidal stage that may occur.
9. There shall be adequate screening at the treatment plant headworks and/or at the biosolids treatment units to ensure that all pieces of metal, plastic, glass, and other inert objects with a diameter greater than 3/8" are removed.

## **B. Inspection and Entry**

The EPA, Guam EPA, or an authorized representative thereof, upon presentation of credentials, shall be allowed by the permittee, directly or through contractual arrangements with their biosolids management contractors, to:

1. Enter upon all premises where biosolids produced by the permittee are treated, stored, used, or disposed of, either by the permittee or another party to whom the permittee transfers the biosolids for treatment, storage, use, or disposal;
2. Have access to and copy any records that must be kept under the conditions of this permit or 40 CFR 503, by the permittee or another party to whom the permittee transfers the biosolids for further treatment, storage, use, or disposal; and
3. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations used in biosolids treatment, storage, use, or disposal by the permittee or another party to whom the permittee transfers the biosolids for treatment, use, or disposal.

## **C. Monitoring**

1. Biosolids shall be monitored for the following constituents, at the frequency specified in paragraph C.2: arsenic, cadmium, chromium, copper, lead, mercury, molybdenum, nickel, selenium, zinc, organic nitrogen, ammonia-nitrogen, and total solids. This monitoring shall be conducted using the methods in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (EPA publication SW-846), as required in 40 CFR 503.8(b)(4). All results must be reported on a 100% dry weight basis. Records of all analyses must state on each page of the laboratory report whether the results are expressed in "100% dry weight" or "as is."

2. The constituents in paragraph C.1 shall be monitored at the following frequency, based on the volume of sewage solids generated per year:

Volume Generated (dry metric tons per year)	Monitoring Frequency <sup>1</sup>
>0 - <290	Once per year
290 - <1,500	Four times per year
1,500 - <15,000	Six times per year
>15,000	Twelve times per year

<sup>1</sup> If biosolids are removed for use or disposal on a routine basis, then monitoring should be scheduled at regular intervals throughout the year. If biosolids are stored for an extended period of time prior to use or disposal, then monitoring may occur either at regular intervals, or prior to use or disposal corresponding to tonnage accumulated during the period of storage.

3. Class 1 facilities (facilities with pretreatment programs or other facilities designated as Class 1 by the Regional Administrator) and Federal facilities with >5 MGD influent flow shall sample biosolids twice per year for pollutants listed under CWA section 307(a), using best practicable detection limits.

#### **D. Pathogen and Vector Control**

1. Prior to land application, the permittee shall demonstrate that biosolids meet Class A or Class B pathogen reduction levels using one of the alternatives listed under 40 CFR 503.32.

2. Prior to disposal in a surface disposal site, the permittee shall demonstrate that the biosolids meet Class B pathogen reduction levels or shall ensure that the site is covered at the end of each operating day. If pathogen reduction is demonstrated using a Process to Significantly/Further Reduce Pathogens, then the permittee shall maintain daily records of the operating parameters used to achieve this reduction.

If pathogen reduction is demonstrated by testing for fecal coliform and/or other pathogens, then samples must be drawn at the frequency described in paragraph C.2, above. If Class B pathogen reduction levels are demonstrated using fecal coliform, then at least seven grab samples must be drawn during each sampling event and a geometric mean calculated from these seven samples.

The following sample holding times between sample collection and sample analysis shall not be exceeded: fecal coliform - 24 hours when cooled to 4 °C; Salmonella sp. - 24 hours when cooled to 4 °C; enteric viruses - 2 weeks when frozen; helminth ova - one month when cooled to 4 °C.

3. For biosolids that are land applied or placed in a surface disposal site, the permittee shall track and keep records of the operational parameters used to achieve the Vector Attraction Reduction requirements in 40 CFR 503.33(b).

#### **E. Surface Disposal**

If biosolids are placed in a surface disposal site (dedicated land disposal site or monofill), then a qualified groundwater scientist shall develop a groundwater monitoring program

for the site, or shall certify that the placement of biosolids on the site will not contaminate an aquifer.

#### **F. Landfill Disposal**

Biosolids placed in a municipal landfill shall be tested by the Paint Filter Liquids Test (Method Number 9095 in SW-846) at the frequency indicated in paragraph C.2, above, or more often if necessary, to demonstrate that there are no free liquids.

#### **G. Notification and Reporting**

1. The permittee, either directly or through contractual arrangements with their biosolids management contractors, shall comply with the following notification requirements:
  - a. Notification of noncompliance: The permittee shall notify EPA and Guam EPA of any noncompliance within 24 hours, if the noncompliance may seriously endanger health or the environment. For other instances of noncompliance, the permittee shall notify EPA and Guam EPA in writing, within five working days of becoming aware of the circumstances. The permittee shall require their biosolids management contractors to notify EPA and Guam EPA of any noncompliance within these same timeframes.
  - b. Interstate notification: If biosolids are shipped to another State, Tribal Lands, or Territory, then the permittee shall send a 60-day prior notice of the shipment to permitting authorities in the receiving State, Tribal Lands, or Territory, and EPA Region IX.
  - c. Land Application: Prior to using any biosolids from this facility (other than composted biosolids) at a new or previously unreported site, the permittee shall notify EPA and Guam EPA. The notification shall include: a description and topographic map of the proposed site(s), names and addresses of the applier and site owner, and a list of any state or local permits which must be obtained. The plan shall include a description of the crops or vegetation to be grown, proposed loading rates, and determination of agronomic rates.

If any biosolids within a given monitoring period do not meet the pollutant limits for metals under 40 CFR 503.13, then the permittee (or its contractor) must pre-notify EPA and determine the cumulative metals loading to date at that site, as required in 40 CFR 503.12.

The permittee shall notify the applier of 40 CFR 503 requirements that are applicable to the applier, including applier certification that management practices, site restrictions, and vector attraction reduction requirements have been met. The permittee shall require the applier to certify at the end of 38 months following the application of Class B biosolids, that the harvesting restrictions in effect for up to 38 months have been met.

- d. Surface Disposal: Prior to disposal at a new or previously unreported site, the permittee shall notify EPA and Guam EPA. The notice shall include: a description and topographic map of the proposed site, depth to groundwater, whether the site is lined or unlined, site operator, site owner, and any State or

local permits. The notice shall describe procedures for ensuring restricted public access and grazing restrictions for three years following site closure. The notice shall include a groundwater monitoring plan, or a description of why groundwater monitoring is not required.

2. The permittee shall submit an annual biosolids report to the EPA Region IX Biosolids Coordinator and Guam EPA by February 19 of each year for the period covering the previous calendar year. This report shall include:
  - a. The amount of biosolids generated that year and the amount of biosolids accumulated from previous years, in dry metric tons.
  - b. Results of all pollutant monitoring required in the Monitoring section, above, reported on a 100% dry weight basis.
  - c. Demonstrations and certifications of pathogen reduction methods and vector attraction reduction methods, as required in 40 CFR 503.17 and 503.27.
  - d. Names, mailing addresses, and street addresses of persons who received biosolids for storage, further treatment, or disposal in a municipal waste landfill, or for other use or disposal methods not covered above, and the volumes delivered to each.
  - e. For land application sites, the following information must be submitted by the permittee, unless the permittee requires its biosolids management contractors to report this information directly to the EPA Region IX Biosolids Coordinator:

The locations of land application sites used that calendar year (with field names and numbers), size of each field applied to, applicator, and site owner; the volumes applied to each field (in wet tons and dry metric tons), nitrogen applied, and calculated plant available nitrogen; the crop planted, date of planting, and date of harvesting; for biosolids exceeding 40 CFR 503.13 Table 3 pollutant concentrations, the locations of sites where applied and cumulative metals loading at that site to date; certifications of management practices in 40 CFR 503.14 and certifications of site restrictions in 40 CFR 503.32(b)(5).
  - f. For surface disposal sites: The locations of sites, site operator, site owner, and size of parcel on which disposed; the results of any required groundwater monitoring; certifications of management practices in 40 CFR 503.24; and for closed sites, the date of site closure and certifications of management practices for the three years following site closure.
  - g. All reports shall be submitted to:

Regional Biosolids Coordinator  
EPA Region IX  
CWA Compliance Office (WTR-7)  
75 Hawthorne Street  
San Francisco, CA 94105-3901

Guam EPA  
17-3304 Mariner Avenue,  
Tiyan, Guam 96913

## PART VII - DEFINITIONS

**Average Monthly Effluent Limitation (AML).** The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

**Average Weekly Effluent Limitation (AWL).** The highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Best Management Practices (BMPs).** Best Management Practices or “BMPs” are schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural, and/or managerial practices to prevent or reduce the pollution of waters of the U.S. BMPs include treatment systems, operating procedures, and practices to control: plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs may further be characterized as operational, source control, erosion and sediment control, and treatment BMPs.

**Chronic Toxicity.** The degree to which a pollutant, discharge, or water sample causes a sub lethal toxic response, such as an alteration in growth rate or reproduction.

**Chronic Toxic Unit (TU<sub>c</sub>).** The reciprocal of the highest tested concentration of an effluent or test sample whose effect is not statistically different from the control determined in a chronic toxicity test (i.e.,  $TU_c = 100 \div NOEC$ ).

**Composite sample.** A composite sample means a time-proportioned mixture of not less than four discrete aliquots obtained at equal time intervals over the discharge period. The volume of each aliquot shall be directly proportional to the discharge flow rate at the time of sampling, but not less than 100 ml. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3, Table II. Where collection, preservation, and handling procedures are not outlined in 40 CFR 136.3, procedures outlined in the 18th edition of *Standard Methods for the Examination of Water and Wastewater* shall be used.

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

**Discharge Monitoring Report (DMR).** An NPDES form for the reporting of self-monitoring NPDES results by the permittee.

**Grab Sample.** A single individual sample collected at a particular time and place that represents the composition of the discharge only at that time and place. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3, Table II. Where collection, preservation, and handling procedures are not outlined in 40 CFR 136.3,



procedures outlined in the 18th edition of *Standard Methods for the Examination of Water and Wastewater* shall be used.

**Maximum Daily Effluent Limitation (MDL).** The highest allowable daily discharge of a pollutant or parameter, over a calendar day or 24-hr period. For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day.

**Method Detection Limit (MDL).** The minimum concentration of an analyte that can be detected with 99 percent confidence that the analyte concentration is greater than zero, as defined by a specific laboratory method in 40 CFR 136. The procedure for determination of a laboratory MDL is in 40 CFR 136, Appendix B.

**Minimum Level (ML).** The concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed in a specific analytical procedure, assuming that all the method-specific sample weights, volumes, and processing steps have been followed (as defined in EPA's draft *National Guidance for the Permitting, Monitoring, and Enforcement of Water Quality-Based Effluent Limitations Set Below Analytical Detection/Quantitative Levels*, March 22, 1994). If a published method-specific ML is not available, then an interim ML shall be calculated. The interim ML is equal to 3.18 times the published method-specific MDL rounded to the nearest multiple of 1, 2, 5, 10, 20, 50, etc. (When neither an ML nor MDL are available under 40 CFR 136, an interim ML should be calculated by multiplying the best estimate of detection by a factor of 3.18; when a range of detection is given, the lower end value of the range of detection should be used to calculate the ML.) At this point in the calculation, a different procedure is used for metals, than non-metals:

- For metals, due to laboratory calibration practices, calculated MLs may be rounded to the nearest whole number; and
- For non-metals, because analytical instruments are generally calibrated using the ML as the lowest calibration standard, the calculated ML is then rounded to the nearest multiple of  $(1, 2, \text{ or } 5) \times 10^n$ , where  $n$  is zero or an integer. (For example, if an MDL is  $2.5 \mu\text{g/L}$ , then the calculated ML is:  $2.5 \mu\text{g/L} \times 3.18 = 7.95 \mu\text{g/L}$ . The multiple of  $(1, 2, \text{ or } 5) \times 10^n$  nearest to 7.95 is  $1 \times 10^1 = 10 \mu\text{g/L}$ , so the calculated ML, rounded to the nearest whole number, is  $10 \mu\text{g/L}$ ).

**NODI(B).** The concentration of the pollutant in a sample is not detected. NODI(B) is reported on a DMR when a sample result is less than the laboratory's MDL.

**NODI(Q).** The concentration of the pollutant in a sample is detected but not quantified. NODI(Q) is reported on a DMR when a sample result is greater than or equal to the laboratory's MDL, but less than the ML.

**No Observed Effect Concentration (NOEC).** The highest tested concentration of an effluent or test sample whose effect is not statistically different from the control.

**Toxicity Identification Evaluation (TIE).** A set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organisms toxicity tests.

**Toxicity Reduction Evaluation (TRE).** A study conducted in a step-wise process designed to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity. The first steps of the TRE consist of the collection of data relevant to the toxicity, including additional toxicity testing, and an evaluation of facility operations and maintenance practices, and best management practices. A Toxicity Identification Evaluation (TIE) may be required as part of the TRE, if appropriate.

**Whole Effluent Toxicity (WET).** The aggregate toxic effect of an effluent measured directly with a toxicity test.

## **PART VIII - REFERENCES**

EPA. 1989. Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations. Fava, J. A., Lindsay, D., Clement, W. H., Clark, R., and DeGraeve, G. M. Chemicals and Chemical Product Branch, Risk Reduction Engineering Laboratory, EPA. EPA/600/2-88/070.

EPA. 1992. Toxicity Identification Evaluations: Characterization of Chronically Toxic Effluents, Phase I. Office of Research and Development, Environmental Research Laboratory, EPA. EPA/600/6-91/005F.

EPA. 1993a. Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity. Office of Research and Development, EPA. EPA/600/R-92/080.

EPA 1993b. Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity. Office of Research and Development, EPA. EPA/600/R-92/081.

EPA. 1999. Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants. EPA. August 1999. EPA/ 833/B-99/002.

EPA. 2002. Short-term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Waters to Freshwater Organisms. Office of Water, EPA. EPA/821/R-02/013.

## **PART IX - ATTACHMENT**

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION IX**

**CLEAN WATER ACT NPDES PERMITS OFFICE (WTR-5)**

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**STANDARD FEDERAL NPDES PERMIT CONDITIONS**

**Updated as of June 3, 2002**

**Reference: CFR 40 Parts 100 to 135, July 1, 2001**

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**1. DUTY TO REAPPLY [40 CFR 122.21 (d)]**

The permittee shall submit a new application 180 days before the existing permit expires.  
122.2(c)(2)

POTW's with currently effective NPDES permits shall submit with the next application the sludge information listed at 40 CFR 501.15(a)(2).

**2. APPLICATIONS [40 CFR 122.22]**

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.

(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).

All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, 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 (a) of this section;
- (2) The authorization specifies either an individual or 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 Director.

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

Certification. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

(1) 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.

### **3. DUTY TO COMPLY [40 CFR 122.41(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 denial of a permit renewal application.

(1) 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 CWA 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.

(2) The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the 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 Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The Clean Water Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$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, 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. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$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, 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. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318, or 405 of the Act, or any permit condition of limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at the 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. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both.

An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

(3) 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, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

**4. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE [40 CFR 122.41(c)]**

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.

**5. DUTY TO MITIGATE [40 CFR 122.41(d)]**

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.

**6. PROPER OPERATION AND MAINTENANCE [40 CFR 122.41(e)]**

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 backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

**7. PERMIT ACTIONS [40 CFR 122.41(f)]**

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**8. PROPERTY RIGHTS [40 CFR 122.41(g)]**

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

**9. DUTY TO PROVIDE INFORMATION [40 CFR 122.41(h)]**

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.

**10. INSPECTION AND ENTRY [40 CFR 122.41(i)]**

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:

- (1) 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;
- (2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (4) 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.

#### **11. MONITORING AND RECORDS [40 CFR 122.41(j)]**

- (1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.
- (3) Records of monitoring information shall include:
  - (i) The date, exact place, and time of sampling or measurements;
  - (ii) The individual(s) who performed the sampling or measurements;
  - (iii) The date(s) analyses were performed;
  - (iv) The individual(s) who performed the analyses;
  - (v) The analytical techniques or methods used; and
  - (vi) The results of such analyses.
- (4) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, unless other test procedures have been specified in the permit.
- (5) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

## **12. SIGNATORY REQUIREMENT [40 CFR 122.41(k)]**

- (1) All applications, reports, or information submitted to the Director shall be signed and certified. [See 40 CFR 122.22]
- (2) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

## **13. REPORT REQUIREMENTS [40 CFR 122.41(l)]**

- (1) 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:
- (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Sec. 122.29(b); or
  - (ii) 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 Sec. 122.42(a)(1).
  - (iii) 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;
- (2) Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (3) Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See Sec. 122.61; in some cases, modification or revocation and reissuance is mandatory.)
- (4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- (i) Monitoring results must 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.
  - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal,



approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.

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

(5) 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.

(6) Twenty-four hour reporting.

(i) The permittee shall report any noncompliance which may endanger health or the environment.

Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See Sec. 122.41(g).)

(b) Any upset 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 Sec. 122.44(g).)

(iii) The Director may waive the written report on a case-by-case basis for reports under paragraph (1)(6)(ii) of this section if the oral report has been received within 24 hours.

(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (1) (4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (1)(6) of this section.

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

#### **14. BYPASS [40 CFR 122.41(m)]**

(1) Definitions.

(i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) 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.

(2) 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 (m)(3) and (m)(4) of this section.

(3) Notice.

(i) 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.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (l)(6) of this section (24-hour notice).

(4) Prohibition of bypass.

(i) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The permittee submitted notices as required under paragraph (m) (3) of this section.

(ii) 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 (m)(4)(i) of this section.

## **15. UPSET [40 CFR 12241(n)]**

(1) Definition. 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.

(2) 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(n)(3) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(3) 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:

- (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (ii) The permitted facility was at the time being properly operated; and
- (iii) The permittee submitted notice of the upset as required in paragraph (1)(6)(ii)(b) of this section (24 hour notice).
- (iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

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

## **16. EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS [40 CFR 122.42(a)]**

In addition to the reporting requirements under Sec. 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:

(1) 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":

- (i) One hundred micrograms per liter (100 µg/l);
- (ii) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
- (iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Sec. 122.21(g) (7); or
- (iv) The level established by the Director in accordance with Sec. 122.44(f).

(2) 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":

- (i) Five hundred micrograms per liter (500 µg/l);
- (ii) One milligram per liter (1 mg/l) for antimony;
- (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Sec. 122.21(g)(7).
- (iv) The level established by the Director in accordance with Sec. 122.44(f).

#### **17. PUBLICLY OWNED TREATMENT WORKS [40 CFR 122.42(b)]**

This section applies only to publicly owned treatment works (POTWs) as defined at 40 CFR 122.22.

All POTWs must provide adequate notice to the Director of the following:

- (1) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA if it were directly discharging those pollutants; and
- (2) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- (3) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

[The following condition has been established by Region IX to enforce applicable requirements of the Resource Conservation and Recovery Act] Publicly owned treatment works may not receive hazardous waste by truck, rail, or dedicated pipe except as provided under 40 CFR 270. Hazardous wastes are defined at 40 CFR 261.31 - 261.33. The Domestic Sewage Exclusion (40 CFR 261.4) applies only to wastes mixed with domestic sewage in a sewer leading to a publicly owned treatment works and not to mixtures of hazardous wastes and sewage or septage delivered to the treatment plant by truck.

Municipal separate storm sewer systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under Sec. 122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include:

- (1) The status of implementing the components of the storm water management program that are established as permit conditions;
- (2) Proposed changes to the storm water management programs that are established as permit condition. Such proposed changes shall be consistent with Sec. 122.26(d)(2)(iii) of this part; and
- (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under Sec. 122.26(d)(2)(iv) and (d)(2)(v) of this part;

- (4) A summary of data, including monitoring data, that is accumulated throughout the reporting year;
- (5) Annual expenditures and budget for year following each annual report;
- (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and
- (7) Identification of water quality improvements or degradation.

Storm water discharges. The initial permits for discharges composed entirely of storm water issued pursuant to Sec. 122.26(e)(7) of this part shall require compliance with the conditions of the permit as expeditiously as practicable, but in no event later than three years after the date of issuance of the permit.

#### **18. REOPENER CLAUSE [40 CFR 122.44(c)]**

For any permit issued to a treatment works treating domestic sewage (including "sludge-only facilities"), the Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA. The Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

#### **19. PRIVATELY OWNED TREATMENT WORKS [40 CFR 122.44(m)]**

For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this part. Alternatively, the Director may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. The Director's decision to issue a permit with no conditions applicable to any user, to impose conditions on one or more users, to issue separate permits, or to require separate applications, and the basis for that decision, shall be stated in the fact sheet for the draft permit for the treatment works.

#### **20. TRANSFERS BY MODIFICATION [40 CFR 122.61(a)]**

Except as provided in paragraph (b) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under Sec. 122.62 (b)(2)), or a minor modification made (under Sec.122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.

#### **21. AUTOMATIC TRANSFERS [40 CFR 122.61(b)]**

As an alternative to transfers under paragraph (a) of this section, any NPDES permit may be

automatically transferred to a new permittee if:

- (1) The current permittee notifies the Director at least 30 days in advance of the proposed transfer date in paragraph (b)(2) of this section;
- (2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- (3) The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this subparagraph may also be a minor modification under Sec. 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section.

## **22. MINOR MODIFICATIONS OF PERMITS [40 CFR 122.63]**

Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of part 124. Any permit modification not processed as a minor modification under this section must be made for cause and with part 124 draft permit and public notice as required in Sec. 122.62. Minor modifications may only:

- (1) Correct typographical errors;
- (2) Require more frequent monitoring or reporting by the permittee;
- (3) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or
- (4) Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.
- (5) Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under Sec. 122.29.
- (6) Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.
- (7) [Reserved]
- (8) Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 (or a modification thereto that has been

approved in accordance with the procedures in 40 CFR 403.18) as enforceable conditions of the POTW's permits.

### **23. TERMINATION OF PERMITS [40 CFR 122.64]**

The following are causes for terminating a permit during its term, or for denying a permit renewal application:

- (1) Noncompliance by the permittee with any condition of the permit;
- (2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
- (3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
- (4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).

### **24. AVAILABILITY OF REPORTS [Pursuant to Clean Water Act Section 308]**

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

### **25. REMOVED SUBSTANCES [Pursuant to Clean Water Act Section 301]**

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.

### **26. SEVERABILITY [Pursuant to Clean Water Act Section 512]**

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 remainder of the permit, shall not be affected thereby.

### **27. CIVIL AND CRIMINAL LIABILITY [Pursuant to Clean Water Act Section 309]**

Except as provided in permit conditions on "Bypass" (Section 14) and "Upset" (Section 15), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

**28. OIL AND HAZARDOUS SUBSTANCE LIABILITY [Pursuant to Clean Water Act Section 311]**

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 Clean Water Act.

**29. STATE OR TRIBAL LAW [Pursuant to Clean Water Act Section 510]**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any applicable State or Tribal law or regulation under authority preserved by Section 510 of the Clean Water Act.