

Permit No. GU0020087

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

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

Public Utility Agency of Guam
Government of Guam
P.O. Box 3010
Agana, Guam 96910

is authorized to discharge treated wastewater from the Agana Sewage Treatment Plant outfall (Discharge Serial No. 001, latitude 13°29'3.3", longitude 144°44'37.1") located off Marine Drive, Agana, Guam

to receiving waters named Philippine Sea,

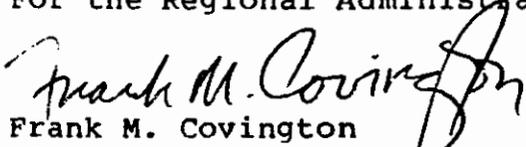
in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I and II hereof.

This permit shall become effective on June 30, 1986

This permit and the authorization to discharge shall expire at midnight, June 30, 1991

Signed this 30thday of June , 1986.

For the Regional Administrator,


Frank M. Covington
Director, Water Management Division

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS based upon a treatment capacity of 0.53 m³/sec (12 MGD)

1. During the period beginning with the effective date of this permit and lasting through June 30, 1991, the permittee is authorized to discharge from outfall serial number 001.

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

EFFLUENT CHARACTERISTIC	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	kg/day (lbs/day)		Other Units (Specify)	Measurement Frequency	Sample Type
	Average Monthly	Daily Max	Average Monthly		
Flow-m ³ /day (MGD)	-	-	-	Continuous	--
Biochemical Oxygen Demand (5-Day)*	3,634 (8,011)	7,268 (16,022)	80 mg/L	Once/week	Composite
Suspended Solids*	2,725 (6,008)	5,450 (12,016)	60 mg/L	Once/week	Composite
Settleable Solids	-	-	1 ml/L	Once/week	Discrete
Oil and Grease***	-	-	-	Once/month	Discrete
pH**	Not less than 7.0 standard units nor greater than 9.0 standard units			Once/week	Discrete

*Both the influent and effluent shall be monitored.

**The discharger shall not cause the pH of the receiving water to deviate more than 0.5 pH units of that which would occur naturally.

***Oil and grease shall be monitored in the effluent on a monthly basis over a six month period since many toxic organic pollutants partition into this fraction. If the level of oil and grease is found to be unacceptable, this permit shall be modified to include an effluent limitation and monitoring requirements for this parameter.

- b. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):
Influent samples shall be taken downstream from any additions to the trunk sewer, and upstream of any in-plant return flows, and prior to treatment.
Effluent samples shall be taken downstream from any additions from the treatment works and prior to mixing with the receiving waters.
- c. The receiving waters shall be substantially free from visible floating materials, grease, oil, scum, foam, and other matter not attributable to sewage.
- d. The receiving water shall be free from materials attributable to sewage that will produce visible turbidity or settle to form deposits.
- e. The receiving water shall be free from substances and conditions or combinations thereof attributable to sewage which may be toxic to humans, other animals and plants, and aquatic life.
- f. There shall be no discharge of substances that violate the Territory of Guam water quality standards.

A.2. RECEIVING WATER QUALITY AND BIOLOGICAL MONITORING REQUIREMENTS

Receiving water and biological monitoring are required under 40 CFR 125.62 for section 301(h) permittees to document long and short-term effects on the beneficial uses of the receiving waters and to determine compliance with NPDES permit terms and conditions. Within 60 days of the effective date of this permit, the Public Utility Agency of Guam shall submit a monitoring program and implementation schedule for the program to EPA Region 9 and the Guam Environmental Protection Agency which consists, at a minimum, of the requirements listed below. Any justification for an alternate receiving water quality and biological monitoring program should also be included. The Water Quality Monitoring for the Territory of Guam administered by the Guam Environmental Protection Agency may serve to meet the monitoring requirements as specified under 40 CFR 125.62. This program includes receiving water and biological monitoring. After one full year of monitoring data has been received by EPA, the effluent, receiving water quality, and biological monitoring programs will be evaluated

and, if appropriate, revised under the direction of EPA. Revisions may include a reduction or increase in the parameters to be monitored, the frequency of monitoring, or the number and size of samples collected.

1. Receiving Water Quality Monitoring

<u>Parameter</u>	<u>Units</u>	<u>Stations</u>	<u>Monitoring Frequency</u>	<u>Sample Type</u>
Floating materials*, odor, and color		A,B,C D,E,F	monthly quarterly	visual visual
Total coliform bacteria	MPN/100ml	A,B,C D,E,F	monthly quarterly	discrete** discrete**
Temperature	°C	D,E,F	quarterly	discrete**
Salinity	ppt	D,E,F	quarterly	discrete**
pH	pH units	D,E,F	quarterly	discrete**
Dissolved oxygen	mg/L	D,E,F	quarterly	discrete**
Turbidity	m or NTU	D,E,F	quarterly	Secchi disc or discrete**

*Floating materials shall include oils, grease, scum, etc.

**Samples shall be taken at the surface for coliform analyses. For other parameters, samples shall be taken at the surface, mid-depth and bottom.

Exact locations of the monitoring stations shall be designated by the permittee. Final station locations, parameters to be monitored, methodology, and frequency shall be approved by EPA Region 9 and the Guam Environmental Protection Agency.

Station Locations

<u>Station</u>	<u>Description</u>
A	shoreline station
B	shoreline station
C	shoreline station
D	outfall station
E	100 m south of outfall station
F	control station 1000 m east of outfall station

Receiving water monitoring data shall be submitted quarterly to EPA Region 9 and the Guam Environmental Protection Agency.

2. Biological Monitoring

The biological monitoring program shall include the requirements of 40 CFR 125.62(b)(1) such that, to the extent practicable, data adequate to evaluate the impact of the modified discharge on the coral reef community shall be provided. Station locations, parameters to be monitored, methodology, and frequency shall be coordinated with EPA Region 9 to ensure that the requirements of 40 CFR 125.62 are met. A report on the results of the biological monitoring shall be submitted annually to EPA Region 9 and the Guam Environmental Protection Agency.

3. Study on Impact of Lack of Chlorination

The Public Utility Agency of Guam shall submit an annual report on the impact of the discharge of effluent that has not been chlorinated on the marine environment in the vicinity of the Agana Sewage Treatment Plant effluent outfall and on any areas that could be affected by the discharge. This report is due on June 30 of each year over the permit term and shall be submitted to EPA Region 9 and the Guam Environmental Protection Agency.

4. Quality Assurance

The Public Utility Agency of Guam shall enter into an agreement with the Guam Environmental Protection Agency for quality assurance in lab procedures and analysis. This agreement shall include split-sampling between the Public Utility Agency of Guam and the Guam Environmental Protection Agency labs on a monthly basis.

B. NONINDUSTRIAL SOURCE CONTROL PROGRAM

The permittee according to 40 CFR 125.64(d) must implement a public education program for nonindustrial source control. The permittee shall coordinate this activity with the Guam Environmental Protection Agency public education activities. This program must be implemented within eighteen months of issuance of this permit according to the following schedule:

<u>Task</u>	<u>Compliance Date</u>	<u>Due Date for Report of Compliance and Results of Task</u>
1. Develop public education program and submit to EPA for approval	March 30, 1987	-
2. Implement public education program	November 30, 1987	December 30, 1987

C. OPERATION AND MAINTENANCE MANAGEMENT PLAN

1. The permittee shall implement the approved Operation and Maintenance Management Plan as approved by EPA in August, 1981.
2. The permittee shall submit quarterly progress reports to EPA on the Operation and Maintenance Management Plan approved by EPA. These reports may be submitted in conjunction with the quarterly Discharge Monitoring Reports.
3. The permittee shall provide written responses to EPA and the Guam Environmental Agency on NPDES compliance inspections conducted by the Guam Environmental Protection Agency. Such responses shall be submitted within 15 working days upon receipt of the inspection report and shall include a summary of corrective actions taken or a schedule by which corrective actions will be completed.

D. MONITORING AND RECORDS

1. Representative Sampling

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

2. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. Penalties for Tampering

The 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 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. Reporting of Monitoring Results

Monitoring results obtained during the previous 3 months shall be summarized for each month and submitted quarterly on Discharge Monitoring Report forms to be supplied by the Regional Administrator, to the extent that the information reported may be entered on the forms. The results of all monitoring required by this permit shall be submitted in such a format as to allow direct comparison with the limitations and requirements of this permit. Unless otherwise specified, discharge flows shall be reported in terms of the average flow over each 30-day (monthly) period and the maximum daily flow over that 30-day period (monthly). These reports are due on January 28, April 28, July 28, and October 28 of each year. Signed copies of these and all other reports required herein, shall be submitted to the Regional Administrator and the Administrator at the

NONINDUSTRIAL SOURCE CONTROL PUBLIC EDUCATION PROGRAM GUIDANCE

The key to an effective nonindustrial source control program is a community which is well educated in waste disposal practices. Therefore, public education is the most vital part of the program. The following examples of public education activities are meant to be flexible tools which can be utilized and changed as the needs of the POTW change.

Effective public education requires not only initial distribution of information, but also periodic follow-up reminders containing similar information. After each of the following examples, a frequency recommendation is listed.

1. Newspaper Articles Whenever an event relating to wastewater occurs in your area, it presents a good opportunity to improve public awareness. Newspaper coverage of the event (facility improvements, overflows, new regulations, etc.) could be extended to include coverage of proper disposal techniques. For example:

SEWAGE BLOCKS TRAFFIC

Tuesday morning traffic along "XY" Street was detoured for more than three hours as sewage gushed from a manhole in the 1200 block.

A grease plugged sewer line was the cause of the overflow which flooded "XY" Street and two homes. Tuesday's sewage overflow and many similar incidents can be easily prevented if we all remember not to dispose of materials that could cause clogging or blockages in the sewer system, such as grease, hair, rags, and tampon applicators. Sewerage blockages cost local taxpayers approximately \$ _____ every year.

Unusual results in wastewater sampling could also be utilized to catch public attention. For example:

ILLEGAL DISCHARGES

Recent wastewater analyses indicate that solvents were illegally discharged to the sewer system.

"ABC" and "EFG" are two of the hazardous chemicals detected in routine analyses of treated wastewater from _____ Treatment Plant.

Solvents, toxics, pesticides, and automotive wastes are some of the materials which may disrupt the biological processes at the wastewater treatment plant and expose treatment plant personnel to unnecessary health hazards.

Therefore they are illegal discharges to the sewer system. Safe, legal and inexpensive disposal methods are available for most of these materials.

Help protect our wastewater system and surrounding environment from these hazardous pollutants. If you or someone you know needs disposal information, call the _____ Wastewater Treatment Plant at _____.

A minimum of four articles per year will provide periodic reminders to the community that the sewer system does have limitations. If an illegal discharger is identified and /or fined, newspaper coverage could deter others from dumping hazardous materials in the sewer system believing they will not get caught.

2. Pamphlet A brief, but attractive pamphlet which contains information about the treatment plant as well as disposal guidelines could be distributed at public locations and to all domestic users of the sewer system.

3. Radio Spots An inexpensive means of getting a message to a large portion of the community is through public service announcements on the radio. Radio spots could be utilized to inform the public of waste disposal methods, hazardous wastes in the sewer system, and other wastewater related topics. The radio could be used as the previously described newspaper articles. Radio spots should be brief (60 seconds or less), therefore several different announcements per year could be made, coinciding with POTW related events.

4. School Education Materials A program on the toxicity of household chemicals could become a permanent facet of high school chemistry courses and lower education science and safety courses. The Golden Empire Health Planning Center (Sacramento, CA) and METRO (Seattle, WA) have published teachers' guides for grades K-12.

5. Poster Contest A poster contest with a prize or award for best entry could be conducted to advertise the safe use and disposal of toxic products and alternatives to using these products.

Sources

City of Morro Bay/Cayucos Sanitary District, CA Nonindustrial Source Control Program

CSDOC, CA Nonindustrial Source Control Program

following addresses:

Regional Administrator
Environmental Protection Agency
Region 9, Attn: W-1-1
215 Fremont Street
San Francisco, CA 94105

Administrator
Guam Environmental Protection Agency
P.O. Box 2999
Agana, Guam 96910

5. Definitions

- a. "Composite sample" means, for flow rate measurements, the arithmetic mean of no fewer than eight individual measurements taken at equal intervals for 8 hours or for the duration of discharge, whichever is shorter.

"Composite sample" means, for other than flow rate measurement,

1. A combination of at least eight individual portions obtained at equal time intervals for 8 hours, or the duration of the discharge, whichever is shorter. The volume of each individual portion shall be directly proportional to the discharge flow rate at the time of sampling.

OR

2. A combination of at least eight individual portions of equal volume obtained over a 8-hour period. The time interval will vary such that the volume of wastewater discharged between samplings remains constant.

- b. The "daily maximum" limit means the maximum acceptable daily discharge. For pollutant measurements, unless otherwise specified, the results to be compared with the daily maximum limit are based on composite samples.
- c. A "discrete" sample means any individual sample collected in less than 15 minutes.
- d. "Geometric mean" is the log mean. Used for determining compliance with bacteriologic standards, it is calculated with the following equation:

$$\text{Log mean} = (C_1 \times C_2 \times \dots \times C_N)^{1/N}$$

in which N is the number of days samples were analysed during the period and C is the concentration of bacteria (MPN/100 ml) found on each day of sampling.

- e. "Mass emission rate" is obtained from the following calculation for

any calendar day:

$$\text{Mass emission rate (lb/day)} = \frac{8.345}{N} \sum_{i=1}^N Q_i C_i$$

$$\text{Mass emission rate (kg/day)} = \frac{3.785}{N} \sum_{i=1}^N Q_i C_i$$

in which N is the number of samples analysed in any calendar day. Q_i and C_i are the flow rate (MGD) and the constituent concentration (mg/L), respectively, which are associated with each of the N grab samples which may be taken in any calendar day. If a composite sample is taken, C_i is the concentration measured in the composite sample and Q_i is the average flow rate occurring during the period over which samples are composited.

- f. "weekly or monthly average" is the arithmetic mean of daily concentrations, or of daily mass emission rates, over the specified weekly or monthly period:

$$\text{Average} = \frac{1}{N} \sum_{i=1}^N X_i$$

in which N is the number of days samples were analysed during the period and X_i is either the constituent concentration (mg/L) or mass emission rate (kg/day or lb/day) for each sampled day.

6. Additional Monitoring by the Permittee

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

7. Averaging of Measurements

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

8. Intermittent Discharge Monitoring

If the discharge is intermittent rather than continuous, then on the first day of each such intermittent discharge, the permittee shall monitor and record data for all the characteristics listed in the monitoring requirements, after which the frequencies of analysis listed in the monitoring requirements shall apply for the duration of each such intermittent discharge. In no event shall the permittee be required to monitor and record data more often than twice the frequencies listed in the monitoring requirements.

9. Monitoring Modification

Monitoring, analytical, and reporting requirements may be modified by the Regional Administrator upon due notice as under 40 CFR 125.62, the monitoring program for a discharger receiving a 301(h) modified NPDES permit shall document the short- and long-term effects of the discharge on receiving waters, sediments, biota, and on beneficial uses of the receiving water and determine compliance with NPDES permit terms and conditions.

10. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least five (5) years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time.

11. Records Content

Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;

- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

12. Inspection and Entry

The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

E. REPORTING REQUIREMENTS

1. Anticipated Noncompliance

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

2. Compliance Reports

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.

3. Twenty-Four Hour Reporting of Noncompliance

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 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.

The following shall be included as information which must be reported within 24 hours:

- a. Any unanticipated bypass which exceeds any effluent limitation in the permit;
- b. Any upset which exceeds any effluent limitation in the permit; and
- c. Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Part I.E.3. at the time monitoring reports are submitted. The reports shall contain the information listed in Part I.E.3.

5. Signatory Requirements

- a. Applications. All permit applications shall be signed as follows:
 - (1) For a corporation: by a responsible corporate officer. For the purposes of this section, a responsible corporate officer means (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (b) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if 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 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 (a) the chief executive officer of the agency, or (b) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- b. Reports. All reports required by permits and other information requested by the Regional Administrator 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 a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and
 - (3) The written authorization is submitted to the Regional Administrator.
- c. 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 Regional Administrator prior to or together with any reports, information, or applications to be signed by an authorized representative.

- d. Certification. Any person signing a document under paragraphs a. or b. of this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

5. Duty to Provide Information

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

6. Availability of Reports

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.

7. Penalties for Falsification of Reports

The Act 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 noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

8. Planned Changes

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

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

- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR § 122.42 (a)(1).

10. New Introduction of Pollutants

The permittee must provide adequate notice to the Regional Administrator of the following.

- a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to sections 301 or 306 of the Act if it were directly discharging those pollutants; and
- b. 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.
- c. For purposes of this paragraph, adequate notice shall include information on the quality and quantity of effluent introduced into the POTW, and any anticipated impact of the change on the quantity or quality of the effluent to be discharged from the POTW.

A. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. 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 the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Need to Halt or Reduce Not a Defense

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

3. Bypass of Treatment Facilities

a. Definitions

- (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
- (2) "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 are reasonably expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass not exceeding limitations

The permittees 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 c. and d. of this section.

c. Notice

- (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least 10 days before the date of the bypass.
- (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part I.E.3. (24-hour notice).

d. Prohibition of bypass

- (1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the 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 auxilliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The permittee submitted notices as required under paragraph c. of this section.
- (2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if he determines that it will meet the three conditions listed above in paragraph d.(1) of this section.

4. Upset Conditions

a. 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.

b. Effect of an upset

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph c of this section are met. No determination made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;
- (2) The permitted facility was at the time being properly operated;
- (3) The permittee submitted notice of the upset as required in Part I.E.3. (24-hour notice); and
- (4) The permittee complied with any remedial measures required under Part II.B.4 (duty to mitigate).

d. Burden of proof

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

5. Removed Substances

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

B. GENERAL CONDITIONS

1. Duty to Comply

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

2. Duty to Comply with Toxic Effluent Standards

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

3. Penalties for Violation of Permit Conditions

The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both.

4. Duty to Mitigate

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

5. Permit Actions

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

6. Toxic Pollutants

Notwithstanding Part II.B.5. above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revoked and reissued or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.

7. Transfers

This permit is not transferable to any person except after notice to the Regional Administrator. The Regional Administrator may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

8. Transfer of Ownership or Control

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

9. Civil and Criminal Liability

Except as provided in permit conditions on "Bypasses" (Part II.A.3.) and "Upsets" (Part II.A.4.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

10. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

11. State Laws

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 law or regulation under authority preserved by Section 510 of the Act.

12. Property Rights

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

13. Severability

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

14. Reapplication

If the permittee desires to continue an activity regulated by this permit after the expiration of the permit, the permittee shall submit a new application at least 180 days before the expiration date of this permit.