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ENVIRONMENTAL PROTECTION AGENCY
REGIONAL HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	
)	
)	CLEAN WATER ACT
)	
East Penn LLC,)	ADMINISTRATIVE ORDER ON
)	CONSENT FOR COMPLIANCE
Respondent)	
)	
Highway 2, Corydon, Iowa)	
)	
)	Docket No. CWA-07-2010-0090
)	

STATUTORY AUTHORITY

1. The FINDINGS OF VIOLATION are made and ORDER FOR COMPLIANCE is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA"), by Section 309(a)(3) of the Clean Water Act ("CWA or the "Act"), 33 U.S.C. § 1319(a)(3), as delegated by the Administrator to the Regional Administrator, EPA Region VII, and further delegated to the Director, Water, Wetlands and Pesticides Division, EPA Region VII.

2. Section 301(a) of the Act, 33 U.S.C. § 1311 (a), prohibits discharge of pollutants from a point source into navigable waters of the United States, except in compliance with, *inter alia*, Sections 307 and 402 of the Act, 33 U.S.C. §§ 1317 and 1342. Section 402 provides that pollutants may be discharged into navigable waters of the United States only in accordance with the terms of a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to that section. Section 307 provides for the promulgation of regulations establishing pretreatment standards for introduction of pollutants into publicly owned treatment works ("POTW").

3. Pursuant to Section 307(b) of the Act, 33 U.S.C. § 1317(b), EPA promulgated regulations at 40 C.F.R. Part 403 establishing the General Pretreatment Regulations and at 40 C.F.R. Parts 405 through 471 establishing the Point Source Categorical Standards. These regulations and standards are designed to regulate the introduction of pollutants into publicly owned treatment works which are determined not to be amenable to treatment by such treatment works or which could interfere with the operation of such treatment works.

4. The Iowa Department of Natural Resources ("IDNR") is the state agency with the

authority to administer the federal NPDES program. EPA authorized Iowa to administer the NPDES program pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), on August 10, 1978, and later authorized Iowa to administer the Pretreatment Program on June 3, 1981. Accordingly, Iowa is the Pretreatment "Control Authority," as defined by 40 C.F.R. § 403.3(f).

5. 40 C.F.R. § 403.6 establishes "Categorical Standards" or national standards for quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new industrial users in specific industrial subcategories.

6. Pursuant to 40 C.F.R. § 403.3(v), all industrial users subject to Categorical Standards are also "Significant Industrial Users."

7. Manufacturers of lead acid batteries that discharge wastewater to a POTW are subject to the Categorical Battery Manufacturing Point Source Category Pretreatment Standards found at 40 C.F.R. Part 461. The Battery Manufacturing Standards are production based standards, which means that the pollutant levels allowed to be discharged are dependent on the number of batteries manufactured and the amount of lead used during manufacture. Pursuant to 40 C.F.R. 403.6(b), compliance with production based categorical standards is required within three years of their promulgation.

8. Pursuant to 40 C.F.R. 403.6(c)(2) and (c)(3), the Pretreatment Control authority may develop alternative production based concentration and mass limits, using average production levels for an industrial user. However, until such alternative limits are enforceable, an Industrial User must comply with the applicable categorical standard set forth in 40 C.F.R Part 461.

9. Pursuant to 40 C.F.R. § 403.12(c), in order to document compliance with the production based limits of 40 C.F.R. Part 461, Industrial Users that are subject to Categorical standards must, by at least each June and December of each year, submit a report to the Control Authority (IDNR) that documents the nature and concentration of pollutants (lead), average and maximum daily flows, and other information needed to ascertain compliance. The reporting requirements of this paragraph may be modified by the Control Authority.

FACTUAL BACKGROUND

10. East Penn, LLC (hereafter "Respondent") is a person within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

11. The Corydon, Iowa, facility, addressed at Highway 2, P.O. Box 286 Corydon, Iowa ("Corydon facility," or "facility") was formerly owned by Voltmaster Battery and on November 1, 2006 was bought by Respondent East Penn LLC.

12. From November 1, 2006 through the present Respondent has at all relevant times been the "owner or operator" of the facility.

13. The East Penn Corydon facility manufactures lead acid batteries. The manufacturing operation utilizes lead and lead oxide powder (paste) as the raw materials within the battery cells. Process wastewaters are produced by the battery washing operation, laundry operation and from clean up of the paste application and acid filling areas. In addition, contact cooling water is produced in the battery charging operation. Wastewater from the paste application and acid filling areas are collected into floor pits, then either flow or are taken to the company's wastewater pretreatment system.

14. The City of Corydon ("the City"), Iowa, is a "person" as defined by Section 502 of the Act, 33 U.S.C. § 1362(5), that owns and operates a Publicly Owned Treatment Works (POTW) for the treatment of both domestic and industrial wastewater. The approximate location of the POTW is Section 30, T 69N, R21W, Wayne County, Iowa.

15. The City's POTW is a "point source" that "discharges pollutants" into an unnamed tributary to West Jackson Creek which is a tributary to the Chariton River, as these terms are defined by Section 502(14) and (12) of the CWA, respectively, 33 U.S.C. § 1362(14) and (12).

16. On or about May 3, 2001, IDNR issued the Corydon POTW a National Pollutant Discharge Elimination System (NPDES) permit ("2001 Permit"), pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. The 2001 Permit expired on May 2, 2006, but has been administratively continued since that date.

17. The unnamed tributary, West Jackson Creek and the Chariton River are each considered a "navigable water" of the United States, as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

18. In April 2008, Respondent upgraded the existing pretreatment system that the company estimates treats and discharges an average of approximately 5,000 gallons per day of wastewater to the City's WWTP. Respondent discharges process wastewater from the Corydon facility into the City's POTW, and therefore is an "industrial user," as defined by 40 C.F.R. § 403.3(j).

19. Respondent's wastewater is a "pollutant," and contains "pollutants," as defined by Section 502(6) of the CWA.

20. As a lead acid battery manufacturing facility, Respondent's Corydon facility is subject to the Battery Manufacturing Point Source Category Pretreatment Standards, at 40 C.F.R. Part 461, and is therefore considered a "Categorical" Industrial User and a "Significant Industrial User."

21. On July 20-23, 2009, the U.S. Environmental Protection Agency ("EPA") conducted an inspection of the City of Corydon, Iowa ("City" or "Corydon POTW") in order to determine the City's compliance with the requirements of the CWA, 33 U.S.C. § 1281, *et seq.* During the inspection of the City's POTW, EPA discovered that the East Penn Corydon facility was discharging industrial process wastewater to the POTW.

22. As of the date of EPA's inspection, the East Penn facility had never applied for a pretreatment permit from IDNR, which is the pretreatment Control Authority. At the time of EPA's inspection, representatives of the City informed EPA that the City did not sample or routinely inspect East Penn to determine whether the company was performing monitoring sufficient to ensure that the East Penn facility was in compliance with the requirements of Section 307 of the CWA, and 40 C.F.R. Part 461.

23. For the period of Respondent East Penn's ownership, between November 2006 and EPA's inspection in July 2009, Respondent failed to perform required monitoring sufficient to determine compliance with 40 C.F.R. Part 461, and/or submit semi-annual reports to the Control Authority, as required by 40 C.F.R. § 403.12(e).

24. In October 2009, Respondent submitted a Treatment Agreement to IDNR with proposed alternative production limits, as allowed by 40 C.F.R. 403.6(c). These alternative production based limits have been reviewed and approved by both EPA and IDNR, and are set forth in Paragraph 27, below.

FINDINGS OF VIOLATION

Claim I:

Failure to perform required Monitoring and Submit Bi-annual Reports

25. The facts stated in Paragraphs 10 through 24, above, are hereby incorporated by reference.

26. Respondent East Penn's failure to perform required monitoring and/or submit required semi-annual Compliance Reports are violations of 40 C.F.R. 403.12(e), and Section 307 of the CWA, 33 U.S.C. § 1317.

ORDER FOR COMPLIANCE

Based on the foregoing Findings of Violation, and pursuant to the authority of Sections 308 and 309(a)(3) of the Act, 33 U.S.C. §§ 1318 and 1319(a)(3), Respondent East Penn LLC hereby agrees and is hereby ORDERED to take the following actions and to provide the following information:

27. Respondent shall sample its wastewater subject to the the Standard Conditions set forth in Attachment 1 to this Order and the following production based effluent limitations at Outfall 001. Discharges from other locations of wastewater from sources identified in 40 C.F.R. Part 461 to the POTW are prohibited:

- a. Outfall 001: Is defined as the location immediately following the Respondent's wastewater treatment system before discharge into the POTW.

- b. For production levels below a monthly average of 113,400 lbs. of lead used per day, the Respondent is authorized to discharge process wastewater from Outfall 001 to the City of Corydon's POTW, subject to the following production based effluent limitations:

Pollutant	Concentration, mg/l		Mass, lbs/day	
	Daily max	Monthly avg.	Daily max.	Monthly avg.
Lead, total,	1.66	0.77	0.0552	0.0256
Copper, total	7.41	3.91	0.2468	0.1303
pH, s.u.	5.0, min	10.0, max		

- c. For production levels greater than or equal to a monthly average of 113,400 lbs. of lead used per day, the Respondent is authorized to discharge process wastewater from Outfall 001 to the City of Corydon's POTW, subject to the following production based effluent limitations:

Pollutant	Concentration, mg/l		Mass, lbs/day	
	Daily max	Monthly avg.	Daily max.	Monthly avg.
Lead, total,	1.99	0.927	0.0662	0.0307
Copper, total	8.936	4.719	0.2961	0.1564
pH, s.u.	5.0, min	10.0, max		

28. Monitoring Requirements:

- a. Respondent shall monitor wastewater discharged to the POTW at Outfall 001 for the following parameters at the indicated minimum frequency:

Pollutant	Frequency	Method
Flow (gpd)	Continuous	Meter
Lead	Once per month	24-hr Composite
Copper	Once per month	24-hr Composite
pH	Once per month	grab

- b. All handling and preservation of collected samples and laboratory analyses of samples shall be performed in accordance with 40 C.F.R. Part 136 and amendments

thereto unless specified otherwise in the Standard Conditions set forth as Attachment I to this Order.

29. Reporting Requirements:

- a. Monitoring results obtained shall be summarized and reported to EPA and IDNR every six months. The reports are to be postmarked no later than 20 days following the end of the six-month reporting period. The year is divided into two reporting periods, the first is from January 1 to June 30; the second is from July 1 through December 31. The report shall indicate the concentration and mass of all pollutants in the effluent for which sampling and analyses were performed during each calendar month of the respective reporting period. The mass shall be determined using the wastewater flow measured on the day of the sampling event. The total amount of lead used in battery production shall be reported for each month covered by the reporting period.
- b. If the results of the Respondent's wastewater analysis indicate that a violation of the limits set forth in this Order has occurred, the Respondent shall:
 - 1) Inform EPA and IDNR of the violation within 24 hours; and
 - 2) Repeat the sampling and pollutant analysis and submit, in writing to EPA and IDNR, the results of this second analysis within 30 days of the first violation.
- c. All reports required by this Order shall be submitted to EPA and IDNR at the following addresses:

Paul Marshall, Pretreatment Coordinator
901 N. 5th Street
Kansas City, Kansas 66101

Email: marshall.paul@epa.gov

and,

Tom Atkinson
Iowa DNR
502 E. 9th Street
Des Moines, IA 50319

Email: tom.atkinson@dnr.iowa.gov

GENERAL PROVISIONS

30. The provisions of this Order are severable. If any provision of this Order is determined to be unenforceable, the remaining provisions shall remain in full force and effect.

31. This Order shall apply to and be binding upon Respondent, its agents, successors, and assigns and upon all persons, contractors, and consultants acting under or on behalf of Respondents in matters related to compliance with this Order.

32. Respondents shall provide a copy of this Order to all contractors, subcontractors, laboratories, and consultants retained to perform or monitor any portion of the work called for by this Order, on or before the date of such retention, and shall condition all such contracts on compliance with the terms of this Order.

33. This Order does not constitute a waiver or a modification of any requirements of the Clean Water Act, 33 U.S.C. § 1251 et. seq., all of which remain in full force and effect. The EPA retains the right to seek any and all remedies available under Sections 309(b), (c), (d), or (g) of the Act, 33 U.S.C. § 1319(b), (c), (d), or (g), for any violation cited in this Order or any other authority, except as such violations have been resolved by the Consent Agreement and Final Order entered between the parties (Docket No. CWA-07-2010-090). Issuance of this Order shall not be deemed an election by EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the Act for any violation whatsoever.

34. This Order shall remain in effect until the IDNR has issued an NPDES permit to the City of Corydon containing a Treatment Agreement with East Penn that has appropriate limits based upon the Battery Manufacturing Point Source Category, 40 CFR Part 461.

35. Respondent admits the jurisdictional allegations of this Order and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Order. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Order.

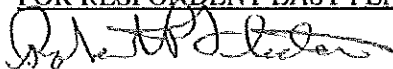
Effective Date

36. This Order shall be effective with respect to Respondent upon receipt of a fully executed copy hereof. All time periods herein shall be calculated from the date of Respondent receipt of the Order.

Signatories

37. The undersigned for each party has the authority to bind each respective party to the terms and conditions of this Order. Specifically, the undersigned representative of Respondent East Penn LLC has the legal authority to bind the Respondent to the terms and conditions of this Order.

FOR RESPONDENT EAST PENN LLC



Exec. V.P.

Title

9/16/10
DATE

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:



Howard Bunch
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII
901 N. 5th Street
Kansas City, Kansas 66101



William A. Spratlin, Director
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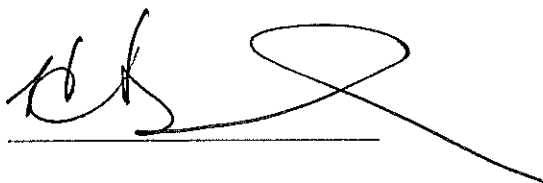
CERTIFICATE OF SERVICE

I certify that on the date noted below I hand delivered the original and one true copy of this Findings of Violation and Order for Compliance to the Regional Hearing Clerk, United States Environmental Protection Agency, 901 N. 5th Street, Kansas City, Kansas 66101.

I further certify that on the date noted below I sent by certified mail, return receipt requested, a true and correct copy of the signed original Findings of Violation and Order for Compliance to:

Louis Naugle
Reed Smith, LLP
225 Fifth Avenue
Suite 1200
Pittsburg, PA 15222

9/24/2010
Date



A handwritten signature in black ink, appearing to be 'LN', written over a horizontal line. The signature is stylized and extends to the right with a long, thin stroke.

ORDER FOR COMPLIANCE
ATTACHMENT 1

STANDARD CONDITIONS FOR COMPLIANCE, EAST PENN MANUFACTURING,
CORYDON, IOWA.

SECTION A. GENERAL CONDITIONS AND DEFINITIONS

1. Duty to Mitigate

EAST PENN shall take all reasonable steps to minimize or correct any adverse impact to the publicly owned treatment works (POTW) or the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

2. Definitions

- a) Daily Maximum - The maximum allowable discharge of pollutant during a calendar day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- b) Composite Sample - A sample that is collected over time, formed either by continuous sampling or by mixing discrete samples. The sample may be composited either as a time composite sample: composed of discrete sample aliquots collected in one container at constant time intervals providing representative samples irrespective of stream flow; or as a flow proportional composite sample: collected either as a constant sample volume at time intervals proportional to stream flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots.
- c) Grab Sample - An individual sample collected in less than 15 minutes, without regard for flow or time.
- d) Instantaneous Maximum Concentration - The maximum concentration allowed in any single grab sample.
- e) Cooling Water -
 - (1) Uncontaminated: Water used for cooling purposes only which has no direct contact with any raw material, intermediate, or final product and which does not contain a level of contaminants detectably higher than that of the intake water.

- (2) **Contaminated:** Water used for cooling purposes only which may become contaminated either through the use of water treatment chemicals used for corrosion inhibitors or biocides, or by direct contact with process materials and/or wastewater.
- f) **Monthly Average** - The arithmetic mean of the values for effluent samples collected during a calendar month or specified 30 day period (as opposed to a rolling 30 day window).
- g) **Weekly Average** - The arithmetic mean of the values for effluent samples collected over a period of seven consecutive days.
- h) **Bi-Weekly** - Once every other week.
- i) **Bi-Monthly** - Once every other month.
- j) **Upset** - Means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards and effluent limitations because of factors beyond the reasonable control of EAST PENN, excluding such factors as operational error, improperly designed or inadequate treatment facilities, or improper operation and maintenance or lack thereof.
- k) **Bypass** - Means the intentional diversion of wastes from any portion of a treatment facility.

3. **General Prohibitive Standards**

EAST PENN shall not discharge wastewater to the sewer system:

- a) Having a temperature higher than 104 degrees F (40 degrees C);
- b) Containing any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases; and in no case pollutants with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit (60° C), or pollutants which cause an exceedance of 10 percent of the Lower Explosive Limit (LEL) at any point within the POTW.
- c) Having a pH lower than 5.0 or having any other corrosive property capable of causing damage or hazards to structures, equipment or personnel of the sewer system;
- d) Containing toxic or poisonous substances in sufficient quantity to injure or interfere with any wastewater treatment process, to constitute hazards to humans or animals, or to create any hazard in waters which receive treated effluent from the sewer system treatment plant. Toxic wastes shall include, but are not limited to wastes containing cyanide, chromium, cadmium, mercury, copper, and nickel

ions;

- e) Containing noxious or malodorous gases or substances capable of creating a public nuisance; including pollutants which result in the presence of toxic gases, vapors, or fumes;
- f) Containing solids of such character and quantity that special and unusual attention is required for their handling;
- g) Containing any substance which may affect the City of Corydon's treatment plant's effluent and cause violation of the NPDES permit requirements;
- h) Containing any substance which would cause the treatment plant to be in noncompliance with sludge use, recycle or disposal criteria pursuant to guidelines or regulations developed under section 405 of the Federal Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or other regulations or criteria for sludge management and disposal as required by the State; or
- i) Containing any pollutant, including BOD pollutants, released at a flow rate and/or pollutant concentration which would cause interference with the treatment plant.

4. Compliance with Applicable Pretreatment Standards and Requirements

Compliance with this Order does not relieve EAST PENN from its obligations regarding compliance with any and all applicable local, State and Federal pretreatment standards and requirements including any such standards or requirements that may become effective during the term of this Order.

SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

EAST PENN shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve or maintain compliance with the conditions of this Order. Proper operation and maintenance includes but is not limited to: effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the Order.

2. Duty to Halt or Reduce Activity

Upon reduction of efficiency of operation, or loss or failure of all or part of the treatment facility, EAST PENN shall, to the extent necessary to maintain compliance with this Order, control its

production or discharges (or both) until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced. It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce the regulated activity in order to maintain compliance with the conditions of this Order.

3. Bypass of Treatment Facilities

- a) Bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage or no feasible alternatives exist.
- b) EAST PENN may allow bypass to occur which does not cause effluent limitations to be exceeded, but only if it is also for essential maintenance to assure efficient operation.
- c) Notification of bypass:
 - (1) Anticipated bypass. If EAST PENN knows in advance of the need for a bypass, it shall submit prior written notice, at least ten days before the date of the bypass, to the IDNR and City of Corydon.
 - (2) Unanticipated bypass. EAST PENN shall immediately notify the IDNR and the City of Corydon and submit a written notice to the POTW within 5 days. This report shall specify:
 - (i) A description of the bypass, and its cause, including its duration;
 - (ii) Whether the bypass has been corrected; and
 - (iii) The steps being taken or to be taken to reduce, eliminate and prevent a reoccurrence of the bypass.

4. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in accordance with section 405 of the Clean Water Act and Subtitles C and D of the Resource Conservation and Recovery Act.

SECTION C. MONITORING AND RECORDS

I. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this Order and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water or substance. All equipment used for sampling and analysis must be routinely calibrated, inspected and maintained to ensure their accuracy.

2. Flow Measurements

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

3. Analytical Methods to Demonstrate Continued Compliance

All sampling and analysis required by this Order shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, otherwise approved by EPA, or as specified in this Order.

4. Additional Monitoring by EAST PENN

If EAST PENN monitors any pollutant more frequently than required by this Order, using test procedures identified in Section C.3, the results of this monitoring shall be included in the self-monitoring reports.

5. Inspection and Entry

EAST PENN shall allow the EPA, IDNR, or the City of Corydon upon the presentation of credentials and other documents as may be required by law, to:

- a) Enter upon EAST PENN's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
- b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order;
- d) Sample or monitor, for the purposes of assuring compliance, any substances or parameters at any location; and
- e) Inspect any production, manufacturing, fabricating, or storage area where pollutants, regulated under the Order, could originate, be stored, or be discharged to the sewer system.

6. Retention of Records

- a) EAST PENN 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 Order, and records of all data used to complete the application for this Order, for a period of at least three years from the date of the sample, measurement, report or application.

This period may be extended by request of IDNR or EPA at any time.

- b) All records that pertain to matters that are the subject of special orders or any other enforcement or litigation activities brought by the IDNR or EPA shall be retained and preserved by EAST PENN until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

7. Record Contents

Records of sampling and analyses shall include:

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

8. Falsifying Information

Knowingly making any false statement on any report or other document required by this Order or knowingly rendering any monitoring device or method inaccurate, is a crime and may result in the imposition of criminal sanctions and/or civil penalties.

SECTION D. ADDITIONAL REPORTING REQUIREMENTS

1. Planned Changes

EAST PENN shall give notice to the EPA and IDNR 90 days prior to any facility expansion, production increase, or process modifications which results in new or substantially increased discharges or a change in the nature of the discharge.

2. Anticipated Noncompliance

EAST PENN shall give advance notice to the EPA and IDNR of any planned changes in the regulated facility or activity which may result in noncompliance with the requirements of this Order.

4. Duty to Provide Information

EAST PENN shall furnish to the EPA or IDNR, within 10 days any information which EPA or IDNR may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order, or to determine compliance with this Order. EAST PENN shall also, upon request, furnish to the EPA or IDNR within 10 days copies of any records required to be kept by this Order.

5. Signatory Requirements

All applications, reports, or information submitted to the EPA or IDNR must contain the following certification statement:

"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."

- a) By a responsible corporate officer, if the Industrial User submitting the reports is a corporation. For the purpose of this paragraph, 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 operation 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.
- b) By a general partner or proprietor if the Industrial User submitting the reports is a partnership or sole proprietorship respectively.

- c) The principal executive officer or director having responsibility for the overall operation of the discharging facility if the Industrial User submitting the reports is a Federal, State, or local governmental entity, or their agents.
- d) By a duly authorized representative of the individual designated in paragraph (a), (b), or (c) of this section if:
 - (i) the authorization is made in writing by the individual described in paragraph (a), (b), or (c);
 - (ii) the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or a well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - (iii) the written authorization is submitted to the IDNR.
- e) If an authorization under paragraph (d) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for the environmental matters for the company, a new authorization satisfying the requirements of paragraph (d) of this section must be submitted to the IDNR prior to or together with any reports to be signed by an authorized representative.

8. Civil and Criminal Liability

Nothing in this Order shall be construed to relieve EAST PENN from civil and/or criminal penalties for noncompliance under local, State or Federal laws or regulations.