

- (1) Before the promulgation of guidelines under Section 403(c) of the Clean Water Act (for determining degradation of the waters of the territorial seas, the contiguous zone, and the oceans) unless the Director determines permit issuance to be in the public interest; or
 - (2) After promulgation of guidelines under Section 403(c) of the Clean Water Act, when insufficient information exists to make a reasonable judgement whether the discharge complies with them.
- (h) To a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards. The owner or operator of a new source or new discharger proposing to discharge into a water segment which does not meet applicable water quality standards or is not expected to meet those standards even after the application of the effluent limitations required by Section 301(b)(1)(A) and 301(b)(1)(B) of the Clean Water Act, and for which the State or interstate agency has performed a pollutant load allocation for the pollutants to be discharged, must demonstrate, before the close of the public comment period, that:
- (1) There are sufficient remaining pollutant load allocations to allow for the discharge; and
 - (2) The existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards.

RULE 7 - CONFLICT OF INTEREST

- (a) Any board or body which approves all or portions of a permit shall not include as a member any person who receives, or has during the previous two years received, a significant portion of income directly or indirectly from permit holders or applicants for a permit.
- (b) For the purposes of this section:
 - (1) "Board or body" includes any individual, including the Director, who has or shares authority to approve all or portions of permits either in the first instance, as modified or reissued, or on appeal.
 - (2) "Significant portion of income" means 10 percent or more of gross personal income for a calendar year.
 - (3) "Permit holders or applicants for a permit" does not include any department or agency of state government.
 - (4) "Income" includes retirement benefits, consultant fees, interest, and stock dividends.
- (c) For the purposes of this section, income is not received "directly or indirectly from permit holders or applicants for a permit" when it is derived from mutual fund payments, or from other diversified investments for which the recipient does not know the primary sources of income.

RULE 8 - PERSONS REQUIRED TO APPLY FOR A RIPDES PERMIT

- (a) Any person who discharges or proposes to discharge pollutants into the waters and who does not have an effective permit, shall, except as provided in Rule 9, submit a complete application to the Department.
- (b) Any person who had a NPDES permit prior to the effective date of these regulations shall be notified in writing by the Department that the NPDES permit is continued in full force pursuant to Rule 13 of these regulations and that the person must apply for a RIPDES permit in accordance with the schedule for submission of applications in Rule 10(a).
- (c) When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.

RULE 9 - ACTIVITIES WHICH DO NOT REQUIRE A RIPDES PERMIT

- (a) Any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. This exclusion does not apply to rubbish, trash, garbage, or other such materials discharged overboard, nor to other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as an energy or mining facility, or when secured to a storage facility or a seafood processing facility, or when secured to the bed of the ocean, contiguous zone or waters of the United States for the purpose of mineral or oil exploration or development.
- (b) Any discharge of dredged or fill material into waters of the United States which are regulated under Section 404 of the Clean Water Act.
- (c) Any discharge in compliance with the instruction of an On-Scene Coordinator pursuant to 40 CFR 300 (The National Oil and Hazardous Substances Pollution Plan) or 33 CFR 153.305 (Pollution by Oil and Hazardous Substances).
- (d) Any introduction of pollutants from nonpoint source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands but not discharges from concentrated animal feeding operations, discharges from concentrated aquatic animal production facilities, discharges to aquaculture projects, and discharges from silvicultural point sources.
- (e) Return flows from irrigated agriculture.
- (f) Discharges of pollutants into a privately-owned treatment works, except as the Director may otherwise require to ensure compliance with applicable state and federal law and regulations.
- (g) Discharges covered by a general permit pursuant to Rule 32 except that the Director may, pursuant to Rule 54, require a person authorized by a general permit to apply for and obtain an individual RIPDES permit.

- (h) The introduction of sewage, industrial wastes, or other pollutants into publicly owned treatment works by indirect discharge. Plans or agreements to switch to this method of disposal in the future do not relieve a discharger of the obligation to have and comply with permits until all discharges of pollutants into waters of the United States are eliminated. This exclusion does not apply to the introduction of pollutants to privately owned treatment works or to other discharges through pipes, sewers, or other conveyances owned by a State, municipality or other party not leading to treatment works.
- (i) Discharges or disposal of pollutants into an underground or subsurface disposal well except that such activity must be approved by the Director pursuant to the Rhode Island Underground Injection Control Regulations.

RULE 10 - SCHEDULE FOR SUBMISSION OF APPLICATIONS

- (a) Any person who had an NPDES permit prior to the effective date of these regulations shall either apply for a RIPDES permit at least 180 days prior to the scheduled expiration date of the NPDES permit or if the schedule expiration date has already passed then within 60 days of receiving written notification from the Department that a RIPDES permit application is due.
- (b) Any person planning to continue discharging after the expiration date of an existing RIPDES permit must file an application for renewal at least 180 days prior to expiration of the existing permit.
- (c) All other new applicants for a RIPDES permit(s) shall in accordance with these regulations submit an application to the Department at least 180 days before the date on which the discharge is to commence except as otherwise provided in (d) below.
- (d) Facilities proposing a new discharge of storm water associated with industrial activity shall submit an application/notice of intent 180 days before that facility commences industrial activity which may reasonably be expected to result in a discharge of storm water associated with that industrial activity. Facilities described under Rule 31(b)(15)(x) or (b)(16)(i) shall submit applications at least ninety (90) days before the date on which construction is to commence. Different submittal dates may be required under the terms of applicable general permits.

RULE 11 - INFORMATION TO BE INCLUDED IN THE APPLICATION

- 11.01 All applications for a RIPDES permit shall be submitted to: Department of Environmental Management, Office of Water Resources, 235 Promenade Street, Providence, Rhode Island 02908-5767.
- 11.02 Any person who discharges or intends to discharge pollutants into the waters of the state must apply for a RIPDES permit except as otherwise provided in Rule 9. Any person required to have a RIPDES or NPDES permit by these regulations and who is currently discharging pollutants into the waters of the state without such permit, may be subject to immediate enforcement action and shall apply for a RIPDES permit within 60 days of the effective date of these regulations. Any person who has a valid NPDES permit shall apply for a RIPDES permit in accordance with the schedule in Rule 10. Pre-application conferences with the Department are strongly recommended. The following information, where applicable, shall be submitted:

- (a) Information required for a RIPDES Permit:
- (1) State name, mailing address and location of facility, type of waste to be discharged, and the activities conducted by the applicant which require a RIPDES permit.
 - (2) Provide a brief description of the nature of the business including the Standard Industrial Classification (SIC) codes which best reflect the principal products or services provided by the facility.
 - (3) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity, and whether the facility is located on Indian lands.
 - (4) Name of applicant's parent corporation.
 - (5) A listing of all permits, or orders of approval received or applied for by the applicant or its parent corporation at the site.
 - (6) The expiration date of existing permit or proposed start up date for new source. Applications must be received at least 180 days before proposed start up for new sources.
 - (7) A topographic map (or other if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities, each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area.
 - (8) Outfall location. Show the location of the discharge(s), treatment facilities and receiving stream on a plot plan prepared by a Licensed Professional Engineer or Land Surveyor, and on a U.S. Geological Survey (Quadrangle) map. The latitude and longitude for each discharge must be given to the nearest 15 seconds and the name and classification of the receiving water must be provided.
 - (9) Line Drawing. A line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units.
 - (10) Average flows and treatment. A narrative identification of each type of process, operation, or production area which contributes wastewater to the effluent for each outfall, including process wastewater, cooling water, and storm water runoff, the average flow which each process contributes, and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes, operations, or production areas may be described in general terms (for example, "dye-making reactor", "distillation tower"). For a privately owned treatment works, this information shall include

the identity of each user of the treatment works. If discharge is due to rain runoff, state acres of land drained, give runoff coefficient, and calculate flow based on a 10 year, 24-hour, storm frequency.

- (11) Intermittent flows. If any of the discharges described in paragraph (a)10 of this section are intermittent or seasonal, a description of the frequency, approximate time of day where practicable, duration and flow rate of each discharge occurrence.
- (12) Maximum production. If an effluent guidelines promulgated under Section 304 of the Clean Water Act applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline. The reported measure must reflect the actual production of the facility as required by Rule 17.
- (13) Improvements. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operations of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates.
- (14) Effluent characteristics. Information on the discharge of pollutants specified in this subparagraph (except information on storm water discharges associated with industrial activity which are to be provided as specified in Rule 31). When "quantitative data" for a pollutant is required, the applicant must collect a sample of effluent, analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136 and provide a description of the method. When no analytical method is approved, the applicant must comply with Rule 14.11(d). The requirements in paragraphs (a)(14)(iii) and (iv) of this section that an applicant must provide quantitative data for certain pollutants known or believed to be present does not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present and will be required to establish the presence of pollutants in intake water by the appropriate testing or submission of an evaluation of intake water. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform and all volatile organics. For all other pollutants, 24-hour composite samples must be used unless otherwise specified by the Department. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours. In addition, for discharges other than storm water discharges, the Director may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that the minimum of four (4) grab samples will be a representative sample of the effluent being discharged. For storm water discharges, all samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch in a 24 hour period and at least 72 hours from the previously measurable (greater than 0.1 in a 24 hour period inch rainfall) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area. For all applicants, a flow-weighted composite shall be taken for either the entire discharge or for the first

three hours of the discharge. The flow-weighted composite sample for a storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen minutes (applicants submitting permit applications for storm water discharges under Rule 31(d) (40 CFR 122.26(d)) may collect flow weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots, subject to the approval of the Director). However, a minimum of one grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than 24 hours. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required. For storm water discharge samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first thirty minutes (or as soon thereafter as practicable) of the discharge for all pollutants specified in Rule 31(c)(1) (40 CFR 122.26(c)(1)). For all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants specified in Rule 31 (40 CFR 122.26) except pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. The Director may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples under 40 CFR Part 136, and additional time for submitting data on a case-by-case basis. An applicant is expected to "know or have reason to believe" that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility.)

- (i) (A) Every applicant must report quantitative data for every outfall for the following pollutants:
 - (1) Biochemical Oxygen Demand (BOD);
 - (2) Chemical Oxygen Demand;
 - (3) Total Organic Carbon;
 - (4) Total Suspended Solids and Total Dissolved Solids;
 - (5) Ammonia (as N);
 - (6) Temperature (both winter and summer); and
 - (7) pH

- (B) At the applicant's request, the Department may waive the reporting requirements for one or more of the pollutants listed in paragraph (a)(14)(i)(A) of this section.
- (i) Each applicant with processes in one or more primary industry category (see Appendix D) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:
 - (A) The organic toxic pollutants in the fractions designated in Table I of Appendix A for the applicant's industrial category or categories unless the applicant qualifies as a small business under paragraph (a)(15) of this section. Table II of Appendix A lists the organic toxic pollutants in each fraction. The fractions resulted from the sample preparation required by the analytical procedures which uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes.
 - (B) The pollutants listed in Table III of Appendix A (the toxic metals, cyanide, and total phenols).
- (ii) Each applicant must report for each outfall quantitative data for the following pollutants, if the applicant knows or has reason to believe that the pollutant is discharged from the outfall:
 - (A) All pollutants listed in Table II or Table III of Appendix A (the toxic pollutants) for which quantitative data is not otherwise required under paragraph (a)(14)(ii) of this section except that an applicant qualifying as a small business under paragraph (a) (15) of this section is not required to analyze for the pollutants listed in Table II of Appendix A (the organic toxic pollutants).
 - (B) All pollutants in Table IV of Appendix A (certain conventional and nonconventional pollutants).
- (iii) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in Appendix A, Table V (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.
- (iv) Each applicant must report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

- (A) Uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5, TP); 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothionate (Ronnell); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or
 - (B) Knows or has reason to believe that TCDD is or may be present in an effluent.
- (15) Small business exemption. An applicant which qualifies as a small business may be exempt from the requirements in paragraphs (a)(14)(ii)(A) or (a)(14)(iii)(A) of this section to submit quantitative data for the pollutants listed in Table II of Appendix B (the organic toxic pollutants); An applicant may qualify if its gross total annual sales averages less than \$100,000 per year (in second quarter 1980 dollars). Applicants who feel they qualify should submit a request for exemption to the Department. The Department shall consider the toxicity of the pollutant in making a decision to exempt an applicant pursuant to this paragraph.
 - (16) Toxics used or manufactured. A listing of any toxic pollutant which the applicant does or expects that it will, during the next 5 years, use or manufacture as an intermediate or final product or byproduct.
 - (17) Potential discharges. A description of the expected levels of and the reasons for any discharges of pollutants which the applicant knows or has reason to believe will exceed two times the values reported in paragraph (a)(14) of this section over the next 5 years.
 - (18) Biological toxicity tests. An identification of biological toxicity tests which the applicant knows or has reason to believe have been made within the last 3 years on any of the applicant's discharges or on a receiving water in relation to a discharge.
 - (19) Contract analyses. If a contract laboratory or consulting firm performed any of the analyses required by paragraph (a)(14) of this section, the identity of each laboratory or firm and the analyses performed.
 - (20) Additional information. In addition to the information reported on the application form, applicants shall provide to the Department upon the Department's request, such other information as the Department may reasonably require to assess the discharges of the facility and to determine whether to issue a RIPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and requirements to determine the causes of the toxicity.

11.03 Application requirements for new and existing concentrated animal feeding operations and aquatic animal production facilities. New and existing concentrated animal feeding operations and concentrated aquatic animal production facilities shall provide the following information:

- (a) For concentrated animal feeding operations:

- (1) The type and number of animals in open confinement and housed under roof.
- (2) The number of acres used for confinement feeding.
- (3) The designs basis for the runoff diversion and control system, if one exists, including the number of acres of contributing drainage, the storage capacity, and the design safety factor.

(b) For concentrated aquatic animal production facilities:

- (1) The maximum daily and average monthly flows from each outfall.
- (2) The number of ponds, raceways, and similar structures.
- (3) The name of the receiving water and the source of intake water.
- (4) For each species of aquatic animals, the total yearly and maximum harvestable weight.
- (5) The calendar month of maximum feeding and the total mass of food fed during that month.

11.04 The Department may require that an applicant for a RIPDES permit provide additional data, reports, specifications, plans or other information concerning the existing or proposed pollution control program.

11.05 Recordkeeping. Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted to the Department under these regulations for a period of at least 5 years from the date the application is signed.

11.06 Special provisions for applications for new sources.

(a) The owner or operator of any facility which may be a new source (as defined in Rule 3) must comply with the provisions of this paragraph.

(b)

- (1) Before beginning any on-site construction as defined in 40 CFR 122.29, the owner or operator of any facility which may be a new source must submit information to the Director so that he or she can determine if the facility is a new source. The Director may request any additional information needed to determine whether the facility is a new source.
- (2) The Director shall make an initial determination whether the facility is a new source within 30 days of receiving all necessary information under paragraph (b)(1) of this section.

- (c) The Director shall issue a public notice in accordance with Rule 41 of the new source determination under paragraph (b) of this section.
- (d) Any interested person may challenge the Director's initial new source determination by requesting an evidentiary hearing under Rule 49 within 30 days of issuance of the public notice of the initial determination. The Director may defer the evidentiary hearing in the determination until after a final permit decision is made, and consolidate the hearing on the determination with any hearing on the permit.

RULE 12 - SIGNATORIES TO PERMIT APPLICATIONS AND REPORTS

- (a) Applications. All permit applications shall be signed as follows:
 - (1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - (ii) The manager of one or more manufacturing, production, or operating facilities 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 the proprietor, respectively; or
 - (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - (i) The chief executive officer of the agency, or
 - (ii) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- (b) Reports. 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 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, or position of equivalent responsibility. (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.
- (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 Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
 - (d) Certification. Any person signing a document under 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 the 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.

RULE 13 - CONTINUATION OF NPDES PERMITS AND EXPIRED RIPDES PERMITS

- (a) The conditions of an NPDES permit or an expired RIPDES permit are continued in force until the effective date of a new RIPDES permit if: the permittee has submitted a timely and complete application for a RIPDES permit or an application for a renewal of the permit, and the Department through no fault of the permittee, does not issue a new permit with an effective date under Rule 46 on or before the expiration date of the previous permit (e.g. when issuance is impracticable due to time or resource constraints).
- (b) Permits continued under this section remain fully effective and enforceable.
- (c) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit the Department may choose to do any or all of the following:
 - (1) Initiate enforcement action based upon the permit which has been continued;
 - (2) Issue a notice of intent to deny the new permit, under Rule 41. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
 - (3) Issue a new permit with appropriate conditions; or

- (4) Take other actions authorized by these regulations or the General Laws of Rhode Island.

RULE 14 - CONDITIONS APPLICABLE TO ALL PERMITS

- 14.01 All conditions applicable to all permits shall be incorporated into the permit either expressly or by reference. A specific citation to these or other regulations shall be given in the permit. The following conditions apply to all permits:
- 14.02 Duty to comply
- (a) The permittee shall comply with all conditions of this permit. No pollutant shall be discharged more frequently than authorized or at a level in excess of that which is authorized by the permit. The discharge of any pollutant not specifically authorized in the RIPDES permit or listed and quantified in the RIPDES application shall constitute a violation of the permit. Any permit noncompliance constitutes a violation of the State Act or other authority of these regulations and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
 - (b) A permittee shall not achieve any effluent concentration by dilution. Nor shall a permittee increase the use of process water or cooling water or otherwise attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve permit limitations or water quality standards.
 - (c) The permittee shall comply with applicable effluent standards or prohibitions established under Section 307(a) of the Clean Water 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.
- 14.03 Duty to reapply. If the permittee wishes to continue an activity regulated by a RIPDES permit after the expiration date of the permit, the permittee shall apply for and obtain a new permit.
- 14.04 Need to halt or reduce not a defense.
- (a) 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.
- 14.05 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.
- 14.06 Proper operation, maintenance, and operator licensing. The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment works, facilities, and systems of treatment and control (and related appurtenances) for collection and treatment which are installed or used by the permittee for water pollution control and abatement to achieve compliance with the terms and conditions of the permit.

Proper operation and maintenance includes but is not limited to effective performance based on designed facility removals, adequate funding, effective management, adequate operator staffing and training and adequate laboratory and process controls including quality assurance procedures as determined to be appropriate by the Director. This provision requires the filing of an Operation and Maintenance Plan which describes backup or auxiliary facilities or similar systems to assure compliance with permit conditions.

- 14.07 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 a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- 14.08 Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.
- 14.09 Duty to provide information. The permittee shall furnish to the Department within a reasonable time, any information which the Department 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 Department upon request, copies of records required to be kept by this permit.
- 14.10 Inspection and entry. The permittee shall allow the Department 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 discharge source is or might be located or in which monitoring equipment or records required by a permit are kept for purposes of inspection, sampling or copying;
 - (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 State Act, any substances or parameters at any location.
- 14.11 Monitoring and Records
 - (a) All permits shall specify:
 - (1) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);
 - (2) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity, when appropriate, continuous monitoring;

(3) Applicable reporting requirements based upon the impact of the regulated activity and as specified in these regulations but in no case less than once a year.

(b) The permittee shall monitor:

(1) The mass (or other measurement specified in the permit) for each pollutant limited in the permit;

(2) The volume of effluent discharged from each outfall;

(3) Other measurements as appropriate; including pollutants in internal waste streams, pollutants in intake water for net limitations; frequency, rate of discharge, etc. for noncontinuous discharges; and pollutants subject to notification requirements under Rule 16.01.

(c) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(d) All analyses shall be performed in accordance with the analytical test procedures approved under 40 CFR Part 136 or subsequently established by EPA. Where no approved test procedure is available, the applicant must indicate a suitable analytical procedure and must provide the Department with literature references or a detailed description of the procedure. The Department may consider such method as appropriate procedure and may require its use in the RIPDES permit.

14.12 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 5 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

14.13 Records of monitoring information shall include:

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

(b) The individual(s) who performed the sampling of measurements;

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

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

(e) The analytical techniques or methods used;

(f) The results of such analyses; and

(g) The volume of effluent discharged at the time of sampling or measurement.

- 14.14 Monitoring results shall be reported on a Discharge Monitoring Report (DMR) and on the Department's Monitoring Report Form (MRF).
- 14.15 If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR 136 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 and MRF.
- 14.16 Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- 14.17 Reporting requirements.
- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility.
 - (b) Anticipated noncompliance. The permittee shall give reasonable advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
 - (c) Transfers. The permit is not transferable to any person except after notice to the Department. The Department may require modification, revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.
 - (d) Monitoring reports. Monitoring results shall be reported at the intervals specified in the permit.
 - (e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- 14.18 Reporting.
- (a) The permittee shall immediately report any noncompliance which may endanger health or the environment. Any information shall be provided orally when the permittee becomes aware of the circumstances by calling DEM, Operations & Maintenance Section at 222-4700 or 222-3070 during non-business hours. 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.
 - (b) The following shall be included as information which must be reported immediately.
 - (1) Any unanticipated bypass which exceeds any effluent limitation in the permit.
 - (2) Any upset which exceeds any effluent limitation on the permit.

(3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit.

(c) The Director may waive the written report in a case-by-case basis for reports under paragraph (b) of this section if the oral report has been received within 24 hours.

14.19 Other noncompliance. The permittee shall report all instances of noncompliance, not otherwise reported under subsections 14.17 and 14.18 at the time monitoring reports are submitted. The reports shall contain the information required in subsection 14.18.

14.20 Bypass

(a) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitation 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 (b) and (c) of this section.

(b) Notice.

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

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Rule 14.18 (24-hour notice).

(c) Prohibition of bypass.

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

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; for purposes of this section "severe property damage" means:

(A) 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.

(ii) 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 the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The permittee submitted notices as required under paragraph (b) of this section.