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**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

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ENVIR. APPEALS BOARD

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In re: NPDES Permit No. MA0004120
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Invensys Systems, Inc.
(formerly named "The Foxboro Company –
Neponset Plant)
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MOTION FOR EXTENSION OF
TIME TO FILE PETITION FOR
REVIEW

MOTION FOR EXTENSION OF TIME

Invensys Systems, Inc. ("Invensys") requests that the Environmental Appeals Board ("EAB") grant Invensys a 15-day extension to September 4, 2015 to file its Petition for Review for NPDES Permit No. MA0004120 (Permit) issued by the Environmental Protection Agency ("EPA") Region 1 by mail on July 17, 2015. A copy of the Permit is attached hereto as Exhibit 1, and incorporated by reference. The current deadline for filing a Petition for Review is August 20, 2015. An extension is permissible for good cause shown under 40 C.F.R. 124.19(g). Invensys has not requested a previous extension.

In support of its motion, Invensys seeks additional time because items to be addressed in its Petition for Review require detailed technical and regulatory analysis that was not possible prior to the Permit's issuance. On August 3, 2011 EPA issued for public comment a draft of NPDES Permit No. MA0004120. Invensys submitted extensive comments on October 31, 2011. EPA issued the final Permit on July 17, 2015. In the interim, on June 29, 2015 – just 19 days prior to issuance of the Permit – EPA promulgated the Clean Water Rule: Definition of "Waters

of the United States.” 80 Fed. Reg. 37053, 37053-37127 (June 29, 2015); *See* 40 C.F.R. 230.3 (effective August 28, 2015) (“Clean Water Rule”). The EPA relies on this rule and related EPA guidance documents in the Administrative Record to claim Clean Water Act jurisdiction over two receiving waters not identified in prior Invensys permits: “Gudgeon Brook” and “Robinson Brook.” All prior NPDES permits for this facility denominated the receiving water of Invensys’ discharge solely as Neponset Reservoir. Invensys respectfully submits that 30 days is insufficient to examine the hydrological characteristics of these two – previously unregulated – receiving waters in light of the Clean Water Rule. Fifteen additional days would be of great benefit to Invensys, with minimal prejudice to EPA and at no harm to the receiving waters (the Permit does not become effective until October 1, 2015).

Invensys contacted the EPA Office of Regional Counsel for Region 1 via phone and e-mail on July 27 and July 28, 2015 to determine whether the EPA would consent or object to the motion. EPA does not consent to the motion.

For the reasons set forth, Invensys respectfully requests that its Motion for Extension of Time to File Petition for Review be granted and that the EAB extend the deadline for Invensys to file its Petition for Review up to and including September 4, 2015.

Respectfully submitted,

By:  _____

Seth D. Jaffe (BBO No. 548217)
Jesse Harlan Alderman (BBO No. 678604)
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155 Seaport Boulevard
Boston, MA 02210-2600
617-832-1000 | sjaffe@foleyhoag.com

Dated: July 28, 2015

CERTIFICATE OF SERVICE

I, Jesse Harlan Alderman, hereby certify that on July 28, 2013, I caused to be served a true and correct copy of the foregoing Motion for Extension of Time to File Petition for Review, via Federal Express and e-mail, to the following:

Ken Moraff, Director
Office of Ecosystem Protection
Environmental Protection Agency – Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912


 _____
Jesse Harlan Alderman (BBO No. 678604)

Exhibit 1

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

In compliance with the provisions of the Federal Clean Water Act, as amended, [33 U.S.C. §§1251 et seq. (the "CWA")], and the Massachusetts Clean Waters Act, as amended, (MGL Chap. 21, §§26-53),

**Invensys Systems, Inc.
(formerly named "The Foxboro Company - Neponset Plant")**

is authorized to discharge from a facility located at

**38 Neponset Avenue
Foxboro, MA 02035**

to receiving waters named the **Gudgeon Brook/Neponset Reservoir (001), and
Robinson Brook (002)**

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

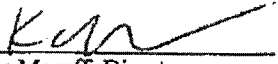
This permit will become effective on the first day of the calendar month immediately following sixty days after signature.

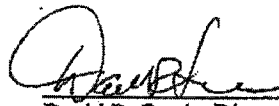
This permit expires at midnight, five (5) years from the last day of the month preceding the effective date.

This permit supersedes the permit issued on September 30, 1991.

This permit consists of 13 pages in Part I including effluent limitations, monitoring requirements, and Attachment A (USEPA Region 1 Freshwater Chronic Toxicity Test Procedure and Protocol (May, 2007)), and 25 pages in Part II including Standard Conditions and Definitions.

Signed this 17th day of July, 2015


Ken Moraff, Director
Office of Ecosystem Protection
Environmental Protection Agency
Boston, MA


David R. Ferris, Director
Massachusetts Wastewater Management Program
Department of Environmental Protection
Commonwealth of Massachusetts
Boston, MA

PART I**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1.a. During the period beginning the effective date and lasting through expiration, the permittee is authorized to discharge effluent from outfall serial number 001 (i.e., untreated ground water infiltration, untreated ground water from sump pumps in facility basements, treated ground water from a dry weather treatment system (treated for VOCs) and storm water) to Gudgeon Brook. Such discharges will be limited and monitored by the permittee as specified below.¹

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Discharge Limitation</u>		<u>Monitoring Requirement</u>	
		<u>Average Monthly</u>	<u>Maximum Daily</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Rainfall / Precipitation ²	inches	Report	Report	Per Discharge Event	Total
Flow	MGD	Report	Report	Daily	See Footnote *3
pH	st. units	(See Footnote *4)		4/Week	Grab
E. coli Bacteria (April 1 – Oct. 31) ⁵	cfu/100 ml	Report	Report	1/Month	Grab
Copper, Total ⁷	ug/l	6.1	8.8	See Footnote *6	24-Hour Composite
Lead, Total ⁸	ug/l	1.7	Report	See Footnote *6	24-Hour Composite
Zinc, Total	ug/l	78.8	78.8	See Footnote *6	24-Hour Composite
Cadmium, Total ⁹	ug/l	0.2	1.3	See Footnote *6	24-Hour Composite
Aluminum, Total	ug/l	87	Report	See Footnote *6	24-Hour Composite
Tetrachloroethylene	ug/l	Report	Report	See Footnote *6	Grab
Whole Effluent Toxicity, C-NOEC ^{10,11,12}	%	—	100	1/Quarter	24-Hour Composite

Footnotes:

- *1. Samples taken in compliance with the monitoring requirements stated above will be taken at a point prior to mixing with other streams, will be representative of the discharge, and will be taken at the point of discharge into Gudgeon Brook (unless otherwise specified). All sampling, preservation, and analysis of samples will be in accordance with EPA approved methods found at 40 CFR Part 136 and all sampling shall be taken at the same time of day and the same day(s) of the week for each month. Occasional deviations from the routine sampling program are allowed, but the reason for the deviation shall be documented in correspondence appended to the applicable discharge monitoring report.

The permittee shall measure sump pump discharges from sumps H, I, O, and Z on a continuous basis. The time and duration of each sump pump activation, as well as an estimate of the discharge volume resulting from each sump pump activation, shall be reported in an attachment with each monthly Discharge Monitoring Report (see Footnote #6).

The sampling frequency during the term of the permit may be modified if the permittee provides sufficient justification that less frequent monitoring will adequately characterize the discharge(s) and ensure attainment of water quality standards. The permittee is required to continue sampling as specified in the permit until EPA informs the permittee in writing that the requirements have been modified.

- *2. Report the National Weather Service data from the closest location to the facility for which National Weather Service data is available for each sampling event. The permittee will also report the intensity, duration, and volume of each precipitation event during, and for the three (3) days prior to, each sampling event. The precipitation data shall be reported in an attachment with each monthly Discharge Monitoring Report (see Footnote #6).
- *3. The permittee will estimate the flow on a daily basis at the discharge point located in manhole #45 (or after manhole #45), and prior to discharge into Gudgeon Brook. Documentation of the method utilized to estimate flows, including information on the accuracy of the method, shall be submitted within 90 days of the effective date of the permit.
- *4. The pH of the effluent will not be less than 6.5 nor greater than 8.3 standard units at any time.
- *5. *Escherichia coli* (*E. coli*) bacteria monitoring requirements are effective from April 1st through October 31st. The monthly average values shall be expressed as geometric means.
- *6. The permittee will conduct sampling once per week. In addition to being reported on the monthly Discharge Monitoring Report, the individual sampling results, along with the sampling date, the sump pump activation data, and the precipitation data, shall be reported in a table format as an attachment with each monthly Discharge Monitoring Report.
- *7. The minimum quantification level (ML) for copper is defined as 3.0 ug/l. This value is the minimum quantification level for copper using the Furnace Atomic Absorption analytical method. Sample results of 3.0 ug/l or less will be reported as zero on the discharge monitoring report. All sample results that are below the ML but above the method detection limit shall be reported on a separate attached document to be submitted with the monthly discharge monitoring reports.
- *8. The minimum quantification level (ML) for lead is defined as 3.0 ug/l. This value is the minimum

quantification level for lead using the Furnace Atomic Absorption analytical method. Sample results of 3.0 ug/l or less shall be reported as zero on the discharge monitoring report. All sample results that are below the ML but above the method detection limit shall be reported on a separate attached document to be submitted with the monthly discharge monitoring reports.

- *9 The minimum quantification level (ML) for cadmium is defined as 0.5 ug/l. This value is the minimum quantification level for lead using the Furnace Atomic Absorption analytical method. Sample results of 0.5 ug/l or less shall be reported as zero on the discharge monitoring report. All sample results that are below the ML but above the method detection limit shall be reported on a separate attached document to be submitted with the monthly discharge monitoring reports.
- *10. The permittee will conduct chronic toxicity tests four times per year. The permittee will conduct the chronic tests using the daphnid, Ceriodaphnia dubia and the fathead minnow, Pimephales promelas. Toxicity test samples will be collected during the first full week of the months of March, June, September, and December. The test results will be submitted by the last day of the month following the completion of the test. The results are due April 30th, July 31st, October 31st, and January 31st, respectively. The tests must be performed in accordance with test procedures and protocols specified in Attachment A of this permit. Chemical specific monitoring results from quarterly whole effluent toxicity testing can be used to satisfy the weekly monitoring requirement for the same chemical.

Test Dates during first full week of:	Submit Results By:	Test Species	Chronic Limit C-NOEC
March	April 30 th	<u>Ceriodaphnia dubia</u>	≥ 100 %
June	July 31 st	(Daphnid)	
September	October 31 st	<u>Pimephales promelas</u>	
December	January 31 st	(Fathead minnow)	
See Attachment A			

After submitting four consecutive sets of whole effluent toxicity (WET) test results, all of which demonstrate compliance with the WET permit limits, the permittee may request a reduction of the WET testing requirements. The permittee is required to continue testing as specified in the permit until EPA informs the permittee in writing that the requirements have been modified.

- *11. C-NOEC (chronic-no observed effect concentration) is defined as the highest concentration of toxicant or effluent to which organisms are exposed in a life cycle or partial life cycle test which causes no adverse effect on growth, survival, or reproduction at a specific time of observation. The "100%" limit is defined as a sample which is composed of 100% effluent (no dilution). This is a maximum daily limit.
- *12. The permittee is authorized to use an alternate dilution water in accordance with Attachment A and is not required to run a receiving water control.

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1.b. During the period beginning the effective date and lasting through expiration, the permittee is authorized to discharge effluent from outfall serial number 002 (untreated ground water infiltration, untreated ground water from sump pumps in facility basements, and storm water) to Robinson Brook. Such discharges will be limited and monitored by the permittee as specified below *1

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Discharge Limitation</u>			<u>Monitoring Requirement</u>
		<u>Average Monthly</u>	<u>Maximum Daily</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Rainfall / Precipitation *2	inches	Report	Report	Per Discharge Event	Total
Flow	MGD	Report	Report	Daily *3	See Footnote *3
pH	st. units	(See Footnote *4)		4 /Week	Grab
Copper, Total *5	ug/l	6.1	8.8	See Footnote *6	24-Hour Composite
Lead, Total *7	ug/l	1.7	Report	See Footnote *6	24-Hour Composite
Zinc, Total	ug/l	78.8	78.8	See Footnote *6	24-Hour Composite
Cadmium, Total *8	ug/l	0.2	1.3	See Footnote *6	24-Hour Composite
Aluminum, Total	ug/l	87	Report	See Footnote *6	24-Hour Composite
Iron, Total	ug/l	1000	Report	See Footnote *6	24-Hour Composite
Mercury, Total *9	ug/l	Report	Report	See Footnote *6	24-Hour Composite
Trichloroethylene	ug/l	30	Report	See Footnote *6	Grab
Tetrachloroethylene	ug/l	3.3	Report	See Footnote *6	Grab
Whole Effluent Toxicity, LC ₅₀ *10,*11,*13	%	—	100	1 /Quarter	24-Hour Composite
Whole Effluent Toxicity, C-NOEC *10,*12,*13	%	—	100	1 /Quarter	24-Hour Composite

Footnotes:

- *1. Samples taken in compliance with the monitoring requirements stated above shall consist of a flow weighted composite from manhole #26 and manhole #39. All sampling, preservation, and analysis of samples will be in accordance with EPA approved methods found at 40 CFR Part 136 and all sampling shall be taken at the same time of day and the same day(s) of the week for each month. Occasional deviations from the routine sampling program are allowed, but the reason for the deviation shall be documented in correspondence appended to the applicable discharge monitoring report.

The permittee shall monitor sump pump discharges from sumps A, B, C, D, E, J, and L on a continuous basis. The time and duration of each sump pump activation, as well as an estimate of the discharge volume resulting from each sump pump activation, shall be reported in an attachment with each monthly Discharge Monitoring Report (see Footnote #6).

The sampling frequency during the term of the permit may be modified if the permittee provides sufficient justification that less frequent monitoring will adequately characterize the discharge(s) and ensure attainment of water quality standards. The permittee is required to continue sampling as specified in the permit until EPA informs the permittee in writing that the requirements have been modified.

- *2. Report the National Weather Service data from the closest location to the facility for which National Weather Service data is available for each sampling event. The permittee will also report the intensity, duration, and volume of each precipitation event during, and for the three (3) days prior to, each sampling event. The precipitation data shall be reported in an attachment with each monthly Discharge Monitoring Report (see Footnote #6).
- *3. The permittee will estimate the flow on a daily basis from manhole #26 and manhole #39. Documentation of the method utilized to estimate flows, including information on the accuracy of the method, shall be submitted within 90 days of the effective date of the permit.
- *4. The pH of the effluent will not be less than 6.5 nor greater than 8.3 standard units at any time.
- *5. The minimum quantification level (ML) for copper is defined as 3.0 ug/l. This value is the minimum quantification level for copper using the Furnace Atomic Absorption analytical method. Sample results of 3.0 ug/l or less will be reported as zero on the discharge monitoring report. All sample results that are below the ML but above the method detection limit shall be reported on a separate attached document to be submitted with the monthly discharge monitoring reports.
- *6. The permittee will conduct sampling once per week. In addition to being reported on the monthly Discharge Monitoring Report, the individual sampling results, along with the sampling date, the sump pump activation data, and the precipitation data, shall be reported in a table format as an attachment with each monthly Discharge Monitoring Report.
- *7. The minimum quantification level (ML) for lead is defined as 3.0 ug/l. This value is the minimum quantification level for lead using the Furnace Atomic Absorption analytical method. Sample results of 3.0 ug/l or less shall be reported as zero on the discharge monitoring report. All sample results that are below the ML but above the method detection limit shall be reported on a separate attached document to be submitted with the monthly discharge monitoring reports.

- *8. The minimum quantification level (ML) for cadmium is defined as 0.5 ug/l. This value is the minimum quantification level for lead using the Furnace Atomic Absorption analytical method. Sample results of 0.5 ug/l or less shall be reported as zero on the discharge monitoring report. All sample results that are below the ML but above the method detection limit shall be reported on a separate attached document to be submitted with the monthly discharge monitoring reports.
- *9. The minimum quantification level (ML) for mercury shall be 0.2 ug/l. If any future sampling indicates that there are detectable levels of mercury in outfall 002, the permittee shall notify EPA and MassDEP in an attachment to the DMR for that month and within three months of obtaining the sampling result shall, develop and submit a plan to EPA and MassDEP for eliminating the source of the mercury contamination, and within one year of obtaining the sampling result shall complete implementation of the plan and submit a report to EPA and MassDEP documenting the results.
- *10. The permittee will conduct chronic (and modified acute) toxicity tests four times per year. The chronic test may be used to calculate the acute LC₅₀ at the 48 hour exposure interval. The permittee will conduct the chronic tests using the daphnid, Ceriodaphnia dubia and the fathead minnow, Pimephales promelas. Toxicity test samples will be collected during the first full week of the months of March, June, September, and December. The test results will be submitted by the last day of the month following the completion of the test. The results are due April 30th, July 31th, October 31th, and January 31th, respectively. The tests must be performed in accordance with test procedures and protocols specified in Attachment A of this permit. Chemical specific monitoring results from quarterly whole effluent toxicity testing can be used to satisfy the weekly monitoring requirement for the same chemical.

Test Dates during first full week of:	Submit Results By:	Test Species	Acute Limit LC ₅₀	Chronic Limit C-NOEC
March June September December	April 30 th July 31 th October 31 th January 31 th	<u>Ceriodaphnia dubia</u> (Daphnid) <u>Pimephales promelas</u> (Fathead minnow) See Attachment A	≥ 100 %	≥ 100 %

After submitting four consecutive sets of whole effluent toxicity (WET) test results, all of which demonstrate compliance with the WET permit limits, the permittee may request a reduction of the WET testing requirements. The permittee is required to continue testing as specified in the permit until EPA informs the permittee in writing that the requirements have been modified.

- *11. The LC₅₀ is the concentration of effluent which causes mortality to 50% of the test organisms. Therefore, a 100% limit means that a sample of 100% effluent (no dilution) will cause no more than a 50% mortality rate.
- *12. C-NOEC (chronic-no observed effect concentration) is defined as the highest concentration of toxicant or effluent to which organisms are exposed in a life cycle or partial life cycle test which causes no adverse effect on growth, survival, or reproduction at a specific time of observation. The "100%" limit is defined as a sample which is composed of 100% effluent (no dilution). This is a maximum daily limit.

- *13. The permittee is authorized to use an alternate dilution water in accordance with Attachment A and is not required to run a receiving water control.

Part I.A.1. (continued)

- c. In addition to the effluent and monitoring requirements listed in Part I.A.1.a. and b. of this permit, the discharge will not cause or contribute to an exceedance of state water quality standards.
 - d. There will be no discharge of floating, suspended and settleable solids in concentrations and combinations that would impair any use assigned to Class B waters or would cause aesthetically objectionable conditions or impair the benthic biota or degrade the chemical composition of the bottom.
 - e. The effluent will be free from oil and grease and petrochemicals that produce a visible film on the surface of the water, impart an oily taste to the water or an oily or other undesirable taste to the edible portions of aquatic life, coat the banks or bottom of the water course, or are deleterious or become toxic to aquatic life.
2. All existing manufacturing, commercial, mining, and silvaculture dischargers must notify the Director as soon as they know or have reason to believe:
- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels".
 - (1) One hundred micrograms per liter (100 ug/l);
 - (2) Two hundred micrograms per liter (200 ug/l for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2, 4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR Part 122.21(g)(7); or
 - (4) The level established by the Director in accordance with 40 C.F.R. Part 122.44(f).
 - b. That activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels".
 - (1) Five hundred micrograms per liter (500 ug/l);
 - (2) One milligram per liter (mg/l) for antimony;
 - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR Part 122.21(g)(7).
 - (4) The level established by the Director in accordance with 40 CFR Part 122.44(f).

- c. That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application.
3. This permit may be modified, or revoked and reissued, on the basis of new information in accordance with 40 CFR §122.62.
4. Toxics Control
 - a. The permittee will not discharge any pollutant or combination of pollutants in toxic amounts.
 - b. Any toxic components of the effluent will not result in any demonstrable harm to aquatic life or violate any state or federal water quality standard which has been or may be promulgated. Upon promulgation of any such standard, this permit may be revised or amended in accordance with such standards.
5. Numerical Effluent Limitations for Toxicants

EPA or the MassDEP may use the results of the toxicity tests and chemical analysis conducted pursuant to this permit, as well as national water quality criteria developed pursuant to Section 304(a)(1) of the Clean Water Act (CWA), state water quality criteria, and any other appropriate information or data, to develop numerical effluent limitations for any pollutants, including but not limited to those pollutants listed in Appendix D of 40 CFR Part 122.

B. UNAUTHORIZED DISCHARGES

This permit only authorizes discharge from two outfalls in accordance with the terms and conditions contained herein. Discharges of wastewater from any other point sources not authorized by this permit or other NPDES permit authorizing discharges from this facility, will be reported in accordance with Section D.1.e.(1) of the General Requirements of this permit (Twenty-four hour reporting).

C. STORM WATER POLLUTION PREVENTION PLAN

1. The permittee shall develop, implement, and maintain a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce, or prevent, the discharge of pollutants in storm water to the receiving waters identified in this permit. The SWPPP shall be a written document that is consistent with the terms of this permit. Additionally, the SWPPP shall serve as a tool to document the permittee's compliance with the terms of this permit. Development guidance and a recommended format for the SWPPP are available on the EPA website for the Multi-Sector General Permit (MSGP) for Storm water Discharges Associated with Industrial Activities (<http://cfpub.epa.gov/npdes/stormwater/msgp.cfm>).
2. The SWPPP shall be completed or updated and certified by the permittee **within 90 days after the effective date of this permit**. The permittee shall certify that its SWPPP has been completed or updated and shall be signed in accordance with the requirements identified in 40 CFR §122.22. A copy of this initial certification shall be sent to EPA and MassDEP **within one hundred and twenty (120) days of the effective date of this permit**.
3. The SWPPP shall be prepared in accordance with good engineering practices and shall be consistent with the general provisions for SWPPPs included in the most current version of the MSGP. In the current MSGP (effective September 29, 2008, modified May 27, 2009), the general SWPPP provisions are included in Part 5.

Specifically, the SWPPP shall document the selection, design, and installation of control measures and contain the elements listed below:

- a. A pollution prevention team with collective and individual responsibilities for developing, implementing, maintaining, revising and ensuring compliance with the SWPPP.
 - b. A site description which includes the activities at the facility; a general location map showing the facility, receiving waters, and outfall locations; and a site map showing the extent of significant structures and impervious surfaces, directions of storm water flows, and locations of all existing structural control measures, storm water conveyances, pollutant sources (identified in Part 3.c. below), storm water monitoring points, storm water inlets and outlets, and industrial activities exposed to precipitation such as, storage, disposal, material handling.
 - c. A summary of all pollutant sources which includes a list of activities exposed to storm water, the pollutants associated with these activities, a description of where spills have occurred or could occur, a description of non-storm water discharges, and a summary of any existing storm water discharge sampling data.
 - d. A description of all storm water controls, both structural and non-structural.
 - e. A schedule and procedure for implementation and maintenance of the control measures described above and for the quarterly inspections and best management practices (BMPs) described below.
4. The SWPPP shall document the appropriate best management practices (BMPs) implemented or to be implemented at the facility to minimize the discharge of pollutants in storm water to waters of the United States and to satisfy the non-numeric technology-based effluent limitations included in this permit. At a minimum, these BMPs shall be consistent with the control measures described in the most current version of the MSGP. In the current MSGP (effective September 29, 2008, modified May 27, 2009), these control measures are described in Part 2.1.2. Specifically, BMPs must be selected and implemented to satisfy the following non-numeric technology-based effluent limitations:
- a. Minimizing exposure of manufacturing, processing, and material storage areas to storm water discharges.
 - b. Good housekeeping measures designed to maintain areas that are potential sources of pollutants.
 - c. Preventative maintenance programs to avoid leaks, spills, and other releases of pollutants in storm water discharged to receiving waters.
 - d. Spill prevention and response procedures to ensure effective response to spills and leaks if or when they occur.
 - e. Erosion and sediment controls designed to stabilize exposed areas and contain runoff using structural and/or non-structural control measures to minimize onsite erosion and sedimentation, and the resulting discharge of pollutants.
 - f. Runoff management practices to divert, infiltrate, reuse, contain, or otherwise reduce storm water runoff.
 - g. Proper handling procedures for salt or materials containing chlorides that are used for snow and ice control.

5. All areas with industrial materials or activities exposed to storm water and all structural control used to comply with effluent limits in this permit shall be inspected, at least once per quarter, by qualified personnel with one or more members of the storm water pollution prevention team. Inspections shall begin during the 1st full quarter after the effective date of this permit. EPA considers quarters as follows: January to March; April to June; July to September; and October to December. Each inspection must include a visual assessment of storm water samples from each outfall. The permittee shall document the following information for each inspection and maintain the records along with the SWPPP:

- a. The date and time of the inspection and at which any samples were collected;
- b. The name(s) and signature(s) of the inspector(s)/sample collector(s);
- c. Weather information and a description of any discharges occurring at the time of the inspection;
- d. Results of observations of storm water discharges, including any observed discharges of pollutants and the probable sources of those pollutants;
- e. Any control measures needing maintenance, repairs or replacement; and,
- f. Any additional control measures needed to comply with the permit requirements.

6. The permittee shall amend and update the SWPPP within 14 days of any changes at the facility that result in a significant effect on the potential for the discharge of pollutants to the waters of the United States. Such changes may include, but are not limited to: a change in design, construction, operation, or maintenance, materials storage, or activities at the facility; a release of a reportable quantity of pollutants as described in 40 CFR §302; or a determination by the permittee or EPA that the BMPs included in the SWPPP appear to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity.

7. Any amended, modified, or new versions of the SWPPP shall be re-certified and signed by the permittee in accordance with the requirements identified in 40 CFR §122.22. The permittee shall also certify, at least annually, that the previous year's inspections and maintenance activities were conducted, results recorded, records maintained, and that the facility is in compliance with this permit. If the facility is not in compliance with any aspect of this permit, the annual certification shall state the non-compliance and the remedies which are being undertaken. Such annual certifications also shall be signed in accordance with the requirements identified in 40 CFR §122.22. The permittee shall maintain at the facility a copy of its current SWPPP and all SWPPP certifications (the initial certification, re-certifications, and annual certifications) signed during the effective period of this permit, and shall make these available for inspection by EPA and MassDEP. In addition, the permittee shall document in the SWPPP any violation of numerical or non-numerical storm water effluent limits with a date and description of the corrective actions taken.

D. MONITORING AND REPORTING

1. For a period of one year from the effective date of the permit, the permittee may either submit monitoring data and other reports to EPA in hard copy form or report electronically using NetDMR, a web-based tool that allows permittees to electronically submit discharge monitoring reports (DMRs) and other required reports via a secure internet connection. Beginning no later than one year after the effective date of the permit, the permittee shall begin reporting using NetDMR, unless the facility is able to demonstrate a reasonable basis that precludes the use of NetDMR for submitting DMRs and reports. Specific requirements regarding submittal of

data and reports in hard copy form and for submittal using NetDMR are described below:

a. Submittal of Reports Using NetDMR

NetDMR is accessed from: <http://www.epa.gov/netdmr>. Within one year of the effective date of this permit, the permittee shall begin submitting DMRs and reports required under this permit electronically to EPA using NetDMR, unless the facility is able to demonstrate a reasonable basis, such as technical or administrative infeasibility, that precludes the use of NetDMR for submitting DMRs and reports ("opt-out request").

DMRs shall be submitted electronically to EPA no later than the 15th day of the month following the completed reporting period. All reports required under the permit shall be submitted to EPA as an electronic attachment to the DMR. Once a permittee begins submitting reports using NetDMR, it will no longer be required to submit hard copies of DMRs or other reports to EPA and will no longer be required to submit hard copies of DMRs to MassDEP. However, permittees shall continue to send hard copies of reports other than DMRs to MassDEP until further notice from MassDEP.

b. Submittal of NetDMR Opt-Out Requests

Opt-out requests must be submitted in writing to EPA for written approval at least sixty (60) days prior to the date a facility would be required under this permit to begin using NetDMR. This demonstration shall be valid for twelve (12) months from the date of EPA approval and shall thereupon expire. At such time, DMRs and reports shall be submitted electronically to EPA unless the permittee submits a renewed opt-out request and such request is approved by EPA. All opt-out requests should be sent to the following addresses:

Attn: NetDMR Coordinator
U.S. Environmental Protection Agency, Water Technical Unit
5 Post Office Square, Suite 100 (OES04-1)
Boston, MA 02109-3912

And

Massachusetts Department of Environmental Protection
Wastewater Management Program
One Winter Street, 5th Floor
Boston, Massachusetts 02108

c. Submittal of Reports in Hard Copy Form

Monitoring results shall be summarized for each calendar month and reported on separate hard copy Discharge Monitoring Report Form(s) (DMRs) postmarked no later than the 15th day of the month following the completed reporting period. All reports required under this permit shall be submitted as an attachment to the DMRs. Signed and dated originals of the DMRs, and all other reports or notifications required herein or in Part II shall be submitted to the Director at the following address:

U.S. Environmental Protection Agency
Water Technical Unit (OES04-SMR)
5 Post Office Square - Suite 100
Boston, MA 02109-3912

Duplicate signed copies of all reports or notifications required above shall be submitted to the State at the following address:

MassDEP – Southeast Region
Bureau of Air and Waste
20 Riverside Drive
Lakeville, MA 02347

Copies of toxicity tests only shall be sent to:

Massachusetts Department of Environmental Protection
Watershed Planning Program
8 New Bond Street
Worcester, Massachusetts 01606

Any verbal reports, if required in Parts I and/or II of this permit, shall be made to both EPA-New England and to MassDEP.

E. STATE PERMIT CONDITIONS

1. This authorization to discharge includes two separate and independent permit authorizations. The two permit authorizations are (i) a federal National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency (EPA) pursuant to the Federal Clean Water Act, 33 U.S.C. §§1251 et seq.; and (ii) an identical state surface water discharge permit issued by the Commissioner of the Massachusetts Department of Environmental Protection (MassDEP) pursuant to the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53, and 314 C.M.R. 3.00. All of the requirements contained in this authorization, as well as the standard conditions contained in 314 CMR 3.19, are hereby incorporated by reference into this state surface water discharge permit.
2. This authorization also incorporates the state water quality certification issued by MassDEP under § 401(a) of the Federal Clean Water Act, 40 C.F.R. 124.53, M.G.L. c. 21, § 27 and 314 CMR 3.07. All of the requirements (if any) contained in MassDEP's water quality certification for the permit are hereby incorporated by reference into this state surface water discharge permit as special conditions pursuant to 314 CMR 3.11.
3. Each agency shall have the independent right to enforce the terms and conditions of this permit. Any modification, suspension or revocation of this permit shall be effective only with respect to the agency taking such action, and shall not affect the validity or status of this permit as issued by the other agency, unless and until each agency has concurred in writing with such modification, suspension or revocation. In the event any portion of this permit is declared invalid, illegal or otherwise issued in violation of state law such permit shall remain in full force and effect under federal law as a NPDES Permit issued by the U.S. Environmental Protection Agency. In the event this permit is declared invalid, illegal or otherwise issued in violation of federal law, this permit shall remain in full force and effect under state law as a permit issued by the Commonwealth of Massachusetts.