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NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTE DISCHARGE PERMIT NO. WA-000292-5

State of Washington
DEPARTMENT OF ECOLOGY
Olympia, Washington 98504-7600

In compliance with the provisions of
The State of Washington Water Pollution Control Law
Chapter 90.48 Revised Code of Washington
and
The Federal Water Pollution Control Act
(The Clean Water Act)
Title 33 United States Code, Section 1251 et seq.

Nippon Paper Industries USA Co., Ltd.

P.O. Box 271
Port Angeles, WA 98362

Facility Location:
1902 Marine Dr.

Water Body I.D. No.:
WA-18-0010

Industry Type:
Thermo-Mechanical and Deinking Pulp and
Paper Mill

Receiving Water:
Strait of Juan de Fuca

Discharge Location:
Latitude: 48° 08' 13" N
Longitude: 123° 28' 28" W

is authorized to discharge in accordance with the special and general conditions which follow.

Merley F. McCall
Industrial Section Supervisor
Washington State Department of Ecology

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SUMMARY OF PERMIT REPORT SUBMITTALS

Refer to the Special and General Conditions of this permit for additional submittal requirements.

Permit Section	Submittal	Frequency	First Submittal Date
S3.A	Discharge Monitoring Report	Monthly	1 st month after effective date of permit
S3.E	Noncompliance Notification	As necessary	
S4.A	Treatment System Operating Plan		180 days after effective date of permit
S4.B	Reporting Bypasses	As necessary	
S5.	Application for Permit Renewal	1/permit cycle	At least 180 days prior to expiration date of permit
S6.C	Solid Waste Control Plan	1/permit cycle	180 days after effective of permit
S8.	Spill Plan	1/permit cycle, updates submitted as necessary	Within 6 months of the effective date of permit
S9	Acute Toxicity Tests Characterization	2/permit cycle	Submit results with permit renewal application
S10	Chronic Toxicity Tests Characterization	2/permit cycle	Submit results with permit renewal application
S11.A	Sediment Sampling and Analysis Plan	1/permit cycle	Submit with permit application
S12.	Outfall Evaluation	1/permit cycle	180 days prior to permit renewal application deadline
S15.	Priority Pollutant Scan	1 st year 3 rd year 5 th year	Submit results of 1 st and 3 rd year analyses within 3 months of each sampling event/submit 5 th year analysis with permit renewal application

Permit Section	Submittal	Frequency	First Submittal Date
G1.	Notice of Change in Authorization	As necessary	
G4.	Permit Application for Substantive Changes to the Discharge	As necessary	
G5.	Engineering Report for Construction or Modification Activities	As necessary	
G8.	Notice of Permit Transfer	As necessary	
G20.	Reporting Anticipated Non-compliance	As necessary	
G21.	Reporting Other Information	As necessary	

PRODUCTION BASIS

Discharge limits in this permit for the conventional pollutants are based on the average continuous production rate reported during the last permit cycle.

Table I. PRODUCTION-DERIVED LIMITS

BASE			BOD			
Production Unit	ADT/Day	Basis for	Monthly Avg.	Monthly Avg.	Daily Max	Daily Max
	Off-machine	Limit	Lbs/Ton	Lbs/Day	Lbs/Ton	Lbs/Day
TMP	222	BPT	5.55	2464	10.6	4706
Deinked	188	NSPS	3.2	1203	6.0	2256
Fine and Lightweight Papers	97	BPT	4.25	825	8.2	1591
Totals	508			4492		8553

BASE			TSS			
Production Unit	ADT/Day	Basis for	Monthly Avg.	Monthly Avg.	Daily Max	Daily Max
	Off-machine	Limit	Lbs/Ton	Lbs/Day	Lbs/Ton	Lbs/Day
TMP	222	BPT	8.35	3707	15.55	6904
Deinked	188	NSPS	6.3	2369	12.0	4512
Fine and Lightweight Paper	97	BPT	5.9	1145	11.0	2134
Totals	508			7221		13550

SPECIAL CONDITIONS

S1. DISCHARGE LIMITATIONS

A. Wastewater Discharge Point - Process Wastewater Outfall 001

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit. The discharge of any of the following pollutants more frequently than, or at a level in excess of, that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit.

Beginning on the effective date of this permit and lasting through the expiration date, the Permittee is authorized to discharge wastewater from outfall 001 at the permitted location subject to complying with the following limitations:

Parameter	EFFLUENT LIMITATIONS: OUTFALL # 001	
	Average Monthly ^a	Maximum Daily ^b
Biochemical oxygen demand	4,492 lbs BOD ₅ /day	8,553 lbs BOD ₅ /day
Total suspended solids	7,221 lbs TSS/day	13,550 lbs TSS/day
pH ^c	Daily minimum is equal to or greater than 5 and the daily maximum is less than or equal to 9	
Oil and Grease ^d	-	15 mg/L

^aThe average monthly effluent limitation is defined as the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month

^bThe maximum daily effluent limitation is defined as the highest allowable daily discharge. The daily discharge means the discharge of a pollutant measured during a calendar day. A calendar day is defined as the 24 hour period between 8:00 am on day 1 to 8:00 am on day 2. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For other units of measurement, the daily discharge is the average measurement of the pollutant over the day.

^cIndicates the range of permitted values. When pH is continuously monitored excursions between 4.0 and 5.0, or 9.0 and 10.0 shall not be considered violations provided no single excursion exceeds 60 minutes in length and total excursions do not exceed 7 hours and 26 minutes per month. Any excursions below 4.0 and above 10.0 are violations. The instantaneous maximum and minimum pH shall be reported monthly.

^dThe permitted daily maximum concentration shall not exceed 15 mg/L.

B. Mixing Zone Descriptions

The maximum boundaries of the mixing zones for Outfall 001 are defined as follows:

WAC 173-201A specifies mixing zones shall not extend in any horizontal direction from the discharge ports for a distance greater than 300 feet plus the depth of water over the discharge ports as measured during mean lower low water (MLLW). Given a MLLW water depth of 30 feet from the Permittee's outfall, the horizontal distance therefore is 330 feet (100.6 meters). The mixing zone is a circle with radius of 330 **feet (100.6 meters)** measured from the center of each discharge port. The mixing zone extends from the seabed to the top of the water surface. Chronic aquatic life criteria and human health criteria must be met at the edge of the chronic zone. The chronic dilution ratio is 343:1 for the Outfall 001.

WAC 173-201A specifies that in estuarine waters a zone where acute criteria may be exceeded shall not extend beyond 10% of the distance established for the maximum or chronic zone as measured independently from the discharge ports. The acute mixing zone is a circle with radius of **33 feet (10.0 meters)** measured from the center of each discharge port. The mixing zone extends from the seabed to the top of the water surface. Acute aquatic life criteria must be met at the edge of the acute zone. The acute dilution is 95:1 for the Outfall 001.

C. Wastewater Discharge Points – Filter Plant Backwash Outfall 002

From the date of this permit, the permittee is authorized to discharge the filter backwash water from the existing outfall 002 into the Strait of Juan de Fuca. Planned demolition of the Elwha Dam may require changes to the existing filter plant backwash discharge such as physical alterations to the outfall or additions to the wastewater control system at the NPIUSA, Port Angeles. If such change triggers Condition G.4 in the General Conditions, NPIUSA shall provide, including but not limited to the following:

- Engineering plans and reports for the change/modification to the filter backwash plant according to WAC 173-204;
- An AKART analysis to the Department prior to an authorization for a mixing zone associated with the outfall according to WAC 173-201A;
- A dilution study for outfall 002; and
- Conduct a WET testing for toxicity after steady state discharge resumes through outfall 002.

S2. MONITORING REQUIREMENTS

The Permittee shall monitor in accordance with the following schedule:

A. Monitoring Schedule for Outfall 001 and 002

1. Outfall 001

Category	Parameter	Units	Sample Point	Minimum Sampling Frequency	Sample Type

Category	Parameter	Units	Sample Point	Minimum Sampling Frequency	Sample Type
Wastewater Effluent	Flow	MGD	Effluent	Daily	Continuous*
Wastewater Effluent	BOD ₅	mg/l	Effluent	At least 3/week	24-hr composite
Wastewater Effluent	TSS	mg/l	Effluent	At least 3/week	24-hr composite
Wastewater Effluent	Temperature	Degree	Effluent	Daily	Continuous*
Wastewater Effluent	pH	SU	Effluent	Daily	Continuous*
Wastewater Effluent	O & G	mg/L	Effluent	Yearly	Grab
Acute Toxicity Testing	See S9	See S9	Effluent	See S9	See S9
Chronic Toxicity Testing	See S10	See S10	Effluent	See S10	See S10
Production	Off-the-machine	Tons/day	Paper machine	Daily	Continuous*

* Continuous means uninterrupted - except for brief lengths of time for calibration, power failure, or for unanticipated equipment repair or maintenance. Sampling shall be taken every four hours when continuous monitoring is not possible except for temperature.

2. Outfall 002

Category	Parameter	Units	Sample Point	Minimum Sampling Frequency	Sample Type
Filter backwash	Flow	MGD	Effluent	Daily	Calculated**

** Calculation is based on filter plant backwash frequency and tank capacities. The permittee shall report the above monitored parameters in accordance with the reporting requirements defined in Special Condition S3.

B. Sampling and Analytical Procedures

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameters, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality.

Sampling and analytical methods used to meet the monitoring requirements specified in this permit shall conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136.

C. Flow Measurement

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the quantity of monitored flows. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements are consistent with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with manufacturer's recommendations and at a minimum frequency of at least one calibration per year. Calibration records shall be maintained for at least three years.

D. Laboratory Accreditation

All monitoring data required by the Department shall be prepared by a laboratory registered or accredited under the provisions of, *Accreditation of Environmental Laboratories*, Chapter 173-50 WAC. Flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters are exempt from this requirement. Conductivity and pH shall be accredited if the laboratory must otherwise be registered or accredited. The Department exempts crops, soils, and hazardous waste data from this requirement pending accreditation of laboratories for analysis of these media.

S3. REPORTING AND RECORDKEEPING REQUIREMENTS

The Permittee shall monitor and report in accordance with the following conditions and S2. The falsification of information submitted to the Department shall constitute a violation of the terms and conditions of this permit.

A. Reporting

The first monitoring period begins on the effective date of the permit. Monitoring results shall be submitted monthly. Monitoring data obtained during each monitoring period shall be summarized, reported, and submitted on a Discharge Monitoring Report (DMR) form provided, or otherwise approved, by the Department. DMR forms shall be postmarked or received no later than the 15th day of the month following the completed monitoring period, unless otherwise specified in this permit. The reports shall be submitted no later than the 15th day of the month following the completed monitoring period, except for samples sent to an outside laboratory for analysis in which case the monitoring data results shall be submitted to the Department no later than 45 days following the sampling period or other schedule subject to the Department's approval. In addition, a table shall be submitted which lists the following information, in accordance with the monitoring requirements of S.1: the date (each day of the month), flow (MGD), BOD₅ (lbs./day), TSS (lbs./day), and pH (maximum and minimum). The report(s) shall be sent to the Department of Ecology, Solid Waste and Financial Assistance Program, Industrial Section, PO Box 47706, Olympia, Washington 98504-7706.

All laboratory reports providing data for organic and metal parameters (See priority pollutant scan requirements) shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number, analytical method/number, method detection limit (MDL), laboratory practical quantitation limit (PQL), reporting units, and concentration detected. Analytical results from samples sent to a contract laboratory must have information on the chain of custody, the analytical method, QA/QC results, and documentation of accreditation for the parameter.

Discharge Monitoring Report forms must be submitted monthly whether or not the facility was discharging. If there was no discharge during a given monitoring period, submit the form as required with the words "no discharge" entered in place of the monitoring results.

B. Records Retention

The Permittee shall retain records of all monitoring information for a minimum of three (3) years. Such information shall include all calibration and maintenance records and all original 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. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the Director.

C. Recording of Results

For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place, method, and time of sampling or measurement; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) the individual who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

D. Additional Monitoring by the Permittee

If the Permittee monitors any pollutant more frequently than required by this permit using test procedures specified by Condition S2. of this permit, then the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Permittee's DMR.

E. Twenty-four Hour Notice of Noncompliance Reporting

1. The permittee must take the following action upon violation of any permit condition: Immediately take action to stop, contain, and cleanup unauthorized discharges or otherwise stop the noncompliance and correct the problem and, if applicable, immediately repeat sampling and analysis. The results of any repeat sampling shall be submitted to Ecology within 30 days of sampling.

2. The permittee must report the following occurrences of noncompliance by telephone, to the currently responsible engineer at Ecology, within 24 hours from the time the Permittee becomes aware of any of the following circumstances:
 - a. any noncompliance that may endanger health or the environment;
 - b. any unanticipated **bypass** that exceeds any effluent limitation in the permit (See Part S4.B., “Bypass Procedures”);
 - c. any **upset** that exceeds any effluent limitation in the permit (See G.16, “Upset”);
 - d. any violation of a maximum daily or instantaneous maximum discharge limitation for any of the pollutants in S1.A.; or
 - e. any overflow that leaves the facility site prior to the treatment works, whether or not such overflow endangers health or the environment or exceeds any effluent limitation in the permit.

3. The Permittee must also provide a written report within five days of the time that the Permittee becomes aware of any event required to be reported under subpart 2, above. The written submission must contain:
 - a. a description of the noncompliance and its cause;
 - b. the period of noncompliance, including exact dates and times;
 - c. the estimated time noncompliance is expected to continue if it has not been corrected;
 - d. steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance; and
 - e. if the non compliance involves an overflow prior to the treatment works, an estimate of the quantity (in gallons) of untreated overflow.

4. Ecology may waive the written report on a case-by-case basis if the oral report has been received within 24 hours of the noncompliance.

5. Reports must be submitted to the address in S3. (“REPORTING AND RECORDKEEPING REQUIREMENTS”).

F. Other Noncompliance Reporting.

The permittee must report all instances of noncompliance, not required to be reported immediately or within 24 hours, at the time that monitoring reports for S3.A (“Reporting”) are submitted. The reports must contain the information listed in paragraph E above, (“Twenty-four Hour Notice of Noncompliance Reporting”). Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

G. Maintaining a Copy of This Permit

A copy of this permit must be kept at the permitted facility and be made available upon request to Department of Ecology inspectors.

S4. OPERATION AND MAINTENANCE

A. Treatment System Operating Plan

An updated Treatment System Operating Plan (TSOP) shall be submitted to the Department within 180 day after the effective date of the permit. The TSOP shall include the following information:

1. A baseline operating condition, which describes the operating parameters and procedures, used to meet the effluent limitations of S1. at the production levels used in developing these limitations.
2. In the event of production rates, which are below the baseline levels used to establish these limitations, the plan shall describe the operating procedures and conditions needed to maintain design treatment efficiency. The monitoring and reporting shall be described in the plan.
3. In the event of an upset, due to plant maintenance activities, severe stormwater events, start ups or shut downs, or other causes, the plan shall describe the operating procedures and conditions employed to mitigate the upset. The monitoring and reporting shall be described in the plan.
4. A description of any regularly scheduled maintenance or repair activities at the facility which would affect the volume or character of the wastes discharged to the wastewater treatment system and a plan for monitoring and treating/controlling the discharge of maintenance-related materials (such as cleaners, degreasers, solvents, etc.)

B. Bypass Procedures

Bypass, which is the intentional diversion of waste streams from any portion of a treatment facility, is prohibited, and the Department may take enforcement action against a Permittee for bypass unless one of the following circumstances (1, 2, or 3) is applicable.

1. Bypass for Essential Maintenance without the Potential to Cause Violation of Permit Limits or Conditions.

Bypass is authorized if it is for essential maintenance and does not have the potential to cause violations of limitations or other conditions of this permit, or adversely impact public health as determined by the Department prior to the bypass.

The Permittee shall submit prior notice, if possible, at least ten (10) days before the date of the bypass.

2. Bypass Which is Unavoidable, Unanticipated, and Results in Noncompliance of this Permit.

This bypass is permitted only if:

- a. Bypass is unavoidable to prevent loss of life, personal injury, or severe property damage. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause 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.
 - b. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment downtime (but not if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance), or transport of untreated wastes to another treatment facility.
 - c. The Department is properly notified of the bypass as required in condition S3E of this permit.
3. Bypass which is Anticipated and has the Potential to Result in Noncompliance of this Permit.

The Permittee shall notify the Department at least thirty (30) days before the planned date of bypass. The notice shall contain (1) a description of the bypass and its cause; (2) an analysis of all known alternatives which would eliminate, reduce, or mitigate the need for bypassing; (3) a cost-effectiveness analysis of alternatives including comparative resource damage assessment; (4) the minimum and maximum duration of bypass under each alternative; (5) a recommendation as to the preferred alternative for conducting the bypass; (6) the projected date of bypass initiation; (7) a statement of compliance with SEPA; (8) a request for modification of water quality standards as provided for in WAC 173-201A-110, if an exceedance of any water quality standard is anticipated; and (9) steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

For probable construction bypasses, the need to bypass is to be identified as early in the planning process as possible. The analysis required above shall be considered during preparation of the engineering report or facilities plan and plans and specifications and shall be included to the extent practical. In cases where the probable need to bypass is determined early, continued analysis is necessary up to

and including the construction period in an effort to minimize or eliminate the bypass.

The Department will consider the following prior to issuing an administrative order for this type bypass:

- a. If the bypass is necessary to perform construction or maintenance-related activities essential to meet the requirements of this permit.
- b. If there are feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment down time, or transport of untreated wastes to another treatment facility.
- c. If the bypass is planned and scheduled to minimize adverse effects on the public and the environment.

After consideration of the above and the adverse effects of the proposed bypass and any other relevant factors, the Department will approve or deny the request. The public shall be notified and given an opportunity to comment on bypass incidents of significant duration, to the extent feasible. Approval of a request to bypass will be by administrative order issued by the Department under RCW 90.48.120.

C. Duty to Mitigate

The Permittee is required to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

S5. APPLICATION FOR PERMIT RENEWAL

The Permittee shall submit an application for renewal of this permit at least 180 days prior to the specified expiration date of this permit.

S6. SOLID WASTE DISPOSAL

A. Solid Waste Handling

The Permittee shall handle and dispose of all solid waste material in such a manner as to prevent its entry into state ground or surface water.

B. Leachate

The Permittee shall not allow leachate from its solid waste material to enter state waters without providing all known, available and reasonable methods of treatment, nor allow such leachate to cause violations of the State Surface Water Quality Standards, Chapter

173-201A WAC, or the State Ground Water Quality Standards, Chapter 173-200 WAC. The Permittee shall apply for a permit or permit modification as may be required for such discharges to state ground or surface waters.

C. Solid Waste Control Plan

The Permittee shall submit all proposed revisions or modifications to the solid waste control plan to the Department. The Permittee shall comply with any plan modifications. The Permittee shall submit an update of the solid waste control plan within 180 days of the effective date of the permit.

S7. NON-ROUTINE AND UNANTICIPATED DISCHARGES

- A. Beginning on the effective date of this permit, the Permittee may discharge non-routine wastewater on a case-by-case basis if approved by the Department. Prior to any such discharge, the Permittee shall contact the Department and at a minimum provide the following information:
1. The nature of the activity that is generating the discharge.
 2. Any alternatives to the discharge, such as reuse, storage, or recycling of the water.
 3. The total volume of water expected to be discharged.
 4. The results of the chemical analysis of the water. The water shall be analyzed for all constituents limited for the Permittee's discharge. The analysis shall also include hardness, any metals that are limited by water quality standards, and any other parameter deemed necessary by the Department. All discharges must comply with the effluent limitations as established in Condition S1. of this permit, water quality standards, sediment management standards, and any other limitations imposed by the Department.
 5. The date of proposed discharge and the rate at which the water will be discharged, in gallons per minute. The discharge rate shall be limited to that which will not cause erosion of ditches or structural damage to culverts and their entrances or exits.
 6. If the proposed discharge is to a municipal storm drain and is approved by the Department, the Permittee shall notify the municipality of the discharge.
- B. The discharge cannot proceed until the Department has reviewed the information provided and has authorized the discharge. Authorization from the Department will be by letter to the Permittee or by an Administrative Order.

S8. SPILL PLAN

The Permittee shall within six months of the effective date of the permit, submit to the Department an update to the existing Spill Control Plan. The updated spill control plan shall include the following:

- a. A description of the reporting system which will be used to alert responsible managers and legal authorities in the event of a spill.
- b. A description of preventive measures and facilities (including an overall facility plot showing drainage patterns) which prevent, contain, or treat spills of these materials.
- c. A list of all oil and chemicals used, processed, or stored at the facility which may be spilled into state waters.

For the purpose of meeting this requirement, plans and manuals, or portions thereof, required by 33 CFR 154, 40 CFR 109, 40 CFR 110, 40 CFR Part 112, the Federal Oil Pollution Act of 1990, Chapter 173-181, and contingency plans required by Chapter 173-303 WAC may be submitted.

S9. ACUTE TOXICITY

A. Effluent Characterization

The Permittee shall test final effluent for acute toxicity once in the summer and at least once in the winter within two years of the permit expiration date. Results shall be submitted with permit renewal application.

Acute toxicity testing shall follow protocols, monitoring requirements, and quality assurance/quality control procedures specified in this section. A dilution series consisting of a minimum of five concentrations and a control shall be used to estimate the concentration lethal to 50% of the organisms (LC₅₀). The percent survival in 100% effluent shall also be reported.

This summary report shall include a tabulated summary of the individual test results and any information on sources of toxicity, toxicity source control, correlation with effluent data, and toxicity treatability which is developed during the period of testing.

Acute toxicity tests shall be conducted with the following two species and protocols:

1. Fathead minnow, *Pimephales promelas* (96-hour static-renewal test, method: EPA-821-R-02-012).
2. Daphnid, *Ceriodaphnia dubia*, *Daphnia pulex*, or *Daphnia magna* (48-hour static test, method: EPA-821-R-02-012). The Permittee shall choose one of the three species and use it consistently throughout effluent characterization.

B. Sampling and Reporting Requirements

1. All reports for effluent characterization or compliance monitoring shall be submitted in accordance with the most recent version of Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* in regards to format and content. Reports shall contain bench sheets and reference toxicant results for test methods. If the lab provides the toxicity test data on floppy disk for electronic entry into the Department's database, then the Permittee shall send the disk to the Department along with the test report, bench sheets, and reference toxicant results.
2. Testing shall be conducted on 24-hour composite effluent samples or grab samples. Composite samples taken for toxicity testing shall be cooled to 4°C while being collected and shall be sent to the lab immediately upon completion. Grab samples must be shipped on ice to the lab immediately upon collection. If a grab sample is received at the testing lab within one hour after collection, it must have a temperature below 20°C at receipt. If a grab sample is received at the testing lab within 4 hours after collection, it must be below 12°C at receipt. All other samples must be 0 - 6°C at receipt. The lab shall begin the toxicity testing as soon as possible but no later than 36 hours after sampling was ended. The lab shall store all samples at 0 - 6°C in the dark from receipt until completion of the test.
3. All samples and test solutions for toxicity testing shall have water quality measurements as specified in Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* or most recent version thereof.
4. All toxicity tests shall meet quality assurance criteria and test conditions in the most recent versions of the EPA manual listed in subsection A. and the Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*. If test results are determined to be invalid or anomalous by the Department, testing shall be repeated with freshly collected effluent.
5. Control water and dilution water shall be laboratory water meeting the requirements of the EPA manual listed in subsection A or pristine natural water of sufficient quality for good control performance.
6. The whole effluent toxicity tests shall be run on an unmodified sample of final effluent.
7. The Permittee may choose to conduct a full dilution series test during compliance monitoring in order to determine dose response. In this case, the series must have a minimum of five effluent concentrations and a control. The series of concentrations must include the Acute Critical Effluent Concentration (ACEC) of 1% effluent.

8. All whole effluent toxicity tests, effluent screening tests, and rapid screening tests that involve hypothesis testing and do not comply with the acute statistical power standard of 29% as defined in WAC 173-205-020 must be repeated on a fresh sample with an increased number of replicates to increase the power.

S.10 CHRONIC TOXICITY

A. Effluent Characterization

The Permittee shall test final effluent for chronic toxicity once in the summer and at least once in the winter within two years of the permit expiration date. Results shall be submitted with permit renewal application.

This summary report shall include a tabulated summary of the individual test results and any information on sources of toxicity, toxicity source control, correlation with effluent data, and toxicity treatability which is developed during the period of testing.

The Permittee shall conduct chronic toxicity testing during effluent characterization on a series of at least five concentrations of effluent in order to determine appropriate point estimates. The Permittee shall include the ACEC in the concentration series of all subsequent tests and compare the ACEC to the control using hypothesis testing at the 0.05 level of significance as described in Appendix H, EPA/600/4-89/001.

Chronic toxicity tests shall be conducted with the following two species and the most recent version of the following protocols:

Saltwater Chronic Test	Species	Method
Mysid shrimp survival and growth	<i>Mysidopsis bahia</i>	EPA-821-R-02-014
Oyster/ Mussel Survival and development	<i>Crassostrea gigas</i> / <i>Mytilus sp.</i>	EPA/600/R-95/136

B. Sampling and Reporting Requirements

1. All reports for effluent characterization or compliance monitoring shall be submitted in accordance with the most recent version of Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* in regards to format and content. Reports shall contain bench sheets and reference toxicant results for test methods. If the lab provides the toxicity test data on floppy disk for electronic entry into the Department's database, then the Permittee shall send the disk to the Department along with the test report, bench sheets, and reference toxicant results.

2. Testing shall be conducted on 24-hour composite effluent samples or grab samples. Composite samples taken for toxicity testing shall be cooled to 4°C while being collected and shall be sent to the lab immediately upon completion. Grab samples must be shipped on ice to the lab immediately upon collection. If a grab sample is received at the testing lab within one hour after collection, it must have a temperature below 20°C at receipt. If a grab sample is received at the testing lab within 4 hours after collection, it must be below 12°C at receipt. All other samples must be 0 - 6°C at receipt. The lab shall begin the toxicity testing as soon as possible but no later than 36 hours after sampling was ended. The lab shall store all samples at 0 - 6°C in the dark from receipt until completion of the test.
3. All samples and test solutions for toxicity testing shall have water quality measurements as specified in Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* or most recent version thereof.
4. All toxicity tests shall meet quality assurance criteria and test conditions in the most recent versions of the EPA manual listed in subsection A. and the Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*. If test results are determined to be invalid or anomalous by the Department, testing shall be repeated with freshly collected effluent.
5. Control water and dilution water shall be laboratory water meeting the requirements of the EPA manual listed in subsection A or pristine natural water of sufficient quality for good control performance.
6. The whole effluent toxicity tests shall be run on an unmodified sample of final effluent.
7. The Permittee may choose to conduct a full dilution series test during compliance monitoring in order to determine dose response. In this case, the series must have a minimum of five effluent concentrations and a control. The series of concentrations must include the ACEC and the Chronic Critical Effluent Concentration (CCEC) of 0.29% effluent.
8. All whole effluent toxicity tests, effluent screening tests, and rapid screening tests that involve hypothesis testing, and do not comply with the chronic statistical power standard of 39% as defined in WAC 173-205-020, must be repeated on a fresh sample with an increased number of replicates to increase the power.

S11. SEDIMENT MONITORING (MARINE)

A. Sediment Data Analysis Report

Department approved the Sediment Sampling and Analysis Plan submitted to Ecology May 30, 2006, sediments will be collected and analyzed the following this approval. The Permittee shall submit to the Department a Sediment Data and Analysis Report containing the results of the sediment sampling and analysis with permit renewal application. The Sediment Data Report shall conform with the approved Sampling and Analysis Plan. The Sediment Data Report shall also include electronic copies of the sediment chemical and biological data formatted according to Ecology's Sediment Quality Information System template.

S12. OUTFALL EVALUATION

The Permittee shall inspect Outfall 001, the submerged portion of the outfall line and diffuser to document its integrity and continued function. If conditions allow for a photographic verification, it shall be included in the report. The inspection report shall be submitted to the Department within 180 days prior to the permit renewal application deadline.

S13. OTHER REQUIREMENTS AND PROVISIONS

A. Upset Defense Provisions

The Upset provisions listed in 40 CFR Section 122.41(n) shall apply to activities performed pursuant to this Permit.

B. Permit Continuation

The conditions in this permit shall continue in force beyond the expiration date and until the effective date of a new permit if the Permittee submits a timely application for renewal and meets the other conditions outlined in 40 CFR 122.6 and WAC 173-220-180 (5).

S14. PRIORITY POLLUTANT SCAN

The Permittee shall sample the final effluent and analyze the sample for the priority pollutants listed in the table below on the first year, the third year, and during the fifth year of the permit. Unless used on site, the Permittee only needs to analyze for the Pesticides and PCBs in the table below during the fifth year of the permit. The detection limit and the method shall conform to those listed. The results of these analyses shall be submitted to Ecology within three months of each sampling event, except the analysis on the fifth year shall be submitted with the permit renewal application. The data shall be listed in tabular form with the detection limit, the value including units, and the method. This table is a list of all priority pollutants.

Pollutant	CAS Number (if available)	Analytical Protocol as EPA Part 136 methods or Standard Methods or other methods approved by EPA	Detection or Quantitation Level
Metals, Cyanide & Total Phenols (Part C)			DL µg/l
Antimony, Total	7440-36-0	204.2	3
Arsenic, Total	7440-38-2	206.2	1
Beryllium, Total	7440-43-9	210.2	1
Cadmium, Total	7440-43-9	213.2	0.1
Chromium, Total	7440-47-3	218.2	1
Copper, Total	7440-50-8	220.2	1
Lead, Total	7439-92-1	239.2	1
Mercury, Total	7439-97-6	1631	0.2 ng/l
Nickel, Total	7440-02-0	249.2	1
Selenium, Total	7782-49-2	270.2	2
Silver, Total	7440-22-4	272.2	0.2
Thallium, Total	7440-28-0	279.2	1
Zinc, Total	7440-66-6	289.2	0.05
Cyanide, Total	57-12-5	335.2 or 335.3	20
Cyanide, WAD	57-12-5	335.1	10
		OIA-1677	0.5
Phenols, total		420.1 or 420.2	
Dioxin			QL µg/l
2,3,7,8-Tetra-Chlorodibenzo-P-Dioxin	1764- 01-6	1613	0.00001
Volatile Compounds			QL µg/l
Acrolein	107-02-8	624	50
Acrylonitrile	107-13-1	624	50
Benzene	71-43-2	624	10
Bis (<i>chloromethyl</i>) Ether	542-88-1	624	10
Bromoform	75-25-2	624	10
Carbon Tetrachloride	56-23-5	624	10
Chlorobenzene	108-90-7	624	50
Chlorodibromomethane	124-48-1	624	10
Chloroethane	75-00-3	624	10
2-Chloroethylvinyl Ether	110-75-8	624	50

Pollutant	CAS Number (if available)	Analytical Protocol as EPA Part 136 methods or Standard Methods or other methods approved by EPA	Detection or Quantitation Level
Chloroform	67-66-3	624	10
Dichlorobromomethane	75-27-4	624	10
Dichlorodifluoromethane	75-71-8	624	10
1,1-Dichloroethane	75-34-3	624	10
1,2-Dichloroethane	107-06-2	624	10
1,1-Dichloroethylene	75-35-4	624	10
1,2-Dichloropropane	78-87-5	624	10
1,3-Dichloropropylene	542-75-6	624	10
Ethylbenzene	100-41-4	624	10
Methyl Bromide	74-83-9	624	50
Methyl Chloride	74-87-3	624	50
Methylene Chloride	75-09-2	624	20
1,1,2,2-Tetrachloroethane	79-34-5	624	10
Tetrachloroethylene	127-18-4	624	10
Toluene	108-88-3	624	10
1,2-Trans-Dichloroethylene	156-60-5	624	10
1,1,1-Trichloroethane	71-55-6	624	10
1,1,2-Trichloroethane	79-00-5	624	10
Trichloroethylene	79-01-6	624	10
Trichlorofluoromethane	75-69-4	624	10
Vinyl Chloride	75-01-4	624	10
Acid Compounds			QL µg/l
2-Chlorophenol	95-57-8	625	10
2,4-Dichlorophenol	120-83-2	625	10
2,4-Dimethylphenol	105-67-9	625	10
4,6-Dinitro-O-Cresol (2-methyl-4,6 – dinitrophenol)	534-52-1	625	50
2,4 Dinitrophenol	51-28-5	625	50
2-Nitrophenol	88-75-5	625	20
4-Nitrophenol	100-02-7	625	50
P-Chloro-M-Cresol	59-50-7	625	10
Pentachlorophenol	87-86-5	625	50
Phenol	108-95-2	625	10
2,4,6-Trichlorophenol	88-06-2	625	10

Pollutant	CAS Number (if available)	Analytical Protocol as EPA Part 136 methods or Standard Methods or other methods approved by EPA	Detection or Quantitation Level
Base/Neutral Compounds			QL µg/l
Acenaphthene	83-32-9	625	10
Acenaphthylene	208-96-8	625	10
Anthracene	120-12-7	625	10
Benzidine	92-87-5	625	50
Benzo (a) Anthracene	56-55-3	625	10
Benzo (a) Pyrene	50-32-8	625	10
3,4-Benzofluoranthene	205-99-2	625	10
Benzo (ghi) Perylene	191-24-2	625	20
Benzo (k) Fluoranthene	207-08-9	625	10
Bis (2-Chloroethoxy) Methane	111-91-1	625	10
Bis (2-Chloroethyl) Ether	111-44-4	625	10
Bis (2-Chloroisopropyl) Ether	108-60-1	625	10
Bis (2-Ethylhexyl) Phthalate	117-81-7	625	10
4-Bromophenyl Phenyl Ether	101-55-3	625	10
Butyl Benzyl Phthalate	85-68-7	625	10
Base/Neutral Compounds			QL µg/l
2-Chloronaphthalene	91-58-7	625	10
4-Chlorophenyl Phenyl Ether	7005-72-3	625	10
Chrysene	218-01-9	625	10
Dibenzo (a,h) Anthracene	53-70-3	625	20
1,2-Dichlorobenzene	95-50-1	625	10
1,3-Dichlorobenzene	541-73-1	625	10
1,4-Dichlorobenzene	106-46-7	625	10
3,3'-Dichlorobenzidine	91-94-1	625	50
Diethyl Phthalate	84-66-2	625	10
Dimethyl Phthalate	131-11-3	625	10
Di-N-Butyl Phthalate	84-74-2	625	10
2,4-Dinitrotoluene	121-14-2	625	10
2,6-Dinitrotoluene	606-20-2	625	10
Di-n-octyl Phthalate	117-84-0	625	10
1,2-Diphenylhydrazine (as Azobenzene)	122-66-7	625	20
Fluoranthene	206-44-0	625	10
Fluorene	86-73-7	625	10
Hexachlorobenzene	118-74-1	625	10

Pollutant	CAS Number (if available)	Analytical Protocol as EPA Part 136 methods or Standard Methods or other methods approved by EPA	Detection or Quantitation Level
Hexachlorobutadiene	87-68-3	625	10
Hexachlorocyclopentadiene	77-47-4	625	10
Hexachloroethane	67-72-1	625	20
Indeno (1,2,3-cd) Pyrene	193-39-5	625	20
Isophorone	78-59-1	625	10
Naphthalene	91-20-3	625	10
Nitrobenzene	98-95-3	625	10
N-Nitrosodimethylamine	62-75-9	625	50
N-Nitrosodi-N-Propylamine	621-64-7	625	20
N-Nitrosodiphenylamine	86-30-6	625	20
Phenanthrene	85-01-8	625	10
Pyrene	129-00-0	625	10
1,2,4-Trichlorobenzene	120-82-1	625	10
GC/MS Fraction – Pesticides and PCBs			QL µg/l
Aldrin	309-00-2	608	0.05
α -BHC	319-84-6	608	0.05
β -BHC	319-85-7	608	0.05
γ -BHC	58-89-9	608	0.05
δ -BHC	319-86-8	608	0.05
Chlordane	57-74-9	608	0.2
4,4'-DDT	50-29-3	608	0.1
4,4'-DDE	72-55-9	608	0.1
4,4' DDD	72-54-8	608	0.1
Dieldrin	60-57-1	608	0.1
α -Endosulfan	959988	608	0.1
β -Endosulfan	33213659	608	0.1
Endosulfan Sulfate	1031-07-8	608	0.1
Endrin	72-20-8	608	0.1
Endrin Aldehyde	7421-83-4	608	0.1
Heptachlor	76-44-8	608	0.05
Heptachlor Epoxide	1024-57-3	608	0.05
PCB-1242	53469-21-9	608	1.0
PCB-1254	11097-69-1	608	1.0
PCB-1221	11104-28-2	608	1.0
PCB-1232	11141-16-5	608	1.0

Pollutant	CAS Number (if available)	Analytical Protocol as EPA Part 136 methods or Standard Methods or other methods approved by EPA	Detection or Quantitation Level
PCB-1248	12672-29-6	608	1.0
PCB-1260	11096-82-5	608	1.0
PCB-1016	12674-11-2	608	1.0
Toxaphene	8001-35-2	608	5.0

GENERAL CONDITIONS

G1. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Department shall be signed and certified.

- A. All permit applications shall be signed by either a responsible corporate officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.
- B. All reports required by this permit and other information requested by the Department shall be signed by a person described above 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 above and submitted to the Department.
 - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- C. Changes to authorization. If an authorization under paragraph B.2 above 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.2 above must be submitted to the Department 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 this section shall make the following certification:

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering 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.

G2. RIGHT OF INSPECTION AND ENTRY

The Permittee shall allow an authorized representative of the Department, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this permit.
- B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.
- C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

G3. PERMIT ACTIONS

This permit may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Department's initiative. However, the permit may only be modified, revoked and reissued, or terminated for the reasons specified in 40 CFR 122.62, 122.64 or WAC 173-220-150 according to the procedures of 40 CFR 124.5.

- A. The following are causes for terminating this permit during its term, or for denying a permit renewal application:
 - 1. Violation of any permit term or condition.
 - 2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts.
 - 3. A material change in quantity or type of waste disposal.
 - 4. A determination that the permitted activity endangers human health or the environment or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR part 122.64(3)].
 - 5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit [40 CFR part 122.64(4)].

6. Nonpayment of fees assessed pursuant to RCW 90.48.465.
 7. Failure or refusal of the permittee to allow entry as required in RCW 90.48.090.
- B. The following are causes for modification but not revocation and reissuance except when the permittee requests or agrees:
1. A material change in the condition of the waters of the state.
 2. New information not available at the time of permit issuance that would have justified the application of different permit conditions.
 3. Material and substantial alterations or additions to the permitted facility or activities which occurred after this permit issuance, which justify the application of permit conditions that are different or absent from this permit.
 4. Promulgation of new or amended standards or regulations having a direct bearing upon permit conditions, or requiring permit revision.
 5. The Permittee has requested a modification based on other rationale meeting the criteria of 40 CFR Part 122.62.
 6. The Department has determined that good cause exists for modification of a compliance schedule, and the modification will not violate statutory deadlines.
 7. Incorporation of an approved local pretreatment program into a municipality's permit.
- C. The following are causes for modification or alternatively revocation and reissuance:
1. Cause exists for termination for reasons listed in A1 through A7, of this section, and the Department determines that modification or revocation and reissuance is appropriate.
 2. The Department has received notification of a proposed transfer of the permit. A permit may also be modified to reflect a transfer after the effective date of an automatic transfer (General Condition G8) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

G4. REPORTING PLANNED CHANGES

The Permittee shall, as soon as possible, but no later than sixty (60) days prior to the proposed changes, give notice to the Department of planned physical alterations or additions to the permitted facility, production increases, or process modification which will result in: 1) the permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b); 2) a significant change in the nature or an increase in quantity of pollutants discharged; or 3) a significant change in the Permittee's sludge use or disposal practices. Following such

notice, and the submittal of a new application or supplement to the existing application, along with required engineering plans and reports, this permit may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

G5. PLAN REVIEW REQUIRED

Prior to constructing or modifying any wastewater control facilities, an engineering report and detailed plans and specifications shall be submitted to the Department for approval in accordance with Chapter 173-240 WAC. Engineering reports, plans, and specifications shall be submitted at least one hundred eighty (180) days prior to the planned start of construction unless a shorter time is approved by Ecology. Facilities shall be constructed and operated in accordance with the approved plans.

G6. COMPLIANCE WITH OTHER LAWS AND STATUTES

Nothing in this permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

G7. TRANSFER OF THIS PERMIT

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

A. Transfers by Modification

Except as provided in paragraph B below, this permit may be transferred by the Permittee to a new owner or operator only if this permit has been modified or revoked and reissued under 40 CFR 122.62(b)(2), or a minor modification made under 40 CFR 122.63(d), to identify the new Permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

B. Automatic Transfers

This permit may be automatically transferred to a new Permittee if:

1. The Permittee notifies the Department at least 30 days in advance of the proposed transfer date.
2. The notice includes a written agreement between the existing and new Permittee's containing a specific date transfer of permit responsibility, coverage, and liability between them.
3. The Department does not notify the existing Permittee and the proposed new Permittee of its intent to modify or revoke and reissue this permit. A modification under the subparagraph may also be minor modification under 40 CFR 122.63. If

this notice is not received, the transfer is effective on the date specified in the written agreement.

G8. REDUCED PRODUCTION FOR COMPLIANCE

The Permittee, in order to maintain compliance with its permit, shall control production and/or all discharges upon reduction, loss, failure, or bypass of the treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

G9. REMOVED SUBSTANCES

Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall not be resuspended or reintroduced to the final effluent stream for discharge to state waters.

G10. DUTY TO PROVIDE INFORMATION

The Permittee shall submit to the Department, within a reasonable time, all 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 submit to the Department upon request, copies of records required to be kept by this permit.

G11. OTHER REQUIREMENTS OF 40 CFR

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

G12. ADDITIONAL MONITORING

The Department may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

G13. PAYMENT OF FEES

The Permittee shall submit payment of fees associated with this permit as assessed by the Department.

G14. PENALTIES FOR VIOLATING PERMIT CONDITIONS

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars (\$10,000) and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars (\$10,000) for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

G15. UPSET

Definition – “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that: 1) an upset occurred and that the Permittee can identify the cause(s) of the upset; 2) the permitted facility was being properly operated at the time of the upset; 3) the Permittee submitted notice of the upset as required in condition S3.E; and 4) the Permittee complied with any remedial measures required under S4.C of this permit.

In any enforcement proceedings the Permittee seeking to establish the occurrence of an upset has the burden of proof.

G16. PROPERTY RIGHTS

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

G17. DUTY TO COMPLY

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

G18. TOXIC POLLUTANTS

The Permittee shall comply with 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 those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

G19. PENALTIES FOR TAMPERING

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this Condition, punishment shall be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four (4) years, or by both.

G20. REPORTING ANTICIPATED NON-COMPLIANCE

The Permittee shall give advance notice to the Department by submission of a new application or supplement thereto at least one hundred and eighty (180) days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during non-critical water quality periods and carried out in a manner approved by the Department.

G21. REPORTING OTHER INFORMATION

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

G22. REPORTING REQUIREMENTS APPLICABLE TO EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS

The Permittee belonging to the categories of existing manufacturing, commercial, mining, or silviculture must notify the Department 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 this permit, if that discharge will exceed the highest of the following "notification levels:"
 1. One hundred micrograms per liter (100 µg/L).
 2. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony.
 3. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).

4. The level established by the Director in accordance with 40 CFR 122.44(f).
- B. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels:”
1. Five hundred micrograms per liter (500µg/L).
 2. One milligram per liter (1 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 122.21(g)(7).
 4. The level established by the Director in accordance with 40 CFR 122.44(f).

G23. 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 fourteen (14) days following each schedule date.