Permit No. WA-003716-8

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

Department of Ecology
Water Quality Program

JUN 30 2003

AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et seq., as amended by the Water Quality Act of 1987, P.L. 100-4, the "CWA",

City of Puyallup Wastewater Treatment Plant
218 West Pioneer Avenue
Puyallup, WA 98371

is authorized to discharge from a wastewater treatment facility located in the City of Puyallup to receiving waters named the Puyallup River at latitude 47° 12' 26" N, longitude 122° 19' 11" W, in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective August 1, 2003.

This permit and the authorization to discharge shall expire at midnight, June 24, 2008

Signed this 24 day of June, 2003

For Randy Smith

Director, Office of Water Region 10
U.S. Environmental Protection Agency

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SUBMITTAL/TASK DEADLINES

The following is a summary of some of the items the permittee must complete and/or submit to EPA during the term of this permit:

Item	Task Deadline
Discharge Monitoring Reports (DMRs) and Summary	Submitted monthly; postmarked by the 10th day of each month.
Operation and Maintenance Plan	February 1, 2004
Quality Assurance Plan	December 1, 2003
Acute Toxicity Test Report	Submitted with the January DMR.
Chronic Toxicity Test Report	Submitted with the January DMR.
Receiving Water Monitoring Report	Submitted with the January DMR.
Outfall Evaluation	Report due annually on January 15, beginning with January 15, 2005.
Update of the Residual Solids Management Plan	February 1, 2004
Pretreatment Program:	
a. Local Limits Evaluation	February 1, 2005
b. Proposed Sewer Use Ordinance	February 1, 2005
c. Codify the Ordinance	Within 3 months of EPA's approval of the proposed sewer use ordinance
d. Submit Progress Report	August 1, 2004
e. Submit Pretreatment Program	August 1, 2005
Compliance Schedule to Meet Copper Effluent Limits:	
a. Source Evaluation	February 1, 2005
b. Investigation of Measures for Compliance	August 1, 2005
c. Selection of Measures to Enable Compliance	February 1, 2006
d. Implement the Selected Improvements	August 1, 2007. Notify the Tribe, EPA, and Ecology within 14 days of making the improvements.
e. Annual progress report	January 15 of each year.

DEFINITIONS

"Acute toxic unit" ("TU_a") is a measure of acute toxicity. The number of acute toxic units in the effluent is calculated as 100/LC50, where the LC50 is measured in percent effluent.

"Administrator" means the Administrator of the EPA, or an authorized representative.

"Average monthly discharge limitation" means the highest allowable average of "daily discharges" over a calendar month. For pollutants other than fecal coliform bacteria, the average monthly discharge shall be calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month. For fecal coliform bacteria, the average monthly discharge shall be calculated as a geometric mean.

"Average weekly discharge limitation" means the highest allowable average of "daily discharges" over a calendar week. The average weekly discharge shall be calculated as the sum of all "daily discharges" measured during a calendar week divided by the number of "daily discharges" measured during that week.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Chronic toxic unit" ("TU_c") is a measure of chronic toxicity. The number of chronic toxic units in the effluent is calculated as 100/NOEC, where the NOEC is measured in percent effluent.

"Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. 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 pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

"Director" means the Director of the Office of Water, EPA, or an authorized representative.

"DMR" means discharge monitoring report.

"EPA" means the United States Environmental Protection Agency.

"Grab" sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.

"LC50" is the effluent concentration that is lethal to 50% of the test organisms within the prescribed period of time (24-96 h)

"Maximum daily discharge limitation" means the highest allowable "daily discharge."

"Method Detection Limit (MDL)" means the minimum concentration of an analyte that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero as determined by a specific laboratory method.

"Minimum Level (ML)" means the concentration at which the entire analytical system gives recognizable signals and an acceptable calibration. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes and processing steps have been followed.

"Non-domestic user" means a commercial or industrial user.

"No-Observed-Adverse-Effect Concentration (NOAEC) is the highest tested effluent concentration at which survival is not significantly different from the control.

"No observed effect concentration (NOEC)" is the highest tested concentration of an effluent at which no adverse effects are observed on the test organisms at the specific time of observation.

"Regional Administrator" means the EPA Region 10 Regional Administrator, or an authorized representative.

"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.

A "24-hour composite" sample shall mean a flow-proportioned mixture of not less than 8 discrete aliquots. Each aliquot shall be a grab sample of not less than 100 ml and shall be collected and stored in accordance with procedures prescribed in the most recent edition of *Standard Methods for the Examination of Water and Wastewater.*

I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the effective period of this permit, the permittee is authorized to discharge pollutants from the outfalls specified herein to the Puyallup River, within the limits and subject to the conditions set forth herein. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.

A. Outfall 001 Effluent Limitations and Monitoring Requirements

1. The permittee must limit and monitor discharges from Outfall 001 as specified in Table 1, below. All figures represent maximum effluent limits unless otherwise indicated. The permittee must comply with the effluent limits in the table at all times unless otherwise indicated, regardless of the frequency of monitoring or reporting required by other provisions of this permit.

Table 1: Limitations and Monitoring Requirements for Outfall 001

Parameter	Effluent Limitations			Monitoring Requirements	
	Average Monthly	Average Weekly	Maximum Daily	Sample Frequency	Sample Type
Five-day Biochemical Oxygen Demand (BOD_5) November 1 - April 30 mg/l lb/day	 30 2,179	 45 3,268	 --- ---	3/Week	24-hr Composite
BOD_5 May 1 - October 31 mg/l lb/day	 30 2,179	 45 3,268	 --- ---	3/Week	24-hr Composite
Total Suspended Solids (TSS) mg/l lb/day	 30 2,333	 45 3,499	 --- ---	3/Week	24-hr Composite
Fecal Coliform, #/100 ml	100[1]	—	—	3/Week	Grab
Total Ammonia (as N)[2] November 1 - April 30 mg/l lb/day	 6.8 793	 --- ---	 17.6 2,862	2/Week	24-hr Composite

Table 1: Limitations and Monitoring Requirements for Outfall 001 (continued)

Parameter	Effluent Limitations			Monitoring Requirements	
	Average Monthly	Average Weekly	Maximum Daily	Sample Frequency	Sample Type
Total Ammonia (as N)[2] May 1 - October 31 mg/l lb/day	 4.2 490	 --- ---	 12.0 792	2/Week	24-hour Composite
Copper, Total Recoverable[2,3] µg/l lb/day	 8.5 0.99	 --- ---	 13.7 1.60	Monthly	24-hour Composite
Lead, Total Recoverable[2] µg/l lb/day	 6.1 0.71	 --- ---	 10.5 1.22	Monthly	24-hour Composite
Mercury, Total[2] µg/l lb/day	 0.052 0.006	 --- ---	 0.072 0.008	Monthly	24-hr Composite
Zinc, Total Recoverable[2] µg/l lb/day	 70 8.2	 --- ---	 102 11.9	Monthly	24-hour Composite
pH, standard units	See Part I.A.3.			Continuous	Recording
Flow, mgd	---	---	---	Continuous	Recording
Temperature, °C	---	---	---	Daily	Grab
Chronic Whole Effluent Toxicity, TU_c	---	---	---	Annual	See Part I.C.
Acute Whole Effluent Toxicity, TU_a	—	—	—	Annual	See Part I.D.
Hardness, mg/l $CaCO_3$	---	---	---	Monthly	24-hour Composite
Fluoride[4]	---	---	---	Monthly	Grab

Notes:
1 Monthly average shall be measured as a geometric mean. No more than 10 percent of samples used to calculate the monthly average shall exceed 200/100 ml.
2 Reporting is required within 24 hours of a maximum daily limit violation. See Part IV.H.
3 Copper effluent limits shall become effective **August 1, 2007**, in accordance with the conditions of the Compliance Schedule in Part I.A.6. below.
4 Fluoride monitoring is only required if the City is fluoridating the municipal water supply.

2. The permittee must not discharge any floating solids, visible foam in other than trace amounts, or oily wastes that produce a sheen on the surface of the receiving water.

3. The pH of the effluent must not be less than 6.1 standard units nor greater than 9.0 standard units.

4. Removal Requirements for BOD_5 and TSS: The monthly average effluent concentration must not exceed 15 percent of the monthly average influent concentration.

   Percent removal of BOD_5 and TSS must be reported on the Discharge Monitoring Reports (DMRs). For each parameter, the monthly average percent removal must be calculated from the arithmetic mean of the influent values and the arithmetic mean of the effluent values for that month. Influent and effluent samples must be taken over approximately the same time period.

5. The permittee must collect effluent samples from the effluent stream after the last treatment unit, prior to mixing with effluent streams from other wastewater treatment facilities, and prior to discharge into the receiving waters.

6. Copper Compliance Schedule

   The permittee must comply with the average monthly and maximum daily total copper effluent limitations in Part 1.A (Table 1) on or before **August 1, 2007.** See also Part V.L., "Compliance Schedules". Until compliance with the effluent limitations is achieved, the permittee must complete the following tasks:

   a. By **February 1, 2005**, complete a study to determine the source(s) of copper in the wastewater treatment plant effluent and identify opportunities for reduction of copper levels at the source. Submit the study to the Tribe, EPA, and Ecology.

   b. By **August 1, 2005**, submit a plan to the Tribe, EPA, and Ecology that investigates the measures to ensure compliance with the copper effluent limits.

   c. By **February 1, 2006**, select the measures to enable compliance with the copper effluent limits. Within 14 days of

selecting the measures, notify the Tribe, EPA, and Ecology in writing of the selected measures. Readily implementable measures must be implemented as soon as feasible.

d. By **August 1, 2007**, implement the selected improvements to enable the treatment plant to meet the copper effluent limits. Within 14 days of making the improvements, notify the Tribe, EPA, and Ecology that improvements have been completed.

e. Submit an annual report of progress that outlines the progress made toward reaching the compliance date for the copper effluent limits. The annual report must be submitted to the Tribe, EPA and Ecology by January 15 of each year. At a minimum, the annual report must include:

i) an assessment of the year's monitoring data and comparison to the effluent limits;

ii) a report on progress made toward meeting effluent limits, including the applicable deliverables as required above; and

iii) further actions and milestones targeted for the upcoming year.

B. Method Detection Limits. For all monitoring, the permittee shall use methods that can achieve a MDL equal to 0.1 times the effluent limitation or the most sensitive EPA approved method, whichever is greater. If the analytical result for any sample is below the MDL, the permittee shall report "less than {numeric MDL}" on the DMR. For purposes of averaging results, the permittee shall use actual values for all values above the MDL and zero for values below the MDL.

C. Chronic Whole Effluent Toxicity Testing

The permittee must conduct annual chronic toxicity tests on effluent samples from outfall 001. Toxicity testing must be conducted on 24-hour composite samples of effluent. In addition, a split of each sample collected must be analyzed for the chemical and physical parameters required in Part I.A above. When the timing of sample collection coincides with that of the sampling required in Part I.A, analysis of the split sample will fulfill the requirements of Part I.A. Chronic testing must be conducted in accordance with paragraphs 1 though 5 below.

1. Test Species and Methods

   a. The permittee must conduct short-term tests with the water flea, *Ceriodaphnia dubia* (survival and reproduction test), and the fathead minnow, *Pimephales promelas* (larval survival and growth test). Each test shall be a static-renewal test.

   b. The presence of chronic toxicity must be determined as specified in *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA-821-R-02-013, October, 2002.

   c. Results must be reported in TU_c (chronic toxic units), where $TU_c = 100/NOEC$.

   d. Chronic toxicity testing requirements are triggered when the NOEC exceeds 11.5 TU_c (8.7 percent effluent concentration). When chronic toxicity testing requirements are triggered, the permittee shall comply with the requirements set out in paragraphs 5 and 6 below.

2. Quality Assurance

   a. The toxicity testing on each organism shall include a series of five test dilutions and a control. The series must include one dilution equal to 8.7 percent effluent.

   b. All quality assurance criteria and statistical analyses used for chronic tests and reference toxicant tests must be in accordance with *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA-821-R-02-013, October, 2002, and individual test protocols.

   c. In addition to those quality assurance measures specified in the methodology, the following quality assurance procedures must be followed:

      i) If organisms are not cultured in-house, concurrent testing with reference toxicants must be conducted. If organisms are cultured in-house, quarterly reference toxicant testing is sufficient. Reference toxicant tests

must be conducted using the same test conditions as the effluent toxicity tests.

ii) If effluent tests do not meet all test acceptability criteria as specified in the test methods manual, the permittee must re-sample and re-test within 14 days of receipt of the test results.

iii) Control and dilution water must be either synthetic laboratory water or uncontaminated receiving water as described in the methods manual. If the dilution water used is different from the culture water, a second control, using culture water must also be used. In no case shall water that has not met test acceptability criteria be used for either dilution or control.

3. Reporting

a. The permittee shall submit the full report for each toxicity test with the **January DMR**.

b. Chronic toxicity test results shall be reported in TU_c.

c. Test results for chronic tests shall include all relevant information in Section 10, Report Preparation, of *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA-821-R-02-013, October, 2002.

d. The full report shall include:

i) chronic toxicity test results;
ii) dates of sample collection and initiation of each test;
iii) flow rate at the time of sample collection; and
iv) results of the monitoring required in Part I.A of the permit.

4. Accelerated Testing

a. If chronic toxicity testing requirements as defined in paragraph I.C.1.d above are triggered, the permittee must conduct six more biweekly tests over a twelve-week period. Accelerated testing must be initiated within two weeks of receipt of the test results that indicate an exceedence. Part

I.C.4.d., below, allows for the permittee to conduct only one accelerated test if the conditions under that part are met.

b. If none of the six accelerated tests required under paragraph I.C.4.a. above indicates toxicity greater than 11.5 TU_c, the permittee may return to the normal testing frequency.

c. If any of the six accelerated tests required under paragraph I.C.4.a. above indicates toxicity greater than 11.5 TU_c, then the permittee must initiate a Toxicity Reduction Evaluation (TRE) in accordance with Part I.C.5.

d. Initial Investigation. If the permittee adequately demonstrates through an evaluation of facility operations that the cause of the exceedence is known and corrective actions have been implemented, only one accelerated test is necessary. If toxicity exceeding the trigger is detected in this test, then the TRE requirements in Part I.C.5. shall apply. If toxicity does not exceed the trigger, then the permittee may return to the normal testing frequency.

5. Toxicity Reduction Evaluation (TRE) and Toxicity Identification Evaluation (TIE)

a. If chronic toxicity testing requirements as defined in paragraph I.C.1.d, above are triggered in any of the six biweekly tests, required under paragraph I.C.5.a then the permittee shall initiate a TRE, in accordance with *Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants* (EPA 833-B-99-002, August, 1999) within fifteen (15) days of receipt of the sample results of the exceedence. At a minimum, the TRE must include:

i) further actions to investigate and identify the cause of toxicity;
ii) actions the permittee will take to mitigate the impact of the discharge and to prevent the recurrence of toxicity; and
iii) a schedule for these actions.

b. The permittee may initiate a TIE as part of the overall TRE process described in the EPA acute and chronic TIE manuals EPA/600/6-91/005F (Phase I), EPA/600/R-92/080 (Phase II), and EPA-600/R-92/081 (Phase III).

c. If a TIE is initiated prior to completion of the accelerated testing, the accelerated testing schedule may be terminated, or used as necessary in performing the TIE.

D. Acute Whole Effluent Toxicity Testing

The permittee must conduct annual acute toxicity tests on effluent samples from outfall 001. Toxicity testing must be conducted on 24-hour composite samples of effluent. In addition, a split of each sample collected must be analyzed for the chemical and physical parameters required in Part I.A. When the timing of sample collection coincides with that of the sampling required in Part I.A, analysis of the split sample will fulfill the requirements of Part I.A. Acute testing must be conducted in accordance with paragraphs 1 through 5 below.

1. Test Species and Methods

a. The permittee shall conduct 96-hour static renewal tests with the fathead minnow, *Pimephales promelas* and 48-hour non-renewal tests with the water flea, *Ceriodaphnia dubia.*

b. The presence of acute toxicity must be determined as specified in *Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms*, Fifth Edition, EPA-821-R-02-012, October 2002.

c. Results shall be reported in TU_a (acute toxic units), where TU_a = 100/LC50 (in percent effluent).

d. Acute toxicity testing requirements are triggered when the LC50 exceeds 1.8 TU_a (56 percent effluent concentration). When acute toxicity testing requirements are triggered, the permittee shall comply with the requirements set out in paragraphs 5 and 6 below.

2. Quality Assurance

a. The toxicity testing on each organism shall include a series of five test dilutions and a control. The series shall include one dilution equal to 56 percent effluent.

b. All quality assurance criteria and statistical analyses used for acute tests and reference toxicant tests must be in accordance with *Methods for Measuring the Acute Toxicity of*

Effluents to Freshwater and Marine Organisms, Fifth Edition, EPA-821-R-02-012, October 2002, and individual test protocols.

c. In addition to those quality assurance measures specified in the methodology, the following quality assurance procedures must be followed:

i) If organisms are not cultured in-house, concurrent testing with reference toxicants must be conducted. If organisms are cultured in-house, quarterly reference toxicant testing is sufficient. Reference toxicant tests must be conducted using the same test conditions as the effluent toxicity tests.

ii) If effluent tests do not meet all test acceptability criteria as specified in the test methods manual, the permittee must re-sample and re-test within 14 days of receipt of the test results.

iii) Control and dilution water must be either synthetic laboratory water or uncontaminated receiving water as described in the methods manual. If the dilution water used is different from the culture water, a second control, using culture water must also be used. In no case shall water that has not met test acceptability criteria be used for either dilution or control.

3. Reporting

a. The permittee shall submit the full report for each toxicity test with the **January DMR**.

b. Toxicity test results shall be reported in TU_a.

c. Test results for acute tests shall include all relevant information in Section 12, Report Preparation, of *Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms*, Fifth Edition, EPA-821-R-02-012, October 2002.

c. The full report shall include:

i) acute toxicity test results;
ii) dates of sample collection and initiation of each test;
iii) flow rate at the time of sample collection; and
iv) results of the monitoring required in Table 1 of the permit.

4. Accelerated Testing

a. If acute toxicity testing requirements as defined in paragraph I.D.1.d above are triggered, the permittee must conduct six more biweekly tests over a twelve-week period. Accelerated testing must be initiated within two weeks of receipt of the test results that indicate an exceedence. Part I.D.4.d., below, allows for the permittee to conduct only one accelerated test if the conditions under that part are met.

b. If none of the six accelerated tests required under paragraph I.D.4.a. above indicates toxicity greater than 1.8 TU_a, the permittee may return to the normal testing frequency.

c. If any of the six accelerated tests required under paragraph I.D.4.a. above indicates toxicity greater than 1.8 TU_a, then the permittee must initiate a Toxicity Reduction Evaluation (TRE) in accordance with Part I.D.5.

d. Initial Investigation. If the permittee adequately demonstrates through an evaluation of facility operations that the cause of the exceedence is known and corrective actions have been implemented, only one accelerated test is necessary. If toxicity exceeding the trigger is detected in this test, then the TRE requirements in Part I.D.5. shall apply. If toxicity does not exceed the trigger, then the permittee may return to the normal testing frequency.

5. Toxicity Reduction Evaluation (TRE) and Toxicity Identification Evaluation (TIE)

a. If acute toxicity testing requirements as defined in paragraph I.D.1.d are triggered in any of the six biweekly tests, required under paragraph 1.D.5.a then the permittee shall initiate a TRE, in accordance with *Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants* (EPA

833-B-99-002, August, 1999) within fifteen (15) days of receipt of the sample results of the exceedence. At a minimum, the TRE must include:

i) further actions to investigate and identify the cause of toxicity;
ii) actions the permittee will take to mitigate the impact of the discharge and to prevent the recurrence of toxicity; and
iii) a schedule for these actions.

b. The permittee may initiate a TIE as part of the overall TRE process described in the EPA acute and chronic TIE manuals EPA/600/6-91/005F (Phase I), EPA/600/R-92/080 (Phase II), and EPA-600/R-92/081 (Phase III).

c. If a TIE is initiated prior to completion of the accelerated testing, the accelerated testing schedule may be terminated, or used as necessary in performing the TIE.

E. Receiving Water Monitoring Requirements

The permittee must conduct receiving water monitoring. Sampling must meet the following requirements:

1. Working with the Puyallup Tribe, the permittee must develop a receiving water monitoring plan.

2. Working with the Puyallup Tribe, the permittee must establish monitoring stations in the Puyallup River. The upstream monitoring station must be upstream of the facility's outfall, at a minimum distance of 100 feet from the facility's outfall. The downstream monitoring station must be established at a maximum distance of 302 feet below the facility's outfall at the edge of the mixing zone (i.e. at a point where the effluent and the receiving water are completely mixed).

3. To the extent possible, the receiving water samples must occur on the same day as the effluent sample collection.

4. To the extent possible, the downstream receiving water samples must be collected during critical conditions. Working with the Puyallup Tribe, the permittee must establish critical conditions.

5. Quality assurance/quality control for all monitoring must be documented in the Quality Assurance Plan required under Part IV.A, *Quality Assurance Plan.*

6. Receiving water monitoring results must be submitted to the EPA and the Puyallup Tribe Environmental Department with the January Discharge Monitoring Report.

7. Samples must be analyzed for the parameters listed in Table 2.

Table 2: Receiving Water Monitoring Requirements in the Puyallup River

Parameter	Location	Sample Frequency	Sample Type
Total Ammonia as N, mg/L	Upstream	Quarterly	Grab
	Downstream	Annual	Grab
Copper, Total Recoverable, µg/l	Upstream	Quarterly	Grab
	Downstream	Annual	Grab
Lead, Total Recoverable, µg/l	Upstream	Quarterly	Grab
	Downstream	Annual	Grab
Mercury, Total Recoverable, µg/l	Upstream	Quarterly	Grab
	Downstream	Annual	Grab
Zinc, Total Recoverable, µg/l	Upstream	Quarterly	Grab
	Downstream	Annual	Grab
pH, standard units	Upstream	Quarterly	Grab
	Downstream	Annual	Grab
Hardness, mg/L as $CaCO_3$	Downstream	Quarterly	Grab
Fluoride[1]	Upstream	Quarterly	Grab

Note:
1. Fluoride monitoring is only required if the City is fluoridating the municipal water supply.

F. Outfall Evaluation

Beginning in 2004, the permittee shall inspect the submerged portion of the outfall line and diffuser annually to document its integrity and continued function . If conditions allow for photographic verification, it shall be included in the report. The inspection report shall be submitted to EPA, the Puyallup Tribe, and Ecology by **January 15** of the following year.

II. PRETREATMENT REQUIREMENTS

A. Reports and Information. All reports and information required to be submitted under this part shall be submitted to the following addresses:

original to: Pretreatment Coordinator
United States Environmental Protection Agency Region 10
1200 Sixth Avenue, OW-130
Seattle, Washington 98101

copy to: The Puyallup Tribe
Environmental Department
1850 Alexander Avenue
Tacoma, Washington 98421

copy to: Pretreatment Coordinator
Department of Ecology, Southwest Regional Office
P.O. Box 47775
Olympia, Washington 98504-7775.

B. Pretreatment Program Development. By **August 1, 2005**, the permittee shall submit to EPA for approval a pretreatment program developed in accordance with the general pretreatment regulations (40 CFR §403). Copies shall also be submitted to the Puyallup Tribe and the Washington Department of Ecology.

By **August 1, 2004**, the permittee shall submit to EPA, the Puyallup Tribe and the Washington Department of Ecology a progress report that outlines the progress made toward development of the pretreatment program.

At a minimum, the pretreatment program shall include the following:

1. Results of an industrial waste survey as required by 40 CFR 403.8(f)(2)(i-iii), including identification of non-domestic users and the character and volume of pollutants contributed to the POTW by the non-domestic users;

2. Local limits for pollutants of concern, developed as required in paragraph II.C below; the monitoring to support development of these local limitations shall be conducted as required in paragraph II.E below;

3. The city's sewer use ordinance, developed as required in paragraph II.D, below;

4. An evaluation by the city's attorney of the legal authorities to be used by the Permittee to apply and enforce the requirements of Sections 307(b) and (c) and 402(b)(8) of the Clean Water Act, including those requirements outlined in 40 CFR 403.8(f)(1). Multi-jurisdictional issues must also be addressed;

5. An evaluation of the financial programs, staffing, and revenue sources, as required by 40 CFR 403.8(f)(3), that will be employed to implement the pretreatment program;

6. Policies and procedures (e.g. permitting, inspections, compliance, and enforcement), which will implement the requirements of 40 CFR §403, and in particular those requirements in 40 CFR 403.8 and 403.12;

7. List of monitoring equipment required by the POTW to implement the pretreatment program and a description of municipal facilities to be constructed or acquired for monitoring or analysis of industrial wastes.

C. Local Limits Evaluation

1. By **February 1, 2005**, the permittee shall submit to EPA, the Puyallup Tribe, and Ecology a complete local limits evaluation.

2. The evaluation shall propose limits that protect water quality in the receiving stream, biological processes in the treatment plant, and sludge quality goals.

3. At a minimum, the evaluation shall address fats, oils & grease, and priority pollutants listed in Tables II and III of Appendix D of 40 CFR Part 122 as amended, and any other pollutants expected from non-domestic sources.

4. The submittal shall include proposed local limits, maximum allowable headworks loadings, all supporting calculations, data from which calculations were based, and clear explanations of all assumptions.

5. The monitoring to support development of these local limitations shall be conducted as required in section II.E below.

D. Sewer Use Ordinance. The permittee shall develop and adopt a sewer use ordinance according to the following schedule.

1. By **February 1, 2005,** the permittee shall submit a proposed sewer use ordinance to EPA, the Puyallup Tribe, and Ecology for review. The ordinance shall incorporate the local limits developed under paragraph II.C and the general pretreatment requirements of 40 CFR §403.

2. Within 3 months of EPA's approval of the proposed sewer use ordinance, the permittee shall codify the ordinance, incorporating such modifications as required by EPA.

E. Sampling to Determine Local Limits

1. The permittee must analyze for the priority pollutants listed in Tables II and III of Appendix D of 40 CFR Part 122 as amended. Sampling must be conducted for one year. Sampling for percent solids, metals, and cyanide must be conducted quarterly. All other pollutants must be sampled semiannually.

2. Semiannual sampling must be conducted once during the wet season and once during the dry season, approximately 6 months apart.

3. The influent and effluent shall be sampled on days when industrial and commercial discharges are occurring at normal to maximum levels.

4. Procedures listed in 40 CFR §136 must be used for collection, preservation, storage and analysis of samples.

5. Sludge

   a. Sludge samples must be taken as the sludge leaves the dewatering device or digesters before mixing with sludge of different ages.

   b. Sludge Reporting: Analytical results for sludge shall be reported in mg/kg (dry weight).

6. The permittee must sample as described in Table 3.

Table 3: Local Limits Sampling			
Parameter	**Sample Point**	**Sample Type**	**Number of Samples Per Sampling Event**
Metals, Acid Compounds, Base/neutral, and Pesticides[1]	Influent	24-hour Composite	Three discrete 24-hour samples within a week (Mon - Fri)[2,3]
	Effluent	24-hour Composite	Three discrete 24-hour samples within a week (Mon - Fri)[2,3]
	Sludge	Grab	Once, during the same time period that influent and effluent samples are taken.
Volatile Organics	Influent	Eight grab samples collected over 24-hours	Three 24-hour samples within a week (Mon - Fri)[2,4]
	Effluent	Eight grab samples collected over 24-hours	Three 24-hour samples within a week (Mon - Fri)[2,4]
	Sludge	Grab	Once, during the same time period that influent and effluent samples are taken.

Note:
1. Influent and effluent samples for cyanide shall be collected and analyzed as required in paragraph II.E.7.d.
2. Sample days need not be contiguous.
3. Each 24-hour composite sample must be analyzed and reported as a discrete sample.
4. A single analysis for volatile pollutants may be run for each 24-hour monitoring day. See paragraph II.E.8.b.

7. Metals, Cyanide, Percent Solids

a. The permittee must sample influent, effluent, and sludge from its facility for arsenic, cadmium, chromium, copper, cyanide, lead, mercury, molybdenum, nickel, selenium, silver and zinc. Sludge must also be analyzed and reported for percent solids.

b. Metals must be analyzed and reported as total metals.

c. For pretreatment sampling, the permittee must use EPA-approved analytical methods that achieve the method

detection limits (MDLs) in Table 4, unless higher detection limits are approved by EPA's Pretreatment Coordinator.

Table 4: Method Detection Limits

Parameter	MDL, µg/l
Arsenic	1.0
Cadmium	0.1
Chromium	1.0
Copper	1.0
Cyanide	5.0[1]
Lead	1.0
Mercury	0.005 - 0.01
Molybdenum	4.0
Nickel	1.0
Selenium	2.0
Silver	0.2
Zinc	0.05

Note:
1. This value represents a minimum level, not an MDL.

Requests for higher MDLs must be submitted in writing to the EPA Pretreatment coordinator at the address in paragraph II.A.

d. Cyanide sampling: Influent and effluent sampling for cyanide must be conducted as follows. Eight discrete grab samples must be collected over a 24-hour day. Each grab sample must be at least 100 ml. Each sample must be checked for the presence of chlorine and/or sulfides prior to preserving and compositing (refer to *Standard Methods*, 4500-CN B). If chlorine and/or sulfides are detected, the sample must be treated to remove any trace of these parameters. After testing and treating for the interference compounds, the pH of each sample must be adjusted, using sodium hydroxide, to 12.0 standard units. Each sample can then be composited into a larger container which has been chilled to 4 degrees Celsius, to allow for one analysis for the day.

8. Toxic Organics

a. The permittee must perform chemical analyses of its influent, effluent, and sludge for all specific toxic organic pollutants listed in Table II of Appendix D of 40 CFR 122.

b. Volatile Organics Sampling: eight discrete samples must be collected over the 24 hour day using 40 ml VOC vials with teflon septa. During sampling, the flow from the discharge will be controlled to produce smooth laminar flow to prevent agitation and aeration of the sample. The VOC vials will be filled to the top such that there is a meniscus present. There must be no visible air space or air bubbles in the VOC vials when capped. A single analysis for volatile pollutants may be run for each monitoring day by compositing equal volumes of the individual discrete VOC vials (at the analytical laboratory using extreme care not to introduce air/air bubbles) directly into the GC purge and trap apparatus, with no less than 1 ml of each grab included in the composite. The composite sample must be analyzed immediately.

c. In addition to the priority pollutants, a reasonable attempt must be made to identify and quantify the ten most abundant substances of each fraction (excluding priority pollutants and unsubstituted aliphatic compounds) shown to be present by peaks on the total ion plots (reconstructed gas chromatogram) more than ten times higher than the adjacent background noise which produces an identifiable spectra, and more than five scans wide. Identification must be attempted by a laboratory whose computer data processing programs are capable of comparing the sample mass spectrum to a computerized library of mass spectra, with visual confirmation by an experienced analyst. Quantification may be an order of magnitude estimate based on comparison with an internal standard.

d. Sample Handling: All samples must be prepared, preserved, shipped, and analyzed in accordance with USEPA Methods 624 and 625.

F. Continuing Monitoring for Pollutants of Concern

1. Following completion of the local limit sampling required under Section II.E, the permittee must continue to monitor for pollutants of

concern identified in the local limits evaluation on a semi-annual basis. Sampling events shall be once during the wet season and once during the dry season, approximately 6 months apart.

2. The influent and effluent must be sampled on days when industrial and commercial discharges are occurring at normal to maximum levels.

3. The permittee shall sample as described in Sections II.E.3 through II.E.8, above.

III. SLUDGE (BIOSOLIDS) MANAGEMENT REQUIREMENTS

A. Residual solids include screenings, grit, scum, primary sludge, waste activated sludge and other solid waste. The permittee shall store and handle all residual solids in such a manner so as to prevent their entry into ground or surface waters. The permittee shall not discharge leachate from residual solids to surface or ground waters.

B. Any proposed revision or modification of the Residual Solids Management Plan shall be submitted to the Solid Waste Program of the Department of Ecology for approval and to the Puyallup Tribe. The permittee shall comply with the plan and any modifications thereof. The permittee shall submit an update of the Residual Solids Management Plan to the Department of Ecology and the Puyallup Tribe by **February 1, 2004.**

C. The permittee shall apply for a permit to use or dispose of sludge in accordance with the following requirements of the Clean Water Act Biosolids Permit process:

1. The City will maintain on file with EPA a current application for a federal biosolids permit under Section 405 of the Clean Water Act.

2. If the Department of Ecology is authorized by EPA to issue Clean Water Act biosolids permits, the permittee shall submit to the Department of Ecology an update to its application for a biosolids permit, if necessary.

IV. MONITORING, RECORDING, AND REPORTING REQUIREMENTS

A. Quality Assurance Plan

1. The permittee shall develop a Quality Assurance Plan (QAP) for all monitoring requirements identified in the permit. The plan shall be implemented by **December 1, 2003.**

2. Throughout all sample collection and analysis activities, the permittee shall use the EPA approved quality assurance, quality control, and chain-of-custody procedures described in:

   a. *Requirements for Quality Assurance Project Plans*, EPA QA/R-5 (EPA/240/B-01/003, March 2001). A copy of this document can be found electronically at: http://www.epa.gov/quality/qs-docs/r5-final.pdf

   b. *Guidance for Quality Assurance Project Plans, EPA-QA/G-5*, (EPA/600/R-98/018, February, 1998). A copy of this document can be found electronically at: http://www.epa.gov/r10earth/offices/oea/epaqag5.pdf

3. The permittee shall amend the QAP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAP.

4. Copies of the QAP shall be kept on site and made available to EPA, the Puyallup Tribe, or Ecology upon request. A copy of the QAP shall be submitted to the Puyallup Tribe upon completion.

B. Representative Sampling. The permittee shall collect all effluent samples from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee shall collect additional samples whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee shall analyze the additional samples for those parameters limited in Part I.A. of this permit that are likely to be affected by the discharge.

The permittee shall collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples shall be analyzed in accordance with paragraph IV.C ("Monitoring Procedures"). The permittee shall report all additional monitoring in accordance with paragraph IV.E ("Additional Monitoring by Permittee").

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

D. Reporting of Monitoring Results. Monitoring results shall be summarized each month on the DMR form. A summary report must accompany the monitoring results noting concerns/issues that the permittee has with the sampling and analytical procedures and results and QA/QC information associated with the monitoring results included data qualifiers.

The reports shall be submitted monthly and are to be postmarked by the 10th day of the following month. Legible copies of these, and all other reports, shall be signed and certified in accordance with the requirements of Part VI.E. (Signatory Requirements) and submitted to the Director, Office of Water, the Puyallup Tribe, and the Washington Department of Ecology at the following addresses:

original to:	United States Environmental Protection Agency Region 10 1200 Sixth Avenue, OW-133 Seattle, Washington 98101
copy to:	The Puyallup Tribe Environmental Department 1850 Alexander Avenue Tacoma, Washington 98421
copy to:	Department of Ecology Southwest Regional Office P.O. Box 47775 Olympia, Washington 98504-7775

In addition, all analytical lab reports associated with the monitoring results must be included with the monthly reports sent to the Puyallup Tribe.

E. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the

results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated and an explanation of why such additional monitoring was performed.

Upon request by the Director, the permittee shall submit results of any other sampling, regardless of the test method used.

F. Records Contents. Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;

2. The individual(s) who performed the sampling or measurements;

3. The date(s) analyses were performed;

4. The individual(s) who performed the analyses;

5. The analytical techniques or methods used; and

6. The results of such analyses.

G. Retention of Records. The permittee shall retain records of all monitoring information, including but not limited to all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time. A copy of this NPDES permit must be maintained on-site for the duration of activity at the permitted location.

H. Twenty-four Hour Notice of Noncompliance Reporting.

1. The following occurrences of noncompliance shall be reported by telephone within 24 hours from the time the permittee becomes aware of the circumstances:

a. Any noncompliance that may endanger health or the environment;

b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part V.G, Bypass of Treatment Facilities);

c. Any upset which exceeds any effluent limitation in the permit (See Part V.H, Upset Conditions); or

d. Any violation of a maximum daily discharge limitation for any of the pollutants in Table 1 requiring 24-hour reporting.

e. Any overflow prior to the treatment works, whether or not such overflow endangers health or the environment or exceeds any effluent limitation in the permit.

2. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall 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; and

d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

e. If the non compliance involves an overflow prior to the treatment works, an estimate of the quantity (in gallons) of untreated overflow.

3. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Unit in Seattle, Washington, by phone, (206) 553-1846.

4. Reports shall be submitted to the addresses in Part IV.D (Reporting of Monitoring Results).

I. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part IV.D (Reporting of Monitoring Results) are submitted. The report shall contain the information listed in Part IV.H.2 (Twenty-four Hour Notice of Noncompliance Reporting).

J. Notice of New Introduction of Pollutants. The permittee shall provide adequate notice to the Director, Office of Water of:

1. Any new introduction of pollutants into the treatment works from an indirect discharger which would be subject to Sections 301 or 306 of the CWA if it were directly discharging those pollutants; and

2. Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit.

3. For the purposes of this section, adequate notice shall include information on:

   a. The quality and quantity of effluent to be introduced into such treatment works; and

   b. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from such publicly owned treatment works.

V. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply. The permittee must 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 for denial of a permit renewal application. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

B. Penalties for Violations of Permit Conditions.

1. Civil Penalties. Pursuant to 40 CFR 19 and the Act, any person who violates Section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $27,500 per day for each violation).

2. Administrative Penalties. Any person may be assessed an administrative penalty by the Administrator for violating Section 301,

302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of this Act. Pursuant to 40 CFR 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $27,500). Pursuant to 40 CFR 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $137,500).

3. Criminal Penalties:

   a. Negligent Violations. The Act provides that any person who negligently violates Sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

   b. Knowing Violations. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both.

c. Knowing Endangerment. Any person who knowingly violates Section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in Section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions.

d. False Statements. The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The Act further provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

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

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

E. Operation and Maintenance.

1. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used, by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance (O & M) also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. By **February 1, 2004**, the permittee shall review its operation and maintenance plan and ensure that it includes appropriate best management practices (BMPs). The O&M plan shall include measures which prevent or minimize the potential for the release of pollutants to the Puyallup River. The Plan shall be retained on site and made available to EPA, the Puyallup Tribe, or Ecology upon request. A copy of the Plan shall be submitted to the Puyallup Tribe upon completion.

3. The permittee shall develop a description of pollution prevention measures and controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in the O & M Plan shall reflect identified potential sources of pollutants at the facility. The description of BMPs shall address, to the extent practicable, the following minimum components:

   a. Spill prevention and control;

   b. Optimization of chemical use;

   c. Research, development and implemention of a public information and education program to control the introduction of household hazardous materials to the sewer system; and

   d. Water conservation.

4. Facility Planning Requirement. Each month, the permittee must compute an annual average value for the BOD_5 loading and TSS loading entering the facility based on the previous twelve months data or all data available, whichever is less. If the facility has completed a plant upgrade that affects the facility planning values

listed in Table 5, only the data collected after the upgrade should be used in determining the annual average value. In addition, the permittee must compute the average daily flow entering the facility for the given month.

When the annual average BOD_5 loading or TSS loading values exceed 85% of the facility planning values listed in Table 5, or the average daily flow during a given month exceeds 85% of the maximum month flow listed in Table 5, the permittee must develop a facility plan and schedule within one year from the date of the first exceedence. The plan must include the permittee's strategy for continuing to maintain compliance with effluent limits and will be made available to the Director, the Puyallup Tribe, Ecology, or an authorized representative upon request.

Table 5: Facility Planning

Criteria	Value	Units
Maximum Month Flow[1]	13.98	mgd
Influent BOD_5 Loading	14,525	lbs/day
Influent TSS Loading	15,550	lbs/day

Notes
1 Average daily flow during the highest flow month of the year.

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

G. Bypass of Treatment Facilities.

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this section.

2. Notice.

   a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part IV.H (Twenty-four Hour Notice of Noncompliance Reporting).

3. Prohibition of bypass.

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

i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up 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 preventive maintenance; and

iii) The permittee submitted notices as required under paragraph 2 of this section.

b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph 3.a. of this section.

H. Upset Conditions.

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph 2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required under Part IV.H ("Twenty-four Hour Notice of Noncompliance Reporting"); and

d. The permittee complied with any remedial measures required under Part V.D ("Duty to Mitigate").

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

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

J. Planned Changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. (This notification applies to pollutants which are not subject to effluent limitations in the permit or notification requirements under 122.42(a)(1)).

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

L. 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 must be submitted no later than 14 days following each schedule date.

VI. GENERAL PROVISIONS

A. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit

modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

B. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application must be submitted at least **180 days before the expiration date** of this permit unless the Administrator grants permission to submit the application at a later date.

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

D. Other Information. When 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 any report to the Director, it shall promptly submit such facts or information.

E. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.

1. All permit applications shall be signed by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by the Director 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:

   a. The authorization is made in writing by a person described above and submitted to the Director, and

   b. 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.)

3. Changes to authorization. If an authorization under paragraph VI.E.2. 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 VI.E.2. must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. 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 gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

F. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director. As required by the CWA, permit applications, permits and effluent data shall not be considered confidential.

G. Inspection and Entry. The permittee shall allow the Director or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

H. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the CWA.

I. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws for regulations.

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

K. Transfers. This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date;

2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.

L. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Clean Water Act.

M. Reopener Clause. This permit is subject to modification, revocation and reissuance, or termination at the request of any interested person

(including the permittee) or upon EPA initiative. However, permits may only be modified, revoked or reissued, or terminated for the reasons specified in 40 CFR 122.62 or 122.64, and 40 CFR 124.5. This includes new information which was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance, including but not limited to future monitoring results. All requests for permit modification must be addressed to EPA in writing and shall contain facts or reasons supporting the request.