



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
 75 Hawthorne Street
 San Francisco, CA 94105

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

NPDES PERMIT NO. GU0020354

In compliance with the provisions of the Clean Water Act (CWA) (Public Law 92-500, as amended, 33 U.S.C. 1251 et seq.), the following discharger is authorized to discharge from the identified facility at the outfall location(s) specified below, in accordance with the effluent limits, monitoring requirements, and other conditions set forth in this permit:

Discharger Name		Peterra, Inc.		
Discharger Address		Guam Power Authority Piti Bulk Fuel Storage Terminal P.O. Box 3549, Hagatna, Guam 96932		
Facility Name		Guam Power Authority Piti Bulk Fuel Terminal		
Facility Address		South of Piti Channel, just west of the former Navy power plant Piti, Guam 96925		
Facility Rating		Minor		
Discharge Point No..	Discharge Point Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
001	Treated Storm water, and Tank Bottom Draws	13° 27' 38" N	144° 41' 12" E	Piti Channel
002	Treated Storm water, and Tank Bottom Draws	13° 27' 36" N	144° 41' 08" E	Piti Channel
003	Treated Storm water, and Tank Bottom Draws	13° 27' 26" N	144° 41' 05" E	Piti Channel
This permit was issued on:		January 13 th , 2011		
This permit shall become effective on:		March 1 st , 2011		
This permit shall expire at midnight on:		February 29 th , 2016		
In accordance with 40 CFR 122.21(d), the discharger shall submit a new application for a permit at least 180 days before the expiration date of this permit, unless permission for a date no later than the permit expiration date has been granted by the Director.				

Signed this 13th day of January, 2011, For the Regional Administrator

[Signed]

 Alexis Strauss, Director
 Water Division

PART I - EFFLUENT LIMITATIONS

- A. During the period beginning on the effective date of this permit and ending on the expiration date of this permit, Peterra, Inc. (hereinafter, the “permittee”) is authorized to discharge treated effluent from tank bottom water draws and storm water through Outfalls 001, 002 and 003, however no discharge of tank bottom water draws from any e Outfall shall be permitted unless it is treated by a properly operating oil/water separator. All permitted discharges shall be limited and monitored by the permittee as specified in Table 1. The permittee shall maintain compliance with all effluent limitations specified in Table 1 and requirements identified in this permit.
- B. Except as authorized in Table 1 of this permit, the discharge shall not cause the following conditions in the receiving water:
1. The discharge shall be free from substances, conditions or combinations that cause visible floating materials, grease, oil, scum, foam, and other floating material which degrades water quality or use.
 2. The discharge shall be free from substances, conditions or combinations that produce visible turbidity, settle to form deposits or otherwise adversely affect aquatic life.
 3. The discharge shall be free from substances, conditions or combinations that produce objectionable color, odor or taste, directly or by chemical or biological action.
 4. The discharge shall be free from substances, conditions or combinations that injure or are toxic or harmful to humans, animals, plants or aquatic life.
 5. The discharge shall be free from substances, conditions or combinations that induce the growth of undesirable aquatic life.
 6. The discharge shall not cause the temperature in the receiving water to deviate more than 1.0 degree Centigrade (1.8 of the degree Fahrenheit) from ambient conditions.
 7. The discharge shall not cause the turbidity in the receiving water to exceed 1.0 NTU.
 8. The discharge of any radioactive wastes and contaminated radioactive materials from research facilities is strictly prohibited.
 9. The discharge shall not cause the concentration of DO in the receiving water to be less than 75% of saturation.
 10. The discharge shall not cause the pH in the receiving water to exceed the range of 6.5 to 9.0 standard units.

Table 1 - Effluent Limitations and Monitoring, Monitoring Frequency, and Sample Type for Each Pollutant or Parameter for Outfalls No. 001, 002, 003.

Effluent Characteristic	Maximum Daily Limits (mg/L)	Monitoring Frequency ¹	Sample Type
Flow Rate (GPD)	--	Once/discharge	Composite
Oil and Grease	15	Once/discharge	(2)
Lead	(5)	Once/discharge	Grab
Toluene	(4)	Once/discharge	Grab
Benzene	(4)	Once/discharge	Grab
Ethylbenzene	(4)	Once/discharge	Grab
Xylene	(4)	Once/discharge	Grab
pH	Not less than 6.5 standard units nor greater than 8.5 standard units.	Once/discharge	(3)
Whole Effluent Toxicity	Monitoring Only	Once/permit cycle ⁶	24-hr Composite

1. Not to exceed once per month, if there is continuous discharge for more than a period of thirty days or more. If additional testing is performed, results must be reported.
2. The Daily Maximum shall be determined from the arithmetic average of values obtained from a minimum of four discrete grab samples taken at equal intervals during a period of forty-five minutes. Sampling shall begin during the first hour of discharge.
3. Flow and pH shall be taken as field measurements at the time of sampling.
4. These parameters must be monitored once per discharge or once per month if there is continuous discharge for a period of thirty days or more. If any monitoring indicates that the applicable water quality standard has been exceeded or there is a reasonable potential to exceed such standard, the monitoring frequency shall be increased to once per week, provided there is a discharge during that time. After 10 weekly monitoring results with no exceedances of applicable water quality standards, the permittee may reduce the monitoring to once per month again. Applicable water quality standards to be considered as action levels are: Benzene- 0.0012 mg/L; Ethylbenzene- 3.1 mg/L; Toluene- 6.8 mg/L). There is currently no limit established for xylene either in the Guam or Federal water quality standards.
5. Permittee shall conduct sampling for lead in effluent within 90 days of the issuance date of the permit. If sampling results indicate that the lead limit of 0.0032 mg/L is exceeded, or has a reasonable potential to be exceeded, then additional testing shall be required, and the permit may be re-opened to include an effluent limit for lead.
6. In accordance with federal regulations, the permittee shall conduct a Priority Toxics Pollutants scan during the first effluent discharge event after the issuance of the permit to ensure that the discharge does not contain toxic pollutants in concentrations that may

cause violation of water quality standards. The permittee shall perform all effluent sampling and analyses for the priority pollutants scan in accordance with the methods described in the most recent edition of 40 CFR 136. 40 CFR 131.36 provides a complete list of Priority Toxic Pollutants. If the scan results indicate that a limit has actually been exceeded or there is a reasonable potential for such a limit to be exceeded, this permit may be reopened to include appropriate numeric limits

PART II - MONITORING AND REPORTING REQUIREMENTS

A. Monitoring and Reporting

1. Sampling

Samples and measurements taken as required in this permit shall be representative of the volume and nature of the monitored discharge.

2. Effluent Monitoring

The permittee shall conduct effluent monitoring to evaluate compliance with the permit conditions. The permittee shall perform all monitoring, sampling and analyses in accordance with the methods described in the most recent edition of 40 CFR 136, unless otherwise specified in the permit. For priority toxic pollutant effluent analyses, the permittee shall utilize an approved test procedure with a Method Detection Limit (MDL) that is lower than the marine waters acute, chronic and human health criteria concentrations listed in Guam's WQS and/or as presented in the recommended federal water quality criteria (as applicable). If a permit effluent limit has been established, then use limit as threshold for MDL. If monitoring only, then use WQS/criterion as threshold. If no criterion is established or if the MDL is higher than the criteria concentrations, then the permittee shall utilize the approved test procedure with the lowest MDL. Effluent analyses for metals shall measure "total recoverable metal", except as provided under 40 CFR 122.45(c)(3).

3. Effluent Reporting

All monitoring data shall be reported on monthly DMR forms and submitted quarterly to EPA and GEPA. Effluent monitoring and analyses must be conducted in accordance with EPA test procedures approved under Title 40, Code of Federal Regulations (CFR), Part 136, *Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act*, as amended. The results of all monitoring required by this permit shall be submitted in such a format so as to allow direct comparison with the limitations and requirements of this permit. Unless otherwise specified, discharge flows shall be reported in terms of average flow over each 30-day period and the maximum daily flow over that 30-day period. Monitoring reports shall be postmarked no later than the 45th day of the month following the completed reporting period (e.g., January, February, and March DMRs should be postmarked by May 15th). The first report is due within 45 days following the first quarter after the effective date of this permit. Duplicate signed copies of these, and all other reports required herein, shall be submitted to the EPA and the GEPA at the following addresses:

EPA - Region IX
Pacific Islands Office, CED-6
75 Hawthorne Street
San Francisco, California 94105

Guam EPA
P.O. Box 22439 GMF
Barrigada, GU 96921

B. Twenty-four Hour Reporting of Noncompliance

1. In accordance with 40 CFR 122.41(l)(6), the permittee shall report any noncompliance which may endanger human health or the environment. Any information shall be provided orally, within 24 hours from the time the permittee becomes aware of the circumstances, to EPA and GEPA.

The permittee shall notify EPA and GEPA at the following telephone numbers:

Pacific Islands Office, CED-6
EPA - Region IX
(415) 972-3769

Administrator
Guam EPA
(671) 475-1658

A written submission also shall be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; and, if noncompliance has not been corrected, the anticipated time the noncompliance is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

PART III - REOPENER PROVISIONS

- A.** In accordance with 40 CFR 122 and 124, this permit may be modified by EPA to include effluent limits, monitoring, or other conditions to implement new regulations, including EPA-approved water quality standards; or to address new information indicating the presence of effluent toxicity or the reasonable potential for the discharge to cause or contribute to exceedances of water quality standards.
- B.** In accordance with 40 CFR and Parts 122 and 124, this permit may be modified to include effluent limitations or permit conditions to address chronic toxicity in the effluent or receiving waterbody, as a result of the discharge; or implement new, revised, or newly interpreted water quality standards applicable to chronic toxicity.

PART IV - STANDARD CONDITIONS

- A.** The permittee shall comply with all EPA Region IX Standard Conditions included in an attachment to this permit. (See Appendix A.)

PART V - SPECIAL CONDITIONS

A. Spill Prevention Control and Countermeasure (SPCC) Plan

In accordance with 40 CFR Parts 112.3 and 112.7, the permittee currently has a Spill Prevention Control and Countermeasure Plan.

B. Pollution Prevention Plan

The Permittee shall develop, if it has not done so, or revise and update, if it already has done developed and implemented a Pollution Prevention Plan (PPP).

The PPP shall include the following program elements in order to reduce pollutants entering The Big Guatali River and from there Apra Harbor both from daily operations and from storms. If any PPP requirements overlap with SPCC, OPA 90, or HAZMAT plan requirements already implemented, the permittee may simply reference the applicable plan under the specific PPP requirement.

1. Pollution Prevention Committee

A Pollution Prevention Committee shall be appointed from members within the plant organization. These members shall be responsible for developing the storm water pollution prevention plan and assisting the plant manager in its implementation, maintenance, and revision.

2. Source Identification

The permittee shall identify all activities and significant materials which may potentially be significant pollutant sources. Source identification requirements shall include:

- (1) a drainage site map that identifies the drainage area of all storm water outfalls, all existing structural control measures to reduce pollutants in storm water runoff, and surface water bodies;
- (2) a topographic map extending one-quarter of a mile beyond the property boundaries of the facility;
- (3) a list of significant spills and leaks of toxic or hazardous pollutants that occurred at the facility
- (4) a narrative description of significant materials that have been treated, stored, or disposed of in a manner to allow exposure to storm water between the time of three years prior to the date of the issuance of this permit and the present
- (5) risk identification and assessment/material inventory identifying the various sources at the plant that contribute pollutants to storm water discharges associated with industrial activity;
- (6) a narrative description of the method of on-site storage, disposal and materials management practices employed to minimize contact of these materials with precipitation and storm water runoff;
- (7) a narrative description of materials loading and access areas;

- (8) a prediction of the direction of flow and estimates of the type of pollutants that are likely to be present in storm water discharges for each area of the plant that generates storm water discharges associated with industrial activity; and
- (9) a summary of existing sampling data describing pollutants in storm water discharges.

3. Source Control Best Management Practices (BMPs)

This section of the PPP requires the development and implementation of BMPs designed to prevent pollutants from entering surface waters. The permittee shall describe, in detail, which of the following BMPs can be implemented, and how and when they will be implemented. If certain BMPs are not practicable, the permittee shall describe why they are not. The Pollution Prevention Committee shall make use of the results of Source Identification requirements above when developing the BMPs. As a minimum, BMPs shall be established to ensure the following:

(1) For Vehicle and Equipment Fueling and Fuel Transfer Areas

- i. Run-on of storm water and run-off of spills are prevented;
- ii. Fueling areas are paved with concrete, not asphalt;
- iii. Topping off of fuel is prevented;
- iv. Fuel transfer areas have secondary containment
- v. Spills are cleaned using absorbent materials rather than hosing down the area; and
- vi. Fueling areas are covered if possible.

(2) For Vehicle and Equipment Washing Areas

- i. Wash areas are covered where feasible and bermed to contain wash water;
- ii. Wash water is discharged to the sanitary sewer (after contacting local sewer authorities to find out if pre-treatment is necessary); and
- iii. Wash water is filtered and recycled where feasible

(3) For Vehicle and Equipment Maintenance and Repair Areas

- i. Equipment is inspected on a regular basis for cleanliness and leaks;
- ii. Vehicle maintenance is performed in designated areas only, which are covered and designed to prevent storm water pollution;
- iii. All fluids such as greases, used oil, antifreeze, cleaning solvents, hydraulic and transmission fluids, etc., are kept segregated, recycled or

disposed of properly and in accordance with all local, state and federal laws;

- iv. Drip pans or containers are used under all areas that may drip;
- v. All spills are cleaned using absorbent materials, rather than by hosing down the area; and
- vi. Use of solvents is minimized.

(4) For Control of Solid Materials

- i. Scrap metal, wood, plastic, miscellaneous trash such as paper and glass, and industrial scrap are removed from the grounds and properly disposed;
- ii. Routine clean up of litter and debris in the facility is performed to prevent possible discharge to the receiving water
- iii. Oil, paint generators, scrap metal, unused machinery, used batteries, etc., in the facility are stored under cover and disposed of properly and in accordance with all local, state and federal laws; and
- iv. Storm drain inlets and outlets are inspected and cleaned following large storm events.

(5) For Hazardous Waste Management

- i. Hazardous waste, including used paint, oils, brake fluids, anti-freeze, batteries, petroleum products, degreasers, tool coolants, etc. are properly labeled, recycled when possible or disposed of within the guidelines of RCRA;
- ii. Warning signs are posted in locations where there is a significant risk of environmental damage such as spills, and “No Dumping” signs are installed where dumping is likely to occur; and
- iii. Trash bins have signs designating the type of material that is acceptable and/or unacceptable.

(6) For Oil, Grease and Fuel Spills

- i. Used oils are properly stored in sealed and approved containers and stored in a place that can contain the material in the event of a spill, preferably in a covered shed or warehouse. The contained area shall be surrounded by a curb, dike or berm to provide sufficient volume to contain 10% of the total material stored or 110% of the largest container, whichever is the greater volume;

- ii. All paved storage areas are free of cracks and gaps and are sufficiently impervious to contain spills. Fuel and other hydrocarbons shall not be stored on asphalt surfaces
- iii. Cleanup is carried out promptly after an oil or grease spill is detected;
- iv. Liquid absorbent pads are kept in stock for emergency use; and
- v. Loading and unloading of fuels is done in an area that is completely contained and in a manner which will minimize any potential spillage.

(7) For Paint and Solvent Spills

- i. Paints and solvents are mixed in designated paint mix areas only which have adequate secondary containment; and
- ii. Paint and solvent spills are treated as oil spills and must be contained until cleanup is complete.

(8) For Sediment and Erosion Prevention

- i. Measures to minimize erosion and fuel contaminated sheet flow runoff for areas that have a high potential for significant soil erosion are implemented. Such measures may include, preservation of natural vegetation, re-vegetation, removal of contaminated soils, and geosynthetics.

(9) For Tank Bottom Water Draws

- i. Water seepage into the fuel tanks is prevented to the maximum extent practicable;
- ii. The release of whole petroleum product from the fuel tank(s) is prevented
- iii. The discharge of tank bottom water draws is treated to meet water quality standards prior to discharge; and
- iv. Tank bottom water draws are not released onto permeable areas which could cause soil or ground water contamination

(10) For Fuel Line Flushing

- i. Discharge from fuel line flushing is treated to meet water quality standards prior to discharge;
- ii. Discharge from fuel line flushing is not released onto permeable areas; which could cause soil or ground water contamination; and
- iii. Water is conserved to the maximum extent practicable.

4. Treatment Control Best Management Practices (BMPs)

The permittee shall also implement the following BMPs which focus on treating contaminated storm water. BMPs shall be established to ensure the following:

(1) For Structural and Vegetative Controls:

- i. Additional structural controls (i.e. oil/water separators, detention basins, etc.) and/or vegetative controls (i.e. grassy swales) shall be constructed if and when the implementation of all source control BMPs is unable to completely control storm water contamination.

(2) For Operation and Maintenance of Oil/Water Separator(s):

- i. Oil/water separators and other storm water management devices, such as storm drain catch basins, are routinely inspected and cleaned to ensure their proper operation; and
- ii. Oil/fuel from the oil water separators is properly disposed.

5. Employee Training and Visual Inspections

(1) The permittee shall develop and execute an employee and subcontractor training program emphasizing pollution prevention. Employees must be educated about BMPs, and waste minimization. Employees must understand the proper identification, handling, and disposal of hazardous waste, and Spill Prevention and Response procedures.

(2) The permittee shall perform weekly visual inspections using a checklist to ensure that all aspects of the PPP are properly carried out.

(3) The permittee shall complete incident reports documenting the time, date, nature of the problem(s), counter-measures taken, agencies notified, and recommended revisions to the PPP.

6. Reporting

The permittee shall complete the development or revision (if one already exists) of the PPP within six months of the effective date of this permit. Also within six months of the effective date of this permit, the permittee shall submit a notice of completion and implementation of the PPP. If development or revision and implementation of the PPP is delayed, the permittee shall submit a notice of noncompliance which provides the justification for the delay and a schedule for plan completion and

implementation. Upon plan implementation, the permittee shall submit a report quarterly certifying either compliance or noncompliance with all conditions of the plan, any problems that occurred that had the potential of adding significant quantities of pollutants to the discharge, steps taken to mitigate those problems, and any new procedures implemented or equipment used to improve the operations during each reporting period.

PART VI - DEFINITIONS

Best Management Practices (BMPs). Best Management Practices or “BMPs” are schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural, and/or managerial practices to prevent or reduce the pollution of waters of the U.S. BMPs include treatment systems, operating procedures, and practices to control: plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs may further be characterized as operational, source control, erosion and sediment control, and treatment BMPs.

Composite sample. For flow rate measurements, the arithmetic mean of no fewer than 8 individual measurements taken at equal intervals for 8 hours or for the duration of the discharge, whichever is shorter. A composite sample means, for other than flow rate measurement, a combination of 8 individual portions obtained at equal time intervals for 8 hour(s) or for the duration of discharge, whichever is shorter. The volume of each individual portion shall be directly proportional to the discharge flow rate at the time of sampling. The sampling period shall coincide with the period of maximum discharge flow.

Daily Discharge. A 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.

Discharge Monitoring Report (DMR). An NPDES form for the reporting of self-monitoring NPDES results by the permittee.

Discrete sample. Any individual sample collected in less than 15 minutes. The sampling period shall coincide with the period of maximum discharge flow.

Grab Sample. A single individual sample collected at a particular time and place that represents the composition of the discharge only at that time and place. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3, Table II. Where collection, preservation, and handling procedures are not outlined in 40 CFR 136.3, procedures outlined in the 18th edition of *Standard Methods for the Examination of Water and Wastewater* shall be used.

Maximum Daily Effluent Limitation (MDL). The highest allowable daily discharge of a pollutant or parameter, over a calendar day or 24-hr period. For pollutants with limitations

expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day.

Method Detection Limit (MDL). The minimum concentration of an analyte that can be detected with 99 percent confidence that the analyte concentration is greater than zero, as defined by a specific laboratory method in 40 CFR 136. The procedure for determination of a laboratory MDL is in 40 CFR 136, Appendix B.

ATTACHMENT A.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

CWA STANDARDS AND PERMITS OFFICE (WTR-5)

STANDARD FEDERAL NPDES PERMIT CONDITIONS

Updated as of June 3, 2002

Reference: CFR 40 Parts 100 to 135, July 1, 2001

1. DUTY TO REAPPLY [40 CFR 122.21 (d)]

The permittee shall submit a new application 180 days before the existing permit expires.
122.2(c)(2)

POTW's with currently effective NPDES permits shall submit with the next application the sludge information listed at 40 CFR 501.15(a)(2).

2. APPLICATIONS [40 CFR 122.22]

All permit applications shall be signed as follows:

(1) For a corporation, by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

- (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
- (ii) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in paragraph (a) of this section;

(2) The authorization specifies either an individual or position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

(3) The written authorization is submitted to the Director.

Changes to authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

Certification. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

(1) 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.

3. DUTY TO COMPLY [40 CFR 122.41(a)]

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 denial of a permit renewal application.

(1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

(2) The Clean Water Act provides that 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 \$25,000 per day for each violation. The Clean Water 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. 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. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318, or 405 of the Act, or any permit condition of limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at the 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 CWA, 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.

(3) 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. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

4. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE [40 CFR 122.41(c)]

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.

5. DUTY TO MITIGATE [40 CFR 122.41(d)]

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.

6. PROPER OPERATION AND MAINTENANCE [40 CFR 122.41(e)]

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 also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup 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.

7. PERMIT ACTIONS [40 CFR 122.41(f)]

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.

8. PROPERTY RIGHTS [40 CFR 122.41(g)]

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

9. DUTY TO PROVIDE INFORMATION [40 CFR 122.41(h)]

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.

10. INSPECTION AND ENTRY [40 CFR 122.41(i)]

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon 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 purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

11. MONITORING AND RECORDS [40 CFR 122.41(j)]

- (1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.
- (3) Records of monitoring information shall include:
 - (i) The date, exact place, and time of sampling or measurements;
 - (ii) The individual(s) who performed the sampling or measurements;
 - (iii) The date(s) analyses were performed;
 - (iv) The individual(s) who performed the analyses;
 - (v) The analytical techniques or methods used; and
 - (vi) The results of such analyses.
- (4) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, unless other test procedures have been specified in the permit.
- (5) 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, 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.

12. SIGNATORY REQUIREMENT [40 CFR 122.41(k)]

- (1) All applications, reports, or information submitted to the Director shall be signed and certified. [See 40 CFR 122.22]
- (2) The CWA 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.

13. REPORT REQUIREMENTS [40 CFR 122.41(l)]

- (1) 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:
 - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Sec. 122.29(b); or
 - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Sec. 122.42(a)(1).
 - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (2) 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.
- (3) Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See Sec. 122.61; in some cases, modification or revocation and reissuance is mandatory.)
- (4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.
 - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, or as

specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.

(iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

(5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(6) Twenty-four hour reporting.

(i) The permittee shall report any noncompliance which may endanger health or the environment.

Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See Sec. 122.41(g).)

(b) Any upset which exceeds any effluent limitation in the permit.

(c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See Sec. 122.44(g).)

(iii) The Director may waive the written report on a case-by-case basis for reports under paragraph (1)(6)(ii) of this section if the oral report has been received within 24 hours.

(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (1) (4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (1)(6) of this section.

(8) 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 Director, it shall promptly submit such facts or information.

14. **BYPASS [40 CFR 122.41(m)]**

(1) Definitions.

(i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) 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 (m)(3) and (m)(4) of this section.

(3) Notice.

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

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (1)(6) of this section (24-hour notice).

(4) Prohibition of bypass.

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

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) 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

(c) The permittee submitted notices as required under paragraph (m) (3) of this section.

(ii) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (m)(4)(i) of this section.

15. UPSET [40 CFR 12241(n)]

(1) 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.

(2) 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(n)(3) 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.

(3) 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:

- (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (ii) The permitted facility was at the time being properly operated; and
- (iii) The permittee submitted notice of the upset as required in paragraph (1)(6)(ii)(b) of this section (24 hour notice).
- (iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

(4) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

16. EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS [40 CFR 122.42(a)]

In addition to the reporting requirements under Sec. 122.41(1), all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director as soon as they know or have reason to believe:

(1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (i) One hundred micrograms per liter (100 µg/l);
- (ii) 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;
- (iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Sec. 122.21(g) (7); or
- (iv) The level established by the Director in accordance with Sec. 122.44(f).

(2) 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 the permit, if that discharge will exceed the highest of the following "notification levels":

- (i) Five hundred micrograms per liter (500 µg/l);
- (ii) One milligram per liter (1 mg/l) for antimony;

- (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Sec. 122.21(g)(7).
- (iv) The level established by the Director in accordance with Sec. 122.44(f).

17. PUBLICLY OWNED TREATMENT WORKS [40 CFR 122.42(b)]

This section applies only to publicly owned treatment works (POTWs) as defined at 40 CFR 122.22.

All POTWs must provide adequate notice to the Director of the following:

- (1) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA if it were directly discharging those pollutants; and
- (2) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- (3) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

[The following condition has been established by Region IX to enforce applicable requirements of the Resource Conservation and Recovery Act] Publicly owned treatment works may not receive hazardous waste by truck, rail, or dedicated pipe except as provided under 40 CFR 270. Hazardous wastes are defined at 40 CFR 261.31 - 261.33. The Domestic Sewage Exclusion (40 CFR 261.4) applies only to wastes mixed with domestic sewage in a sewer leading to a publicly owned treatment works and not to mixtures of hazardous wastes and sewage or septage delivered to the treatment plant by truck.

Municipal separate storm sewer systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under Sec. 122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include:

- (1) The status of implementing the components of the storm water management program that are established as permit conditions;
- (2) Proposed changes to the storm water management programs that are established as permit condition. Such proposed changes shall be consistent with Sec. 122.26(d)(2)(iii) of this part; and
- (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under Sec. 122.26(d)(2)(iv) and (d)(2)(v) of this part;
- (4) A summary of data, including monitoring data, that is accumulated throughout the reporting year;

- (5) Annual expenditures and budget for year following each annual report;
- (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and
- (7) Identification of water quality improvements or degradation.

Storm water discharges. The initial permits for discharges composed entirely of storm water issued pursuant to Sec. 122.26(e)(7) of this part shall require compliance with the conditions of the permit as expeditiously as practicable, but in no event later than three years after the date of issuance of the permit.

18. REOPENER CLAUSE [40 CFR 122.44(c)]

For any permit issued to a treatment works treating domestic sewage (including "sludge-only facilities"), the Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA. The Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

19. PRIVATELY OWNED TREATMENT WORKS [40 CFR 122.44(m)]

For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this part. Alternatively, the Director may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. The Director's decision to issue a permit with no conditions applicable to any user, to impose conditions on one or more users, to issue separate permits, or to require separate applications, and the basis for that decision, shall be stated in the fact sheet for the draft permit for the treatment works.

20. TRANSFERS BY MODIFICATION [40 CFR 122.61(a)]

Except as provided in paragraph (b) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under Sec. 122.62 (b)(2)), or a minor modification made (under Sec.122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.

21. AUTOMATIC TRANSFERS [40 CFR 122.61(b)]

As an alternative to transfers under paragraph (a) of this section, any NPDES 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 in paragraph (b)(2) of this section;
- (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. A modification under this subparagraph may also be a minor modification under Sec. 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section.

22. MINOR MODIFICATIONS OF PERMITS [40 CFR 122.63]

Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of part 124. Any permit modification not processed as a minor modification under this section must be made for cause and with part 124 draft permit and public notice as required in Sec. 122.62. Minor modifications may only:

- (1) Correct typographical errors;
- (2) Require more frequent monitoring or reporting by the permittee;
- (3) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or
- (4) Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.
- (5) Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under Sec. 122.29.
- (6) Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.
- (7) [Reserved]
- (8) Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 (or a modification thereto that has been approved in accordance with the procedures in 40 CFR 403.18) as enforceable conditions of the POTW's permits.

23. TERMINATION OF PERMITS [40 CFR 122.64]

The following are causes for terminating a permit during its term, or for denying a permit renewal application:

- (1) Noncompliance by the permittee with any condition of the permit;
- (2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
- (3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
- (4) 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 (for example, plant closure or termination of discharge by connection to a POTW).

24. AVAILABILITY OF REPORTS [Pursuant to Clean Water Act Section 308]

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 Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

25. REMOVED SUBSTANCES [Pursuant to Clean Water Act Section 301]

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.

26. SEVERABILITY [Pursuant to Clean Water Act Section 512]

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 remainder of the permit, shall not be affected thereby.

27. CIVIL AND CRIMINAL LIABILITY [Pursuant to Clean Water Act Section 309]

Except as provided in permit conditions on "Bypass" (Section 14) and "Upset" (Section 15), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

28. OIL AND HAZARDOUS SUBSTANCE LIABILITY [Pursuant to Clean Water Act Section 311]

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 Clean Water Act.

29. STATE OR TRIBAL LAW [Pursuant to Clean Water Act Section 510]

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