

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

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 "Act",

ConAgra, Incorporated d/b/a  
Armour Fresh Meats

is authorized to discharge from facility located at Nampa, Idaho (latitude 43°, 33', 32"; longitude 116°, 31', 33")

to receiving waters named Indian Creek,

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective February 1, 1999.

This permit and the authorization to discharge shall expire at midnight, February 2, 2004.

Signed this 29<sup>th</sup> day of December, 1998.

/s/ Roger K. Mochnick for  
Randall F. Smith  
Director, Office of Water  
Region 10  
U.S. Environmental Protection Agency

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I. SPECIFIC LIMITATIONS AND MONITORING REQUIREMENTS

A. Effluent Limitations and Monitoring Requirements

1. During the period beginning on the effective date of this permit, and lasting through the expiration date, the Permittee is authorized to discharge treated process water from Outfall 010 and non-contact cooling water from Outfall 004 to Indian Creek provided the discharge meets the limitations and monitoring requirements set forth herein. This permit does not authorize the discharge of any waste streams, including spills and other unintentional or non-routine discharges of pollutants, that are not part of the normal operation of the facility as disclosed in the permit application, or any pollutants that are not ordinarily present in such waste streams.

Table 1. Outfall 010				
PARAMETER	EFFLUENT LIMITATIONS		MONITORING REQUIREMENTS <sup>1</sup>	
	Average Monthly Limit	Daily Maximum Limit	Sample Frequency	Sample Type
Flow, million gallons per day (mgd)	---	0.74	Continuous	Recording
Biological Oxygen Demand (BOD <sub>5</sub> )	75 lbs/day	90 lbs/day	1/week	24-hour composite
Total Suspended Solids (TSS)	125 lbs/day	154 lbs/day	1/week	24-hour composite
Oil and Grease	21 lbs/day	25 lbs/day	1/week	24-hour composite
Fecal Coliform Bacteria, October 1-April 30	200/100 ml <sup>2</sup>	400/100 ml	5/month	grab
Fecal Coliform Bacteria, May 1-September 30	50/100 ml <sup>2</sup>	400/100 ml	5/month	grab
E. Coli Bacteria	---	---	1/month	grab
Total Residual Chlorine <sup>3</sup>	45 µg/L	58 µg/L	1/week	grab
Total Ammonia as N	1.3 mg/L	2.5 mg/L	1/ week	24-hour composite
	8 lbs/day	15 lbs/day		
CONTINUED ON NEXT PAGE				

Table 1. Outfall 010 (cont.)				
PARAMETER	EFFLUENT LIMITATIONS		MONITORING REQUIREMENTS <sup>1</sup>	
	Average Monthly Limit	Daily Maximum Limit	Sample Frequency	Sample Type
Temperature, <sup>4</sup> °F	---	---	1/week	grab
Whole Effluent Toxicity <sup>5</sup> , Tu <sub>c</sub>	---	---	2/year, See Section I.D.	24-hour composite
Turbidity <sup>6</sup> , NTU	---	---	1/week	24-hour composite
Total Kjeldahl Nitrogen <sup>6,7</sup> , mg/L	---	---	1/week	24-hour composite
Nitrate-Nitrite <sup>6,7</sup> , mg/L	---	---	1/week	24-hour composite
Total Phosphorus <sup>6,7</sup> , mg/l	---	---	1/week	24-hour composite
Ortho-Phosphate <sup>6,7</sup> , mg/L	---	---	1/week	24-hour composite

  

<ol style="list-style-type: none"> <li>1. For purposes of reporting on the Discharge Monitoring Report (DMR), if an analytical value is "less than the method detection limit, the Permittee shall report "&lt; [numerical method detection limit]" on the DMR. For example, if the laboratory reports "not detected" for a sample, and states that the method detection limit is "5 µg/L" then the Permittee shall report "&lt; 5 µg/L" on the DMR.</li> <li>2. The average monthly fecal coliform count must not exceed a geometric mean of 200/100 ml or 50/100 ml, dependant on season, based on a minimum of five (5) samples per month.</li> <li>3. Analytical method shall achieve a method detection limit of 10 µg/L.</li> <li>4. Weekly temperature samples shall be taken during the hottest part of the day.</li> <li>5. See Section I.D. of the permit for additional information on WET monitoring requirements.</li> <li>6. These parameters shall be analyzed for a period of two years. Monitoring shall start one hundred and fifty (150) days after the effective date of the permit.</li> <li>7. Sample frequency of 1/week may be reduced in the second year of sampling for these nutrients in accordance with the conditions specified in Section I.C.</li> </ol>
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Table 2. OUTFALL 004				
PARAMETER	EFFLUENT LIMITATIONS		MONITORING REQUIREMENTS	
	Average Monthly Limit	Daily Maximum Limit	Sample Frequency	Sample Type
Flow, MGD	---	0.10	Continuous	Recording
Temperature, °F	---	---	1/week	Grab

2. The pH range for outfall 010 shall be between 6.5 - 9.0 standard units. The Permittee shall monitor for pH one (1) time per week for outfall 010. Sample analysis shall be conducted on grab samples from the effluent.
3. There shall be no discharge of floating solids or visible foam other than trace amounts from outfall 010 or 004.
4. Dissolved Oxygen Limitation for Outfall 010: One day minimum of not less than 6.0 mg/L. Sample analysis shall be conducted on a grab sample once per week.
5. Temperature Monitoring Requirements: Once per month the effluent temperature for outfalls 010 and 004 shall be measured hourly for a twenty-four (24) hour period. Monitoring shall be concurrent with the twenty-four hour ambient temperature monitoring requirements (see section I.B.4). This temperature monitoring requirement shall start one hundred and fifty (150) days after the effective date of the permit and shall be analyzed for a period of two years.

**B. Ambient Monitoring Requirements**

The Permittee shall implement an ambient monitoring program. Ambient monitoring shall start one hundred fifty (150) days after the effective date of the permit and shall last for a period of two years (exception for flow, see I.B.5.). The program shall meet the following requirements:

1. Monitoring stations shall be established in Indian Creek. The location of the monitoring stations shall be
  - above the influence of the facility’s discharge, and
  - below the facility’s discharge, at a point where the effluent and creek are completely mixed.

Monitoring stations shall be approved by the Idaho Division of Environmental Quality (IDEQ) and EPA.

2. To the extent practicable, ambient sample collection shall occur on the same day as effluent sample collection.

3. Instantaneous grab samples shall be collected once per week at the upstream and downstream station and the following parameters analyzed:

Table 3. Ambient Monitoring Parameters
Total Ammonia as N, mg/L <sup>1</sup>
BOD <sub>5</sub> , mg/L
Dissolved Oxygen, mg/L
pH, standard units
Fecal Coliform Bacteria, #/100 ml
Temperature, °F
Nitrate + Nitrite, mg/L <sup>1</sup>
Total Kjeldahl Nitrogen, mg/L <sup>1</sup>
Total Phosphorus, mg/L <sup>1</sup>
Ortho-Phosphorus, mg/L <sup>1</sup>
Total Suspended Solids, mg/L
Turbidity, NTU
Oil and Grease, mg/L
1. Sample frequency of 1/week may be reduced in the second year of sampling for these nutrients in accordance with the conditions specified in Section I.C.

4. Temperature Monitoring Requirement: Once per month the upstream and downstream ambient temperature shall be measured hourly for a twenty-four (24) hour period. Monitoring shall be concurrent with the twenty-four hour effluent temperature monitoring requirements (see section I.A.5).
5. Stream Flow: Stream flow shall be recorded once per week at the upstream station for the life of the permit.
6. Ambient monitoring results shall be submitted monthly, in accordance with reporting requirements specified in section II.C. of this permit.

C. Reduction of Nutrient Sampling Frequency

For the nutrients identified by footnote 7 of Table 1 and footnote 1 of Table 3, the sampling frequency of once per week may be reduced during the second year of monitoring to either bi-weekly or monthly, if the data collected in the first year meets the following conditions:

1. Bi-weekly Monitoring: After one year of weekly monitoring for the identified nutrient species, the permittee may monitor these nutrients on a bi-weekly frequency for the duration of the remaining year if:

Using a Student's t-test for equality of means, no statistically significant difference can be demonstrated between arithmetic average of the weekly data during the first year and the arithmetic average of a bi-weekly subset (representing all twelve months) of the data collected during the first year.

2. Monthly Monitoring: After one year of weekly monitoring for the identified nutrient species, the permittee may monitor these nutrients on a monthly frequency for the duration of the remaining year if:

Using a Student's t-test for equality of means, no statistically significant difference can be demonstrated between arithmetic average of the weekly data during the first year and the arithmetic average of a monthly subset (representing all twelve months) of the data collected during the first year.

D. Whole Effluent Toxicity Testing

Toxicity tests shall be performed semi-annually, once during the period from April 1 through October 31, and once during the period from November 1 through March 31 on samples from outfall 010. Sampling shall be conducted during the first five years of the permit for a total of 10 sampling events.

1. Test Species and Methods:
  - a. The Permittee shall 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).
  - b. The presence of chronic toxicity shall be estimated as specified in *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Third Edition, EPA/600-4-91-002, July 1994.
2. Quality Assurance
  - a. A series of five dilutions and a control shall be tested. The dilution series shall include the instream waste concentration (IWC) of 23%, two dilutions above the IWC, and two dilutions below the IWC.
  - b. If organisms are not cultured in-house, concurrent testing with reference toxicants shall be conducted. Where organisms are cultured in-house, monthly reference toxicant testing is sufficient.



- c. If either the reference toxicant tests or the effluent tests do not meet all test acceptability criteria (TAC) as specified in the test methods manual, then the Permittee must re-sample and re-test as soon as possible.
- d. Reference toxicant test shall be conducted using the same test conditions as the effluent toxicity test (i.e., same test duration, etc.).
- e. Control and dilution water should be receiving water or laboratory water as described in the manual. If the dilution water used is different from the culture water, a second control, using culture water shall also be used.
- f. Chemical testing for the parameters listed in Part I.A.1 of this permit shall be performed on a split sample collected for WET testing. To the extent that the timing of sample collection coincides with that of the sampling required in Part I.A.1. of this permit, chemical analysis of the split sample will fulfill the requirements of that Part as well.

3. Reporting:

- a. Results of toxicity tests shall be reported on the Discharge Monitoring Report (DMR) for the month in which the tests are conducted. Results shall be reported in chronic toxic units ( $TU_c$ ), where  $TU_c = 100/IC25$ .
- b. The full report shall be submitted by the end of the month in which the DMR is submitted.
- c. The full report shall consist of : (1) the toxicity test results; (2) the dates of sample collection and initiation of each toxicity test; (3) the flow rate at the time of sample collection; and (4) the results of the effluent analysis for chemical parameters required for the outfall as defined in Part I.A.1. of the permit.
- d. Test results for chronic tests shall be reported according to the chapter on Report Preparation found in *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Third Edition, EPA/600-4-91-002, July 1994.

E. Quality Assurance Requirements

- 1. The Permittee shall develop a Quality Assurance Plan. The primary purpose of the Quality Assurance Plan shall be to assist in planning for the collection and analysis of samples (ambient and effluent) in support of the permit and in explaining data anomalies when they occur.

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 EPA QA/R-5 *EPA Requirements for Quality Assurance Project Plans* and EPA QA/G-5 *Guidance on Quality Assurance Project Plans*. The following references may be helpful in preparing the Quality Assurance Plan for this permit: *You and Quality Assurance in Region 10*, EPA, Region 10, Quality and Data Management Program, March 1988 and *The Volunteer Monitors Guide to Quality Assurance Project Plans* EPA 841-B-96-003, September 1996.
3. The plan shall be submitted to EPA for review within 90 days of the effective date of this NPDES permit.
4. At a minimum the plan shall include the following:
  - Sampling techniques (field blanks, replicates, duplicates, control samples, etc).
  - Sampling preservation methods.
  - Sampling shipment procedures.
  - Instrument calibration procedures and preventive maintenance (frequency, standard, spare parts).
  - Qualification and training of personnel.
  - Analytical methods (including quality control checks, quantification/detection levels).
5. Name(s), address(es) and telephone number(s) of the laboratories, used by or proposed to be used by the Permittee, shall be specified in the Quality Assurance Plan.
6. The Permittee shall require the laboratory director of each laboratory providing measurement results in support of this permit to sign and submit to EPA the following statement on a monthly basis with the DMR:

*I certify that this data is in compliance with requirements under 40 CFR 136 and other analytical requirements specified in NPDES permit No. ID-000078-7.*

*Signature:\_\_\_\_\_ Date:\_\_\_\_\_*

F. Definitions.

1. "Average monthly discharge limitation" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

2. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
3. "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.
4. "Director" means the Regional Administrator of EPA Region 10.
5. A "Grab" sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.
6. "Maximum daily discharge limitation" means the highest allowable "daily discharge."
7. "Method detection limit" 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 (40 CFR 136).
8. "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.
9. 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.
10. "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.

## II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under Part I shall be collected 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.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.
- C. Reporting of Monitoring Results. Monitoring results shall be summarized each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1). 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 IV.J. Signatory Requirements, and submitted to the Director, Office of Water and the State agency at the following addresses:

original to: United States Environmental Protection Agency (EPA) Region 10  
1200 Sixth Avenue, OW-133  
Seattle, Washington 98101

copy to: Idaho Division of Environmental Quality (DEQ)  
1445 North Orchard  
Boise, Idaho 83706

- D. 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.
- E. 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.

- F. Retention of Records. 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 three years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time. Data collected on-site, copies of DMRs, and a copy of this NPDES permit must be maintained on-site for five years or the life of the permit, whichever is longer.
- G. 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 which may endanger health or the environment;
    - b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part III.G., Bypass of Treatment Facilities.);
    - c. Any upset which exceeds any effluent limitation in the permit (See Part III.H., Upset Conditions.); or
    - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit to be reported within 24 hours.
  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.
  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 II.C., Reporting of Monitoring Results.
- H. 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 II.C. are submitted. The reports shall contain the information listed in Part II.G.2.
- I. 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 Act, any substances or parameters at any location.

### III. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply. The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the 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 Penalty. The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be subject to a civil penalty, not to exceed \$27,500 per day for each violation.
2. Criminal Penalties:
  - a. Negligent Violations. The Act provides that any person who negligently violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or by both.
  - b. Knowing Violations. The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or by both.
  - c. Knowing Endangerment. The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 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. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of

not more than \$1,000,000.

- d. **False Statements.** The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both.

Except as provided in permit conditions in Part III.G., Bypass of Treatment Facilities and Part III.H., Upset Conditions, nothing in this permit shall be construed to relieve the Permittee of the civil or criminal penalties for noncompliance.

- 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 in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. Proper Operation and Maintenance. 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 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.
- 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 II.G., 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:
  - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (2) 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
  - (3) 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 above 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 II.G., Twenty-four Hour Notice of Noncompliance Reporting; and
  - d. The Permittee complied with any remedial measures required under Part III.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.

IV. GENERAL REQUIREMENTS



- A. Changes in Discharge of Toxic Substances. Notification shall be provided to the Director as soon as the permittee knows of, or has 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":
    - a. One hundred micrograms per liter (100 ug/l);
    - b. Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
    - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
    - d. The level established by the Director in accordance with 40 CFR 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":
    - a. Five hundred micrograms per liter (500 ug/l);
    - b. One milligram per liter (1 mg/l) for antimony;
    - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
    - d. The level established by the Director in accordance with 40 CFR 122.44(f).
- B. 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.
- C. 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.
- D. 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.
- E. 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 should be submitted at least 180 days before the expiration date of this permit.

- F. 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.
- G. 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.
- H. 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 IV.H.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 IV.H.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."
- I. 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 State water pollution control agency and the Director. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

- J. 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 Act.
- K. 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 or regulations.
- L. 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.
- M. 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.
- N. 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 Act.
- O. Reopener Clause
1. This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the CWA, as amended, if the effluent standard, limitation, or requirement so issued or approved:
    - a. Contains different conditions or is otherwise more stringent than any condition in the permit; or
    - b. Controls any pollutant or disposal method not addressed in the permit.
- The permit as modified or reissued under this paragraph shall also contain any other requirements of the CWA then applicable.

2. This permit may be reopened to adjust any effluent limitations if future water quality studies, waste load allocation determinations, or changes in water quality standards warrant the establishment of different requirements.