

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

**STANDARD PROVISIONS
FOR
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
OCTOBER 1990**

FOR ALL PERMIT HOLDERS

1. Duty to Comply

- a. The discharger must comply with all of the conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [40 CFR Part 122.41(a)]
- b. The discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if this permit has not been modified to incorporate the requirement. [40 CFR Part 122.41(a)(1)]

2. Duty to Reapply

If the discharger wishes to continue an activity regulated by this permit after the expiration date of this permit, the discharger must apply for and obtain a new permit. [40 CFR Part 122.4(b)]

- a. Any publicly owned treatment works (POTW) with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Regional Board. (The Regional Board shall not grant permission for applications to be submitted later than the expiration date of the existing permit.) [40 CFR Part 122.41(d)(1)]
- b. All other dischargers with currently effective permits shall submit a new application 180 days before the existing permit expires except that:
 1. The Regional Administrator of the Environmental Protection Agency may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date; and
 2. The Regional Administrator of the Environmental Protection Agency may grant permission to submit the information after the permit expiration date required by paragraphs (g)(7),(9), and (10) of 40 CFR Part 122.21.

3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a discharger 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. [40 CFR Part 122.41(c)]

4. Duty to Mitigate

The discharger 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. [40 CFR Part 122.41(d)]

5. Proper Operation and Maintenance

The discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the discharger to achieve compliance with 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 discharger only when necessary to achieve compliance with the conditions of this permit. [40 CFR Part 122.41 (e)]

6. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any terms or conditions of this permit; or
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any condition that requires either a temporary or a permanent reduction or elimination of the authorized discharge; or
- d. 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.

The Regional Board may also review and revise this permit at any time upon application of any person, or on the Regional Board's own motion. [CWC 13263(e)]

If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant to this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the discharger so notified. [40CFR Part 122.41(f)] The filing of a request by the discharger for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit conditions. [40 CFR Part 122.4(f)]

7. Property Rights

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. [40 CFR Part 122.41(g)]

8. Duty to Provide Information

The discharger shall furnish the Regional Board, State Board, or EPA, within a reasonable time, any information which the Regional Board, State Board, or EPA may request to determine whether cause

exists for modifying, revoking and reissuing, or terminating a permit or to determine compliance with a permit. The discharger shall also furnish to the Regional Board, upon request, copies of records to be kept by this permit. [40 CFR Part 122.41(h)]

The discharger shall conduct analysis on any sample provided by EPA as part of the Discharge Monitoring Quality Assurance (DMQA) program. The results of any such analysis shall be submitted to EPA's DMQA manager.

9. Inspection and Entry

The discharger shall allow the Regional Board, State Board, EPA, and/or other authorized representatives upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the discharger's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. 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. [40 CFR Part 122.41(i)]

10. Monitoring and Records

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. The discharger 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 5 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Board, State Board, or EPA at any time.
- c. 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.
- d. Monitoring must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this permit.

11. Signatory Requirements

- a. All permit applications, reports, or information submitted to the Regional Board, State Board, and/or EPA shall be signed as follows:
 1. For a corporation: by a responsible corporate officer. For the purpose of this provision, a responsible corporate officer means: 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 the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if 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 provision, a principal executive officer of a Federal agency includes: the chief executive officer of the agency, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA). [40 CFR Part 122.22(a)]
- b. All reports required by this permit, other information requested by the Regional Board, State Board, or EPA, and all permit applications submitted for Group II stormwater discharges under 40 CFR Part 122.26(b)(3) shall be signed by a person described in paragraph a. of this provision, 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 provision;
 2. The authorization specifies either an individual or a 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 Regional Board. [40 CFR Part 122.22(b)]
- c. Changes to authorization. If an authorization under paragraph b. of this provision 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 provision must be submitted to the Regional Board prior to or together with any reports, information, or applications to be signed by an authorized representative. [40 CFR Part 122.22(c)]
- d. Certification. Any person signing a document under paragraph a. or b. of this provision 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 of knowing violations." [40 CFR Part 122.22(d)]

- e. The Clean Water Act 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 noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 2 years per violation, or by both.

12. Reporting Requirements

- a. Planned changes. The discharger shall give notice to the Regional Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when:
 - 1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29(b); or
 - 2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged.
- b. Anticipated noncompliance. The discharger will give advance notice to the Regional Board of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- c. Transfers
 - 1. This permit is not transferable to any person except after notice to the Regional Board. The Regional Board may require modification or revocation and reissuance of the permit to change the name of the discharger and incorporate such other requirements as may be necessary under the Clean Water Act and the Porter-Cologne Water Quality Control Act.
 - 2. Transfer by modification. Except as provided in paragraph 3 below, a permit may be transferred by the discharger to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made to identify the new discharger and incorporate such other requirements as may be necessary under the Clean Water Act (CWA).
 - 3. Automatic transfers. As an alternative to transfers under paragraph 2 of this provision, any NPDES may be automatically transferred to a new discharger if:
 - a. The current discharger notifies the Regional Board at least 30 days in advance of the proposed transfer date in paragraph 3.b. of this provision;
 - b. The notice includes a written agreement between the existing and new dischargers containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
 - c. The Regional Board does not notify the existing discharger and the proposed new discharger of its intent to modify or revoke and reissue the permit. A modification under

this subparagraph may also be a minor modification under 40 CFR Part 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 3. b. of this provision.

- d. Definitions. The following definitions shall apply unless specified in this permit:
 - 1. "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 terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling 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 sampling day. "Daily discharge" shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during the sampling day.
 - 2. "Daily Average" 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.
 - 3. "Daily Maximum" discharge limitations means the highest allowable average "daily discharge" during a calendar month.
- e. Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 - 1. Monitoring results must be reported on a Discharge Monitoring Report (DMR).
 - 2. If the discharger monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 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.
 - 3. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.
 - 4. As required by 40 CFR Part 122.45(b)(2), if a non-POTW discharger has production-based limitation, then the discharger shall submit with the DMR the level of production that actually occurred during each month and the limitations, standards, or prohibitions applicable to that level of production.
- f. 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.
- g. Twenty-four-hour reporting. The discharger shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the discharger becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the discharger 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, 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 recurrence of the noncompliance.

The following shall be included as information that must be reported within 24 hours under this paragraph:

1. Any unanticipated bypass that exceeds any effluent limitation in the permit.
2. Any upset that exceeds any effluent limitation in the permit.
3. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Regional Board in this permit to be reported within 24 hours.

The Executive Officer may waive the above-required written report on a case-by-case basis for reports under this provision if the oral report has been received within 24 hours.

- h. Other noncompliance. The discharger shall report all instances of noncompliance not reported under paragraphs a., e., f. and g. of this provision, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph g. of this provision.
- i. Other information. Where the discharger 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 Regional Board, the discharger shall promptly submit such facts or information. [40 CFR Part 122.41(1)]

13. Bypass

a. Definitions

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that 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.

- b. Bypass not exceeding limitations. The discharger may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it is essential maintenance to assure efficient operation. These bypasses are not subject to paragraphs c. and d. of this provision.

c. Notice

1. Anticipated bypass. If the discharger 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.
2. Unanticipated bypass. The discharger shall submit notice of an unanticipated bypass as required in paragraph g. of provision 12 above (24-hour notice).

- d. Prohibition of bypass. Bypass is prohibited, and the Regional Board may take enforcement action against the discharger for bypass, unless:

1. 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 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 discharger submitted notices as required under paragraph c. of this provision.

- e. Approval of anticipated bypass. The Regional Board may approve an anticipated bypass, after considering its adverse effects, if the Regional Board determines that it will meet the three conditions listed above in paragraph d. of this provision. [40 CFR Part 122.41(m)]

14. Upset

- a. 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 discharger. 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.
- b. 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 c. of this provision are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administration action subject to judicial review.
- c. Conditions necessary for a demonstration of upset. A discharger that wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 1. An upset occurred and that the discharger can identify the cause(s) of the upset;
 - 2. The permitted facility was at the time being properly operated;
 - 3. The discharger submitted notice of the upset as required in paragraph g. of provision 12 (24-hour notice); and
 - 4. The discharger complied with any remedial measures required under provision 4.
- d. Burden of proof. In any enforcement proceeding, the discharger seeking to establish the occurrence of an upset has the burden of proof. [40 CFR Part 122.41(n)]

15. Enforcement

The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day of violation. Any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment of not more than 1 year, or both. Higher penalties may be imposed for knowing violations and for repeat offenders. The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to, and in some cases greater than, those provided under the Clean Water Act.

EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGES

All existing manufacturing, commercial, mining and silvicultural dischargers must notify the Regional Board as soon as they know or have reason to believe:

1. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 µg/l);
 - b. 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 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 Part 122.21(g)(7); or
 - d. The level established by the Regional Board in accordance with 40 CFR Part 122.44(f). [40 CFR Part 122.42(a)(1)]
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 µg/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 Part 122.21(g)(7); or
 - d. The level established by the Regional Board in accordance with 40 CFR Part 122.44(f). [40 CFR Part 122.42(a)(2)]

PUBLICLY OWNED TREATMENT WORKS (POTWs)

1. Notice of Changes

All POTWs must provide adequate notice to the Regional Board of the following:

- a. Any new introduction of pollutants into the POTW from an indirect discharger that would be subject to Section 301 or 306 of the Clean Water Act if it were directly discharging those pollutants; and
- b. 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 provision.

For purposes of this provision, adequate notice shall include information on (1) the quality and quantity of effluent introduced into the POTW, and (2) any anticipated impacts on the quantity or quality of effluent to be discharged from the POTW. [40 CFR Part 122.42(b)]

2. Pretreatment

Any POTW (or combination of POTWs operated by the same authority) with a total design flow greater than 5 million gallons per day (mgd) and receiving from industrial users pollutants which pass through or interfere with the operation of the POTW or are otherwise subject to Pretreatment Standards will be required to establish a POTW Pretreatment Program. The Regional Board may require that a POTW with a design flow of 5 mgd or less develop a POTW Pretreatment Program if it finds that the nature or volume of the industrial influent, treatment process upsets, violations of

POTW effluent limitations, contamination of municipal sludge, or other circumstances warrant in order to prevent interference with the POTW or Pass Through. [40 CFR Part 403.8]

3. National Pretreatment Standards: Prohibited Discharges

a. General Prohibitions. No source may introduce into a POTW any pollutant(s) which cause Pass Through or Interference. These general prohibitions and the specific prohibitions in paragraph b. of this provision apply to all non-domestic sources introducing pollutants into a POTW whether or not the source is subject to other National Pretreatment Standards or any national, state, or local Pretreatment Requirements.

b. Specific prohibitions. In addition, the following pollutants shall not be introduced into a POTW:

1. Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, waste streams with a closed cup flash point of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR Part 261.21;
2. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges;
3. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference;
4. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW;
5. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40°C (104°F) unless the Regional Board, upon request of the POTW, approves alternate temperature limits;
6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and
8. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

c. When specific limits must be developed by a POTW.

1. POTWs developing POTW Pretreatment Programs pursuant to 40 CFR Part 403.8 shall develop and enforce specific limits to implement the prohibitions listed in paragraphs a. and b. of this provision.
2. All POTWs shall, in cases where pollutant contributed by user(s) result in interference or pass through, and such violation is likely to recur, develop and enforce specific effluent limits for industrial user(s), and all other users, as appropriate, that, together with appropriate changes in the POTW treatment plant's facilities or operations, are necessary to ensure

renewed and continued compliance with the POTW's NPDES permit, or sludge use, or disposal practices.

3. Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.
- d. Local limits. Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a POTW in accordance with paragraph c. above, such limits shall be deemed Pretreatment Standards for the purposes of Section 307(d) of the Clean Water Act. [40 CFR Parts 403.5 (a) through (d)]