Permit No.: WA-005020-2

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue, Suite 900
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",

Washington Beef LLC
P.O. Box 832
201 Elmwood Road
Toppenish, Washington 98948

is authorized to discharge process wastewater from the Washington Beef LLC facility located in Toppenish, Washington, at the following location(s):

Outfall	Latitude	Longitude	Receiving Water
002	N 46° 22' 11.58"	E 120° 19' 14.04"	Wanity Slough
008	N 46° 22' 14.84"	E 120° 19' 29.98"	Spencer Lateral

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

This permit shall become effective February 1, 2010

This permit and the authorization to discharge shall expire at midnight, January 31, 2015

Signed this 12th day of December, 2009

/s/ Michael A. Bussell
Michael A. Bussell, Director
Office of Water and Watersheds

Schedule of Submissions

The following is a summary of some of the items the permittee must complete and/or submit to EPA during the term of this permit. See Part III.B. (Reporting of Monitoring Results) for addresses.

Item	Due Date
1. Discharge Monitoring Reports (DMR)	DMRs are due monthly and must be submitted by the 10th day of the month following the monitoring month. If the facility does not discharge during the month a DMR must still be submitted and it must indicate that no discharge occurred.
2. Receiving Water Monitoring	Along with the January DMR, the permittee must submit an annual certification to EPA stating that all receiving water monitoring for the year has been conducted (see I.C.6). Receiving water monitoring results must be submitted with the next permit application which is due 180 days prior to the expiration date of the permit. Any monitoring results obtained after the permit application has been submitted to EPA must be submitted as an addendum to the application no later than May 1, 2015.
3. Whole Effluent Toxicity Testing	Results of toxicity tests must be submitted to EPA and Yakama Nation Environmental Management Program (YNEMP) with the next permit application which is due 180 days prior to the expiration date of the permit (see I.B.5).
4. Quality Assurance Plan	The permittee must develop and implement a Quality Assurance Plan within 60 days of the effective date of the permit (see I.D.) The Plan must be kept on site and made available to EPA and YNEMP upon request.
5. Best Management Practices Plan (BMP Plan)	The permittee must develop and implement a BMP Plan within 60 days of the effective date of the permit (see II.B.). The Plan must be kept on site and made available to EPA and the YNEMP upon request.
6. NPDES Application renewal	The application must be submitted at least 180 days before the permit expiration date (see V.B.).

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I. LIMITATIONS AND MONITORING REQUIREMENTS

During the effective period of this permit, the permittee is authorized to discharge pollutants from Outfall 002 to Wanity Slough and from Outfall 008 to Spencer Lateral within the limits and subject to the conditions set forth herein.

This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been identified in the permit application process. The 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.

A. Effluent Limitations and Monitoring Requirements

1. There shall be no discharge of floating solids, visible foam, or oily wastes from Outfalls 002 or 008 which produce a sheen on the surface of the receiving water.

2. The permittee must collect effluent samples from the effluent stream in Outfall 002 and 008 after the last treatment unit prior to discharge into the receiving waters.

3. The permittee must limit and monitor discharges from Outfall 002 as specified in Table 1 below.

TABLE 1. Effluent Limitations and Monitoring Requirements for Outfall 002

Parameter	Units	Effluent Limitations				Monitoring Requirements	
		Average Monthly	Maximum Daily	Minimum Daily	Range	Sample Frequency	Sample Type
Outfall Flow	mgd	--	--	--	--	Daily	Recording
Biochemical Oxygen Demand (BOD_5)	mg/l	30	45	--	--	3/week	24-hour composite
	lbs/day	400.3	600.5	--	--		
Total Suspended Solids (TSS)	mg/l	39	78	--	--	3/week	24-hour composite
	lbs/day	520	1040	--	--		
Oil and Grease	mg/L	10	15	--	--	2/week	grab
	lbs/day	133.4	200.2	--	--		
E.coli Bacteria[1]	# / 100ml	100	see note2	--	--	3/week	grab
pH	s.u.	--	--	--	6.5-8.5	3/week	grab
Dissolved Oxygen[3]	mg/l	--	--	6.8	--	3/week	grab
Total Nitrogen	mg/L	134	194	--	--	3/week	24-hour composite
	lbs/day	1788	2587.5	--	--		
Total Ammonia as N [3,4]	mg/L	2.9	11.2	--	--	3/week	24-hour composite
	lbs/day	38.7	149.5	--	--		
Turbidity[3]	NTU	12.4	50.3	--	--	3/week	grab
Total Residual Chlorine[5]	µg/L	9.5	19.0	--	--	Daily	grab
Temperature April 15 – September 30 each year	^oC	--	--	--	--	Daily	grab
Whole Effluent Toxicity (WET) – Chronic[6]	TU_c	--	--	--	--	Quarterly	24-hour composite

1. The average monthly limit for E.coli is expressed as a geometric mean.
2. No more than 10% of all samples collected for the month shall exceed 200 colonies/100 ml.
3. See Part I.A.5 for compliance schedule for turbidity and dissolved oxygen, and the average monthly limit for ammonia.
4. Reporting is required within 24-hours if the maximum daily limit is violated.
5. EPA test methods can accurately measure total residual chlorine to 20 µg/L, therefore the permittee will be considered in compliance with the permit limits as long as the sample result is less than 20 µg/L. Chorine only needs to be monitored when the chlorination/dechlorination unit is being used by the facility.
6. Quarterly testing shall start two years from the effective date of the permit, and continue until 10 valid samples are collected. One test shall occur in each of the following quarters: January – March; April – June; July –September; and October - December. See Part I. B. for additional information.

4. The permittee must limit and monitor discharges from Outfall 008 as specified in Table 2, below.

TABLE 2. Effluent Limitations and Monitoring Requirements for Outfall 008

Parameter	Units	Effluent Limitations				Monitoring Requirements	
		Average Monthly	Maximum Daily	Minimum Daily	Range	Sample Frequency	Sample Type
Outfall Flow	mgd	--	--	--	--	Daily	Recording
Biochemical Oxygen Demand (BOD_5)	mg/l	30	45	--	--	3/week	24-hour composite
	lbs/day	400.3	600.5	--	--		
Total Suspended Solids (TSS)	mg/l	39	78	--	--	3/week	24-hour composite
	lbs/day	520	1040	--	--		
Oil and Grease	mg/L	10	15	--	--	2/week	grab
	lbs/day	133.4	200.2	--	--		
E.coli Bacteria[1]	# / 100ml	100	see note 2	--	--	3/week	grab
pH	s.u.	--	--	--	6.5-8.5	3/week	grab
Dissolved Oxygen[3]	mg/l	--	--	6.8	--	3/week	grab
Total Nitrogen	mg/L	134	194	--	--	3/week	24-hour composite
	lbs/day	1788	2587.5	--	--		
Total Ammonia as N[3, 4]	mg/L	2.3	9.1	--	--	3/week	24-hour composite
	lbs/day	30.7	121.4	--	--		
Total Residual Chlorine[5]	µg/L	9.0	18.0	--	--	Daily	grab
Turbidity[3]	NTU	12.4	44.2	--	--	3/week	grab
Temperature April 15 – September 30 each year	^{o}C	--	--	--	--	Daily	grab
Whole Effluent Toxicity (WET) – Chronic[6]	TU_c	--	--	--	--	Quarterly	24-hour composite

1. The average monthly limit for E.coli is expressed as a geometric mean.
2. No more than 10% of all samples collected for the month shall exceed 200 colonies/100 ml.
3. See Part I.A.5 for compliance schedule for turbidity and dissolved oxygen, and the average monthly limit for ammonia.
4. Reporting is required within 24-hours if the maximum daily limit is violated.
5. EPA test methods can accurately measure total residual chlorine to 20 µg/L, therefore the permittee will be considered in compliance with its effluent limits as long as the sample result is less than 20 µg/L. Chorine only needs to be monitored when the chlorination/dechlorination unit is being used by the facility.
6. Quarterly testing shall start two year from the effective date of the permit, and continue until 10 valid samples are collected. One test shall occur in each of the following quarters: January – March; April – June; July –September; and October - December. See Part I. B. for additional information.

5. Compliance Schedule for Ammonia, Turbidity, and Dissolved Oxygen

a. The permittee must achieve compliance with the effluent limitations for turbidity, dissolved oxygen and the average monthly limit for ammonia established in Part I.A.3, Table 1, and Part I.A.4, Table 2 within two years of the effective date of the permit.

b. Beginning on the effective date of this permit and continuing for two years, the permittee must achieve the following interim limits for ammonia for Outfall 002 and Outfall 008:

Average Monthly Limit: 3.4 mg/L (23.1 lbs/day)

c. The permittee must submit a Conceptual Engineering Plan for wastewater treatment additions to EPA and the Yakama Nation no later than 60 days after the effective date of the permit.

d. The permittee must submit Engineering Plans and Drawings, and a construction schedule for the wastewater treatment system additions to EPA and the Yakama Nation no later than 120 days from the effective date of the permit.

e. The permittee must submit a summary of construction progress to EPA and the Yakama Nation on the 15th of every other month following the submittal under paragraph d, above.

B. Whole Effluent Toxicity (WET) Testing Requirements. The permittee must conduct quarterly chronic toxicity tests on effluent samples from Outfall 002 and Outfall 008. If the treatment train for Outfall 002 and 008 is the same, toxicity testing only needs to be conducted on effluent from one of the outfalls. If WET testing is conducted on only one outfall, the submittal report for the test results should discuss which outfall was tested and provide the justification for testing only one outfall. Testing must be conducted in accordance with subsections 1 through 4, below.

1. Quarterly testing shall start two year from the effective date of the permit, and continue until 10 valid samples are collected. One test shall occur in each of the following quarters: January – March; April – June; July – September; and October - December.

2. Toxicity testing must be conducted on 24-hour composite samples of effluent. In addition, a split of each sample collected must be analyzed for the chemical and physical parameters required in Part 1.A above. When the timing of sample collection coincides with that of the sampling required in Part I.A, analysis of the split sample will fulfill the requirements of Part I.A. as well.

3. Chronic Test Species and Methods

   a. The effluent collected for toxicity testing must be collected at the same

time as the receiving water monitoring (see Part I.C.).
b. The permittee must conduct short-term tests with the water flea, *Ceriodaphnia dubia* (survival and reproduction test).

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

d. Results must be reported in TU_c (chronic toxic units), where TU_c = 100/NOEC. See Part VI. for a definition of no observable effects concentration (NOEC).

4. Quality Assurance

a. The toxicity testing on each organism shall include a series of six test solutions, ranging from zero percent effluent (control) to 100 percent effluent. No additional testing at other dilutions is required if the NOEC is determined to be 100 percent effluent. Based on available data, dilutions shall be selected that will bracket the expected NOEC of the effluent.

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

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

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

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

iii) Control and dilution water must be receiving water or lab water, as appropriate, as described in the manual. If the dilution water used is

different from the culture water, a second control, using culture water must also be used. In no case shall water that has not met test acceptability criteria be used for either dilution or control.

5. Reporting

a. The permittee must submit the results of the toxicity tests to EPA and YNEMP with the next permit application, which is due 180 days prior to the expiration date of the permit.

b. The report of toxicity test results must include all relevant information outlined in Section 10, Report Preparation, of *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA/821-R-02-013, October 2002. In addition to toxicity test results, the permittee must report: dates of sample collection and initiation of each test; flow rate at the time of sample collection; and the results of the monitoring required in Part I.A.

C. Receiving Water Monitoring.

1. The permittee must conduct receiving water monitoring in Wanity Slough for the parameters in Table 3 below.
   a. Sampling must start 2 years after the effective date of the permit and continue for 3 years.
   b. All samples should be grab samples.
   c. The upstream and downstream sample location must be as close as possible to the mid-point of Wanity Slough.
   d. The upstream sample location must be outside the influence of Outfall 002.
   e. The downstream sample location must be at a location where the effluent is completely mixed with the receiving water, and prior to any drains or discharges into Wanity Slough.

TABLE 3: Receiving Water Monitoring Requirements

Parameter	Units	Sample Frequency		Special Conditions
		Upstream	Downstream	
Biochemical Oxygen Demand (BOD_5)	mg/L	1/month	---	---
Dissolved Oxygen	mg/L	1/week	1/week	Samples must be collected in the morning between 5 a.m. and 6 a.m.; and in the evening between 5 p.m. and 6 p.m.
pH	s.u.	1/week	---	---
Temperature April 15 – September 30 each year	°C	daily	daily	Sampling for temperature must occur between 5 p.m. and 6 p.m.
Total Ammonia as N	mg/L	1/month	---	---
Turbidity	NTU	1/month	---	---
E.coli bacteria	#/100 ml	1/week	---	---

2. The permittee must conduct receiving water monitoring in Spencer Lateral for the parameters in Table 4 below.

a. Sampling must start 2 years after the effective date of the permit and continue for 2 years.
b. All samples should be grab samples.
c. The upstream and downstream sample location must be as close as possible to the mid-point of the lateral.
d. The upstream sample location must be outside the influence of Outfall 008.
e. The downstream sample location must be at least 100 feet downstream of Outfall 008, and prior to any drains or discharges into the lateral. Downstream samples must be collected when the facility is discharging to Spencer Lateral. If the facility does not discharge to Spencer Lateral then downstream samples do not need to be taken.

TABLE 4: Receiving Water Monitoring Requirements

Parameter	Units	Sample Frequency		Special Conditions
		Upstream	Downstream	
Biochemical Oxygen Demand (BOD_5)	mg/L	1/month	---	---
Dissolved Oxygen	mg/L	1/week	1/week	Samples must be collected in the morning between 5 a.m. and 6 a.m.; and in the evening between 5 p.m. and 6 p.m.
pH	s.u.	1/week	---	---
Temperature April 15 – September 30 each year	°C	daily	daily	Sampling for temperature must occur between 5 p.m. and 6 p.m.
Total Ammonia as N	mg/L	1/month	---	---
Turbidity	NTU	1/month	---	---
E.coli bacteria	#/100 ml	1/week	---	---

3. Quality assurance/quality control plans for all the monitoring must be documented in the Quality Assurance Plan required under Part I.D., "Quality Assurance Plan".

4. All receiving water monitoring results must be submitted to EPA and YNEMP with the next permit application, which is due 180 days prior to the expiration date of the permit. Monitoring results must be submitted as an Excel spreadsheet, as well as a hardcopy. All monitoring results obtained after the permit application has been submitted must be submitted as an addendum to the permit application no later than May 1, 2015. At a minimum, the report must include the following:

a. Date and time of sample collection, and date of sample analyses.
b. Results of sample analysis.
c. Relevant quality assurance/quality control (QA/QC) information.

5. All monitoring results must be retained on site and made available to the Director or his/her representative upon request.

6. Along with each January DMR, the permittee must submit, to EPA, an annual certification stating that all receiving water monitoring for the past year has been conducted in accordance with the requirements specified in this permit. See Part V.E. of this permit for certification and signatory requirements.

D. Quality Assurance Plan (QAP). The permittee must develop and implement a quality assurance plan (QAP) for all monitoring required by this permit within 60 days of the effective date of this permit.

1. The QAP must be designed to assist in planning for the collection and analysis of effluent and receiving water samples in support of the permit and in explaining data anomalies when they occur.

2. Throughout all sample collection and analysis activities, the permittee must use the EPA-approved QA/QC and chain-of-custody procedures described in *Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5). The QAP must be prepared in the format which is specified in these documents.

3. At a minimum, the QAP must include the following:

    a. Details on the number of samples, type of sample containers, preservation of samples, holding times, analytical methods, analytical detection and quantitation limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.

    b. Map(s) indicating the location of each sampling point, and distance from the outfall location.

    c. Qualification and training of personnel.

    d. Name(s), address(es) and telephone number(s) of the laboratories, used by or proposed to be used by the permittee.

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

5. Copies of the QAP must be kept on site and made available to EPA and the YNEMP upon request.

II. BEST MANAGEMENT PRACTICES PLAN

A. Purpose. Through implementation of the best management practices (BMP) plan the permittee must prevent or minimize the generation and the potential for the release of pollutants from the facility to the waters of the United States through normal and

ancillary activities.

B. Development and Implementation Schedule. The permittee must develop and implement a BMP Plan within 60 days of the effective date of the permit. The BMP Plan must achieve the objectives and the specific requirements listed below. Any existing BMP plans may be modified to meet the requirements under this section.

C. Objectives. The permittee must develop, and amend, the BMP Plan consistent with the following objectives for the control of pollutants.

1. The number and quantity of pollutants and the toxicity of effluent generated, discharged, or potentially discharged at the facility must be minimized by the permittee to the extent feasible by managing each waste stream in the most appropriate manner.

2. Under the BMP Plan and any Standard Operating Procedures included in the BMP Plan, the permittee must ensure proper operation and maintenance of water management and wastewater treatment systems. BMP Plan elements must be developed in accordance with good engineering practices.

3. Each facility component or system must be examined for its waste minimization opportunities and its potential for causing a release of significant amounts of pollutants to waters of the United States due to equipment failure, improper operation, natural phenomena such as rain or snowfall, etc. The examination must include all normal operations and ancillary activities including, but not limited to, material storage areas, storm water, in-plant transfer, material handling and process handling areas, loading or unloading operations, spillage or leaks, sludge and waste disposal, or drainage from raw material storage.

D. Elements of the BMP Plan. The BMP Plan must be consistent with the objectives above and the general guidance contained in *Guidance Manual for Developing Best Management Practices* (EPA 833-B-93-004, October 1993) and *Storm Water Management For Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices* (EPA 832-R-92-006, October 1992) or any subsequent revision to these guidance documents. The BMP Plan must include, at a minimum, the following items:

1. Plan Components.

   a. Statement of BMP policy. The BMP Plan must include a statement of management commitment to provide the necessary financial, staff, equipment, and training resources to develop and implement the BMP Plan on a continuing basis.

b. Structure, functions, and procedures of the BMP Committee. The BMP Plan must establish a BMP Committee responsible for developing, implementing, and maintaining the BMP Plan.

c. Description of potential pollutant sources.

d. Risk identification and assessment.

e. Standard operating procedures to achieve the above objectives and specific best management practices (see Part II.D.2. below).

f. Reporting of BMP incidents. The reports must include a description of the circumstances leading to the incident, corrective actions taken and recommended changes to operating and maintenance practices to prevent recurrence.

g. Materials compatibility.

h. Good housekeeping.

i. Inspections.

j. Preventative maintenance and repair.

k. Security

l. Employee training.

m. Recordkeeping and reporting.

n. An evaluation of any planned modifications to the facility to ensure that the requirements of the BMP plan are considered as part of the modifications.

o. Final constructed site plans, drawings and maps (including detailed storm water outfall/culvert configurations).

2. Specific Best Management Practices. The BMP Plan must establish specific BMPs or other measures to achieve the objectives under Part II. C, and which ensure that the following specific requirements are met:

a. Solids, sludges, or other pollutants removed in the course of treatment or

control of water and wastewaters must be disposed of in a manner which prevents any pollutant from such materials from entering waters of the United States.

b. Ensure proper management of solid and hazardous waste in accordance with regulations promulgated under the Resource Conservation and Recovery Act (RCRA). Management practices required under RCRA regulations must be referenced in the BMP Plan.

3. Review and Certification. The BMP Plan must be reviewed and certified as follows:

a. Annual review by the plant manager.

b. Certified statement that the above reviews have been completed and that the BMP Plan fulfills the requirements set forth in this permit. The statement must be certified by the dated signatures of the plant manager. The statement must be kept on site and made available to EPA and the YNEMP upon request.

E. Documentation. The permittee must maintain a copy of the BMP Plan at the facility and make it available to EPA and YNEMP or an authorized representative upon request.

F. BMP Plan Modification.

1. The permittee must amend the BMP Plan whenever there is a change in the facility or in the operation of the facility which materially increases the generation of pollutants or their release or potential release to surface waters.

2. The permittee must amend the BMP Plan whenever it is found to be ineffective in achieving the general objective of preventing and minimizing the generation and the potential for the release of pollutants from the facility to the waters of the United States and/or the specific requirements above.

3. Any changes to the BMP Plan must be consistent with the objectives and specific requirements listed above. All changes in the BMP Plan must be reported in the annual certification required under Part II.D.3., above.

III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Representative Sampling (Routine and Non-Routine Discharges). Samples and measurements must be representative of the volume and nature of the monitored discharge.

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

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

B. Reporting of Monitoring Results. The permittee must summarize monitoring results each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent. The permittee must submit reports monthly, postmarked by the 10th day of the following month. The permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of Part V.E. of this permit ("Signatory Requirements"). The permittee must submit the legible originals of these documents to the Director, Office of Compliance and Enforcement, with copies to the YNEMP at the following addresses:

US EPA Region 10
Attn: ICIS/PCS Data Entry Team, OCE-133
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Yakama Nation
Department of Natural Resources
Environmental Management Program
P.O. Box 151
Toppenish, Washington 98948

C. 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.

D. Additional Monitoring by Permittee. If the permittee 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 permittee must include the results of this monitoring in the calculation and reporting of the data submitted in the DMR.

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

E. Records Contents. Records of monitoring information must include:

1. the date, exact place, and time of sampling or measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements;
3. the date(s) analyses were performed;
4. the names of 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 must 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, copies of DMRs, a copy of the NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

G. Twenty-four Hour Notice of Noncompliance Reporting.

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

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

    b. any unanticipated bypass that exceeds any effluent limitation in the permit (See Part IV.F., "Bypass of Treatment Facilities");

    c. any upset that exceeds any effluent limitation in the permit (See Part IV.G., "Upset Conditions"); or

    d. any violation of a maximum daily discharge limitation for ammonia or bacteria listed in Tables 1or 2 of Part I.A.

2. The permittee must also provide a written submission within five days of the time that the permittee becomes aware of any event required to be reported

under subpart 1 above. The written submission must contain:

a. a description of the noncompliance and its cause;

b. the period of noncompliance, including exact dates and times;
c. the estimated time noncompliance is expected to continue if it has not been corrected; and

d. steps taken or planned to reduce, eliminate, and prevent recurrence 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 Hotline in Seattle, Washington, by telephone, (206) 553-1846.

4. Reports must be submitted to the addresses in Part III.B ("Reporting of Monitoring Results").

H. Other Noncompliance Reporting. The permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for Part III.B ("Reporting of Monitoring Results") are submitted. The reports must contain the information listed in Part III.G.2 of this permit ("Twenty-four Hour Notice of Noncompliance Reporting").

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

IV. 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.

B. Penalties for Violations of Permit Conditions.

1. Civil and Administrative Penalties. Pursuant to 40 CFR Part 19 and the Act, any person who violates Section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Sections 402(a)(3) or 402(b)(8) of the Act, is subject

to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $37,500 per day for each violation).

2. Administrative Penalties. Any person may be assessed an administrative penalty by the Administrator for violating Section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of this Act. Pursuant to 40 CFR Part 19 and the Clean Water Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $16,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $37,500). Pursuant to 40 CFR Part 19 and the Clean Water Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $16,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $177,500).

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

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

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

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

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

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

E. Proper Operation and Maintenance. The permittee must 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 back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Bypass of Treatment Facilities.

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur that 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 Part.

2. Notice.

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

   b. Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required under Part III.G ("Twenty-four Hour Notice of Noncompliance Reporting").

3. Prohibition of bypass.

   a. Bypass is prohibited, and the Director may take enforcement action against the permittee for a bypass, unless:
      i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

      ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

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

   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 Part.

G. 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 permittee meets the requirements of paragraph 2 of this Part. 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. To establish the affirmative defense of upset, the permittee must 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 III.G, "Twenty-four Hour Notice of Noncompliance Reporting;" and

   d. The permittee complied with any remedial measures required under Part IV.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.

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

I. Planned Changes. The permittee must give notice to the Director and the YNEMP as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification

requirements under Part III.I ("Changes in Discharge of Toxic Substances").

J. Anticipated Noncompliance. The permittee must give advance notice to the Director and the YNEMP of any planned changes in the permitted facility or activity that may result in noncompliance with this permit.

V. GENERAL PROVISIONS

A. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 §§ CFR 122.62, 122.64, or 124.5. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

B. Duty to Reapply. If the permittee intends 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. In accordance with 40 CFR § 122.21(d), and unless permission for the application to be submitted at a later date has been granted by the Regional Administrator, the permittee must submit a new application at least **180 days before the expiration date of this permit**.

C. Duty to Provide Information. The permittee must furnish to the Director and YNEMP, within the time specified in the request, any information that the Director or YNEMP 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 must also furnish to the Director or YNEMP, upon request, copies of records required to be kept by this permit.

D. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to the Director or YNEMP, it must promptly submit the omitted facts or corrected information.

E. Signatory Requirements. All applications, reports or information submitted to the Director and YNEMP must be signed and certified as follows.

1. All permit applications must be signed as follows:

    a. For a corporation: by a responsible corporate officer.

    b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

    c. For a municipality, state, tribal, federal or other public agency: by either a

principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by the Director or YNEMP must 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;

   b. 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; and

   c. The written authorization is submitted to the Director and YNEMP.

3. Changes to authorization. If an authorization under Part V.E.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part V.E.2. must be submitted to the Director and YNEMP 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 Part must make the following certification:

   "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

F. Availability of Reports. In accordance with 40 CFR Part 2, information submitted to EPA pursuant to this permit may be claimed as confidential by the permittee. In accordance with the Act, permit applications, permits and effluent data are not considered confidential. Any confidentiality claim must be asserted at the time of submission by stamping the words “confidential business information” on each page

containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice to the permittee. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2, Subpart B (Public Information) and 41 Fed. Reg. 36902 through 36924 (September 1, 1976), as amended.

G. Inspection and Entry. The permittee must allow the Director, YNEMP, 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.

H. 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 persons or property or invasion of other private rights, nor any infringement of federal, tribal, state or local laws or regulations.

I. 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 Act. (See 40 CFR §122.61; in some cases, modification or revocation and reissuance is mandatory).

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

VI. DEFINITIONS

1. “Act” means the Clean Water Act.

2. “Administrator” means the Administrator of the EPA, or an authorized representative.

3. “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.

4. “Best Management Practices” (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of wasters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas.

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

6. “Chronic toxic unit” (“TU_c”) is a measure of chronic toxicity. TU_c is the reciprocal of the effluent concentration that causes no observable effect on the test organisms by the end of the chronic exposure period (i.e., 100/”NOEC”).

7. “Composite” - see “24-hour composite”.

8. “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.

9. “Director” means the Director of the Office of Water and Watersheds, EPA, or an authorized representative.

10. “DMR” means discharge monitoring report.

11. “Grab" sample is an individual sample collected over a period of time not exceeding 15 minutes.

12. “LWK” means live weight killed.

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

14. “Method Detection Limit (MDL)” means the minimum concentration of a substance (analyte) that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

15. “NOEC” means no observed effect concentration. The NOEC is the highest concentration of toxicant (e.g., effluent) to which organisms are exposed in a chronic toxicity test [full life-cycle or partial life-cycle (short term) test], that causes no observable adverse effects on the test organisms (i.e., the highest concentration of effluent in which the values for the observed responses are not statistically significantly different from the controls).

16. “QA/QC” means quality assurance/quality control.

17. “Regional Administrator” means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.

18. "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.

19. “Total Nitrogen” is equal to the sum of total kjeldahl nitrogen + nitrate/nitrite.

20. “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.

21. "24-hour composite" sample means a combination of at least 8 discrete sample aliquots of at least 100 milliliters, collected over periodic intervals from the same location, during the operating hours of a facility over a 24 hour period. The composite must be flow proportional. The sample aliquots must be collected and stored in accordance in accordance with procedures prescribed in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*.