Permit No. MPS040000

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et. seq.; the "Act"),

Commonwealth of the Northern Mariana Islands
Department of Public Works
Joeten Commercial Building, Gualo Rai (Second Floor)
Saipan, MP 96950

is authorized to discharge storm water runoff and specified non-storm water discharges from the municipal separate storm sewer system (MS4) operated by the permittee to waters of the United States from all MS4 outfalls within the permitted area of the Island of Saipan,

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I through V, and Part VI (EPA Region 9 Standard Federal NPDES Permit Conditions for MS4 Discharges dated May 24, 1996).

This permit shall become effective on SEP 22 2006

This permit and the authorization to discharge shall expire at midnight, SEP 21 2011.

Signed this 22nd day of September, 2006

For the Regional Administrator

Alexis Strauss
Director, Water Division

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PART I. DISCHARGES AUTHORIZED UNDER THIS PERMIT

A. PERMIT AREA. This permit applies to all components of the MS4 owned or operated by the permittee within the boundaries of the urbanized area of the Island of Saipan, Commonwealth of the Northern Mariana Islands.

B. AUTHORIZED DISCHARGES. Subject to the terms of this permit, during the period beginning the effective date of this permit and lasting through the expiration of this permit, the permittee is authorized to discharge storm water and other non-prohibited discharges from all outfalls of the permittee's MS4.

C. PROHIBITIONS -- NON-STORM WATER DISCHARGES

1. The permittee shall effectively prohibit all types of non-storm water discharges into its MS4 unless such discharges are either authorized by a separate NPDES permit or not prohibited in accordance with Part I.C.2.

2. The following categories of non-storm water discharges (occurring within the jurisdiction of the permittee) are only prohibited if they are identified as significant contributors of pollutants to or from the MS4. If any of the following categories of discharges are identified as a significant contributor, the permittee must address the category as an illicit discharge as specified in Part II.B.3 of this permit:

   a. Water line flushing,
   b. Landscape irrigation,
   c. Diverted stream flows,
   d. Rising ground waters,
   e. Uncontaminated ground water infiltration,
   f. Uncontaminated pumped groundwater,
   g. Discharges from potable water sources,
   h. Foundation drains,
   i. Air conditioning condensate,
   j. Irrigation water,
   k. Springs,
   l. Water from crawl space pumps,
   m. Footing drains,
   n. Lawn watering,
   o. Individual residential car washing,
   p. Discharges from riparian habitats and wetlands,
   q. Dechlorinated swimming pool discharges,
   r. Street wash water,

s. Discharges or flows from emergency fire fighting activities, and
t. Additional discharges which may be developed in accordance with Part I.C.3 of this permit.

3. The permittee may also develop a list of other similar occasional incidental non-storm water discharges (e.g. non-commercial or charity car washes, etc.) that will not be addressed as illicit discharges. These non-storm water discharges must not be reasonably expected (based on information available to the permittee) to be significant sources of pollutants to the MS4, because of either the nature of the discharges or conditions the permittee has established for allowing these discharges to the MS4 (e.g., a charity car wash with appropriate controls on frequency, proximity to sensitive waterbodies, BMPs on the wash water, etc.). The permittee shall document in the storm water management program any local controls or conditions placed on the discharges, and include a provision prohibiting any individual non-storm water discharge that is determined to be contributing pollutants to the MS4.

PART II. STORM WATER MANAGEMENT PROGRAM (SWMP)

A. GENERAL REQUIREMENTS. The permittee shall implement and enforce a SWMP designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality and to satisfy water quality requirements. The SWMP shall include management practices; control techniques; system, design, and engineering methods; and other provisions EPA determines appropriate for the control of pollutants. At a minimum, the permittee shall implement the SWMP which was submitted to EPA which is dated October 25, 2004.

B. SIX MINIMUM MEASURES FOR THE SWMP

Appropriate best management practices (BMPs) to address the following six minimum control measures shall be included and implemented in the SWMP:

1. Public education and outreach on storm water impacts.

The permittee shall implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

2. *Public Involvement/Participation.*

The permittee shall, at a minimum, comply with local public notice requirements when implementing a public involvement/participation program.

3. *Illicit discharge detection and elimination.*

The permittee shall:

a. develop, implement and enforce a program to detect and eliminate illicit discharges (as defined at § 122.26(b)(2)) into the MS4;

b. develop, if not already completed, a storm sewer system map, showing the location of all outfalls and the names and location of all waters of the United States that receive discharges from those outfalls;

c. to the extent allowable under local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges into the storm sewer system and implement appropriate enforcement procedures and actions;

d. develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to the system;

e. inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste; and

f. address the following categories of non-storm water discharges or flows (i.e., illicit discharges) only if the permittee identifies them as significant contributors of pollutants to the MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from fire fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the United States).

4. *Construction site storm water runoff control.*

The permittee shall develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the NPDES permitting authority waives requirements for storm water discharges associated with small construction activity in accordance with § 122.26(b)(15)(i), the permittee is not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites. The program must also include the development and implementation of, at a minimum:

a. an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under local law;

b. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

c. requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

d. procedures for site plan review which incorporate consideration of potential water quality impacts;

e. procedures for receipt and consideration of information submitted by the public; and

f. procedures for site inspection and enforcement of control measures.

5. *Post-construction storm water management in new development and redevelopment.*

The permittee shall:

a. develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the MS4. The program must ensure that controls are in place that would prevent or minimize water quality impacts;

b. develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs) appropriate for the community;

c. use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under local law; and

d. ensure adequate long-term operation and maintenance of BMPs.

6. Pollution prevention/good housekeeping for municipal operations.

The permittee shall:

a. develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations; and

b. using training materials that are available from EPA, states, or other organizations, the program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.

PART III. SPECIAL CONDITIONS

A. REQUIREMENTS PERTAINING TO TOTAL MAXIMUM DAILY LOAD (TMDL) ALLOCATIONS. Pursuant to 40 CFR 122.62, this permit may be reopened and modified to include requirements of an approved TMDL and/or its associated implementation plan. Monitoring of discharges may also be required to ensure compliance with the TMDL.

B. WATER QUALITY BASED REQUIREMENTS. The permittee shall protect water quality by ensuring, to the maximum extent practicable, that no discharge shall cause or contribute to an exceedance of applicable water quality standard. To do so, the permittee shall fully implement all SWMP and permit requirements in accordance with the established time frames.

C. ENDANGERED SPECIES ACT REQUIREMENTS. This permit does not authorize nor require the construction of any particular structural storm water quality control device that could adversely affect listed or proposed threatened or endangered species.

D. REVIEWING AND UPDATING SWMPs.

1. The permittee shall annually review the SWMP in conjunction with preparation of the annual report required under Part IV.C.

2. The permittee may change the SWMP during the life of the permit according to the following procedures:

   a. Changes adding (but not subtracting or replacing) components, controls, or requirements to the SWMP may be made at any time upon written notification to EPA;

   b. Changes replacing an ineffective or infeasible management practice specifically identified in the SWMP with an alternate management practice may be requested at any time. Unless denied by EPA, changes proposed according to the criteria below are deemed approved and may be implemented 60 days after submitting the request. If the request is denied, EPA will send a written response giving a reason for the decision. Modification requests must include:

      i. An analysis of why the management practice is ineffective or infeasible (including cost prohibitive),

      ii. Expectations on the effectiveness of the replacement management practice, and

      iii. An analysis of why the replacement management practice is expected to achieve the goals of the management practice to be replaced;

   c. Change requests or notifications must be made in writing and signed in accordance with Part VI.11.

3. EPA may notify the permittee that changes to the SWMP are necessary:

   a. To address impacts on receiving water quality caused, or contributed to, by discharges from the MS4;

   b. To include more stringent requirements necessary to comply with new Federal or regulatory requirements;

c. To include other conditions deemed necessary by EPA to comply with the surface water quality standards, ESA related requirements, and/or other goals and requirements of the CWA, or

d. If, at any time, EPA determines that the SWMP does not meet permit requirements.

4. Within 60 days of receipt of an EPA notice as provided by Part III.D.3 (or a later date if so provided), the permittee must propose changes to the SWMP addressing the concerns identified by EPA and propose an implementation schedule. EPA may require revisions to the permittee's proposal. Within 30 days of EPA approval of the revised SWMP, the permittee shall incorporate the revisions into the SWMP and implement the revised SWMP in accordance with the approved schedule.

E. CNMI Water Quality Certification Requirements

1. In accordance with Section 12 of the CNMI Water Quality Standards (the "Standards"), the permittee shall allow prompt access to all facilities covered by this permit to the Director, CNMI Division of Environmental Quality or his authorized representative for the purpose of inspecting the premises for compliance with the terms of the certification. The inspection may be made with or without advance notice to the permittee, with good purpose, at the discretion of the Director, CNMI Division of Environmental Quality, but shall be made at reasonable times unless an emergency dictates otherwise.

2. In accordance with Section 10.6 of the Standards, the water quality certification requirements shall be subject to amendment or modification if and to the extent that existing water quality standards are made more stringent, or new water quality standards are adopted, by DEQ.

3. The CNMI water quality certification does not relieve the permittee from obtaining other applicable local or federal permits.

PART IV. MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS

A. MONITORING REQUIREMENTS

1. The permittee must evaluate program compliance, the appropriateness of identified best management practices, and progress toward achieving identified measurable goals. If the permittee discharges to a water for which a TMDL has

been established, the permittee may be required to monitor to determine if the storm water controls are adequate to maintain compliance with the MS4's wasteload allocation.

2. If the permittee conducts monitoring at the permitted MS4, the permittee must comply with the following:

   a. *Representative monitoring.* Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

   b. *Test Procedures.* Monitoring results must be conducted according to test procedures approved under 40 CFR Part 136.

   c. *Discharge Monitoring Report.* Monitoring results must be reported on a Discharge Monitoring Report (DMR).

3. Records of monitoring information shall include:

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

   b. The names(s) of the individual(s) who performed the sampling or measurements;

   c. The date(s) analyses were performed;

   d. The names of the individuals who performed the analyses;

   e. The analytical techniques or methods used; and

   f. The results of such analyses.

B. RECORDKEEPING

1. 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, copies of Discharge Monitoring Reports (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 three years from the date of the sample, measurement, report or application, or for the term of this permit, whichever is longer. This period may be extended by request of the permitting authority at any time.

2. The permittee shall submit its records to the permitting authority only when specifically asked to do so. The permittee must make its records, including the permit application and the description of the SWMP, available to the public if requested to do so in writing.

C. ANNUAL REPORT

1. The permittee shall submit an annual report to EPA for each year of the permit term. The first report is due September 30, 2007, covering the activities of the permittee during the period beginning on the effective date of the permit and ending June 30, 2007. Subsequent annual reports are due on September 30 of each year following 2007. The report must include:

   a. The status of compliance with permit conditions, an assessment of the appropriateness of the identified best management practices and progress towards achieving the identified measurable goals for each of the minimum control measures. The status report shall include available information concerning whether any of the permittee's discharges caused or contributed to any exceedances of water quality standards and the circumstances leading to the exceedances.

   b. Results of information collected and analyzed, including monitoring data if any, during the reporting period;

   c A summary of the storm water activities which are planned during the next reporting cycle;

   d. A change in any identified best management practice or measurable goals for any of the minimum measures;

   e. Description and schedule for implementation of additional BMPs that may be necessary, based on monitoring results, to ensure compliance with applicable TMDLs; and

   f. Notice that the permittee is relying on another government entity to satisfy some of the permit obligations (if applicable).

2. Where to Submit. Annual reports shall be submitted to EPA at the following address: EPA Region 9 (WTR-7), 75 Hawthorne Street, San Francisco, CA 94105.

PART V. DEFINITIONS

1. "Best Management Practices" (BMPs) refer to schedules of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters 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.

2. "CWA" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 95-483 and Pub. L. 97-117, 33 U.S.C. 1251 et seq.

3. "Director" means the Regional Administrator of EPA, Region 9 or an authorized representative.

4. "Illicit Discharge" means any discharge to a municipal separate storm sewer system that is not composed entirely of storm water except discharges pursuant to an NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges from fire fighting activities.

5. "MEP" means maximum extent practicable, the technology-based discharge standard for municipal separate storm sewer systems to reduce pollutants in storm water discharges. A discussion of MEP as it applies to small MS4s is found at 40 CFR 122.34. CWA section 402(p)(3)(B)(iii) requires that a municipal permit "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system design, and engineering methods, and other provisions such as the Administrator or the State determines appropriate for the control of such pollutants."

6. "Measurable Goal" means a quantitative measure of progress in implementing a component of a storm water management program.

7. "Municipal Separate Storm Sewer" means a conveyance, or system of conveyances (including roads with drainage systems, municipal streams, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
(i) owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal or sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized tribal organization, or a designated and approved management agency under

section 208 of the CWA that discharges to water of the United States;
(ii) designed or used for collecting of conveying storm water;
(iii) which is not a combined sewer; and
(iv) which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

8. "Outfall" means a point source where a municipal separate storm sewer discharges to water of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.

9. "Permittee" means the Department of Public Works, Saipan, Commonwealth of the Northern Mariana Islands.

10. "Point Source" means any discernible, confined and discrete conveyance, including but not limited to , any pipe, ditch, channel tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.

11. "Representative Storm" means a storm event of greater than 0.1" of rainfall and at least 72 hours after the previously measurable (greater than 0.1" rainfall) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in the area.

12. "Small Municipal Separate Storm Sewer System" means all separate storm sewers that are:

1. Owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.
2. Not defined as "large" or "medium" municipal separate storm sewer systems in accordance with this permit.
3. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison

complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

13. "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

14. "Urbanized Area of the Island of Saipan" means the geographic area on the Island of Saipan, Commonwealth of the Northern Mariana Islands which is considered to be urbanized by the U.S. Census Bureau based on the 2000 census.

15. "Waters of the United States" means:

(a) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
(b) all interstate waters, including interstate "wetlands;"
(c) all other waters such as intrastate lakes, rivers, streams (including intermittent streams, mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
(1) which are or could be used by interstate or foreign travelers for recreational or other purposes;
(2) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
(3) which are used or could be used for industrial purposes by industries in interstate commerce;
(d) all impoundments of waters otherwise defined as waters of the United States under this definition;
(e) tributaries of waters identified in paragraphs (a) through (d) of this definition;
(f) the territory sea; and
(g) wetlands adjacent to areas (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States.

PART VI. EPA REGION 9 STANDARD FEDERAL NPDES PERMIT CONDITIONS (Revised for Municipal Storm Water Permits, May 24, 1996)

1. Duty to Reapply [40 CFR 122.21(b)]

The permittee shall submit a new application 180 days before the existing permit expires.

2. Applications [40 CFR 122.22]

a. All permit applications shall be signed as follows:

(1) For a municipality, State, Federal, or other public agency. By either a principal executive officer or ranking elected official.

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

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

(2) The authorization specified either an individual or a position having responsibility for the overall operation of the regulated activity or a portion of the regulated activity, or an individual or position having overall responsibility for environmental matters for the municipality. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

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

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

d. Certification. Any person signing a document under paragraph (a) or (b) of 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.

3. Duty to Comply [40 CFR 122.41(a)]

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

a. The permittee 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 the permit has not yet been modified to incorporate the requirement.

b. The Clean Water Act provides that:

(1) Any person who causes a violation of any condition in this permit is subject to a civil penalty not to exceed $25,000 per day of each violation. Any person who negligently causes a violation of any condition in this permit is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or both for a first conviction. For a second conviction, such a person is subject to a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or both. [Updated pursuant to the Water Quality Act of 1987]

(2) Any person who knowingly causes violation of any condition of this permit is subject to fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than three years, or by both for a first conviction. For a second conviction, such a person is subject to a fine of not more than $100,000 per day of violation, or by imprisonment of not more than six years, or both. [Updated pursuant to the Water Quality Act of 1987]

(3) Any person who knowingly causes a violation of any condition of this permit and, by so doing, knows at that time that he thereby places another in imminent danger of death or serious bodily injury shall be subject to a fine or not more than $250,000, or imprisonment of not more than 15 years, or both. A person who is an organization and violates this provision shall be subject to a fine or not more than $1,000,000 for a first conviction. For a second conviction under this provision, the maximum fine and imprisonment shall be doubled. [Updated pursuant to the Water Quality Act of 1987]

4. Duty to Mitigate [40 CFR 122.41(d)]

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.

5. Proper Operation and Maintenance [40 CFR 122.41(e)]

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of 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.

6. Permit Actions [40 CFR 122.41(f)]

The 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.

7. Property Rights [40 CFR 122.41 (g)]

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

8. Duty to Provide Information [40 CFR 122.41(h)]

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

9. Inspection and Entry [40 CFR 122.41(i)]

The permittee shall allow the Director, or an authorized representative, upon the presentation of credential and other documents as may be required by law, to:

a. 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;

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.

10. Monitoring and Records [40 CFR 122.41(j)]

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. 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.

c. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained in this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than two years per violation, or by both for a first conviction. For a second conviction, such a person is subject to a fine of not more than $20,000 per day of violation, or imprisonment for not more than four years, or both. [Updated pursuant to the Water Quality Act of 1987]

11. Signatory requirement [40 CFR 122.41(k)]

a. All applications, reports or information submitted to the Director shall be signed and certified. (See 40 CFR 122.22)

b. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record other document submitted or required to be maintained under this permit, including monitoring reports of compliance or noncompliance shall, upon conviction, be punished by a fine or not more than $10,000 per violation, or by imprisonment for not more than two years per violation, or by both for a first conviction. For a second conviction, such a person is subject to fine of not more than $20,000 per day of violation, or imprisonment of not more than four years, or both. [Updated pursuant to the Water Quality Act of 1987]

12. Reporting requirements [40 CFR 122.41(l)]

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

b. 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) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.

(2) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136, then 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 which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

c. 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.

d. Twenty-four hour reporting.

(1) The permittee shall report any noncompliance which may endanger public health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned in order to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

(i) Any unanticipated bypass which exceeds any effluent limitation in the permit. [See 40 CFR 122.41(g).]

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

3. The Director may waive the written report on a case-by-case basis for reports under paragraph (d)(2) of this section if the oral report has been received within 24 hours. Reports during normal business hours (8:00 am to 4:30 pm) should be made to the Compliance Section at telephone #415-972-3505. Twenty-four hour reporting can be made at telephone #415-947-4400.

e. Other noncompliance. The permittee shall report all instances of noncompliance not reported under the above paragraphs (c) and (d) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed paragraph (d) of this section.

f. Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

13. Bypass [40 CFR 122.41(m)]

a. Definitions

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. However, diversions of storm water which are consistent with the normal operation of the municipal storm sewer system shall not be considered bypasses.

(2) "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.

b. 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 (c) and (d) of this section.

c. Notice.

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

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (f) of section (13) (24-hour notice).

d. Prohibition of bypass.

(1) Bypasses are prohibited, and the Director may take enforcement action against a permittee for a bypass, unless:

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

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

have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and

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

(2) The Director may approve an anticipated bypass, after considering its adverse effects, if the director determines it will meet the three conditions listed above in paragraph (d) of this section.

14. Upset [40 CFR 122.41(n)]

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 permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative 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 requirement of paragraph (c) 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.

c. 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:

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

(2) The permitted facility was at the time being properly operated; and

(3) The permittee submitted notice of the upset as required in paragraph 13(f) (24-hour notice).

(4) The permittee complied with any remedial measures required under 40 CFR 122.41(d).

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

15. Termination of permits [40 CFR 122.64]

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

a. Noncompliance by the permittee with any condition of the permit;

b. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

c. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

d. A change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).

16. Availability of Reports [Pursuant to Clean Water Act Section 308]

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

17. Removed Substances [Pursuant to Clean Water Act Section 301]

Solids, sludges, filter backwash, or other pollutants removed in the course of maintenance of the MS4 shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

18. Severability [Pursuant to Clean Water Act Section 512]

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

19. Civil and Criminal Liability [Pursuant to Clean Water Act Section 309]

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

20. Oil and Hazardous Substance Liability [Pursuant to Clean Water Act Section 311]

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

21. State or Tribal Law [Pursuant to Clean Water Act Section 510]

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