

Permit No.: ID-000001-9
Application No.: ID-000001-9

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

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et seq., as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act",

POTLATCH CORP. - ST. MARIES COMPLEX

is authorized to discharge from the St. Maries Complex located at St. Maries (Benewah County), Idaho [47°19'45" latitude, 116°35'30" longitude].

to receiving waters named the St. Joe River,

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

This permit shall become effective October 31, 1996

This permit and the authorization to discharge shall expire at midnight, October 31, 2001

Signed this 31st day of October, 1996

/s/ Phillip G. Millam
Director, Office of Water, Region 10
U.S. Environmental Protection Agency

TABLE OF CONTENTS

Cover Sheet--Issuance and Expiration Dates

- I. Specific Limitations and Monitoring Requirements 3
 - A. Limitations and Monitoring Requirements 3
 - B. Additional Monitoring and Reporting requirements 4
 - C. Toxicity Testing Requirements 6
 - D. Quality Assurance Project Plan 8
 - E. Definitions and Acronyms 9

- II. General Monitoring, Recording and Reporting Requirements 10
 - A. Representative Sampling 10
 - B. Monitoring Procedures 11
 - C. Reporting of Monitoring Results 11
 - D. Additional Monitoring by the Permittee 11
 - E. Records Contents 11
 - F. Retention of Records 12
 - G. Twenty-four Hour Notice of Noncompliance Reporting 12
 - H. Other Noncompliance Reporting 13
 - I. Inspection and Entry 13

- III. Compliance Responsibilities 13
 - A. Duty to Comply 13
 - B. Penalties for Violations of Permit Conditions 13
 - C. Need to Halt or Reduce Activity not a Defense 15
 - D. Duty to Mitigate 15
 - E. Proper Operation and Maintenance 15
 - F. Removed Substances 15
 - G. Bypass of Treatment Facilities 15
 - H. Upset Conditions 16
 - I. Toxic Pollutants 17

- IV. General Requirements 17
 - A. Changes in Discharge of Toxic Substances 17
 - B. Planned Changes 18
 - C. Anticipated Noncompliance 18
 - D. Permit Actions 18
 - E. Duty to Reapply 18
 - F. Duty to Provide Information 18
 - G. Other Information 19
 - H. Signatory Requirements 19
 - I. Availability of Reports 20
 - J. Oil and Hazardous Substance Liability 20
 - K. Property Rights 20
 - L. Severability 20
 - M. Transfers 20
 - N. State Laws 21

I. SPECIFIC LIMITATIONS AND MONITORING REQUIREMENTS

A. Limitations and Monitoring Requirements.

During the period beginning on the effective date of this permit and lasting until the expiration date, discharges from **Outfall 001** at the Potlatch - St. Maries Mill are authorized to the St. Joe River in accordance with the following effluent limitations and monitoring requirements:

EFFLUENT PARAMETERS	EFFLUENT LIMITATIONS		MONITORING REQUIREMENTS	
	MONTHLY AVERAGE	DAILY MAXIMUM	FREQUENCY	SAMPLE TYPE
Flow, MGD	--	--	Weekly	Recording
pH	6.0 to 9.0 std. units		Weekly	Grab
Temperature, °C	--	--	Weekly	Grab

Compliance with these permit limits will ensure that this discharge complies with the state's General Surface Water Quality Criteria (IDAPA 16.01.02200) as follows:

- Hazardous Materials. Surface waters of the state shall be free from hazardous materials in concentrations found to be of public health significance or to impair designated beneficial uses. These materials do not include suspended sediment produced as a result of nonpoint source activities. (8-24-94)
- Toxic Substances. Surface waters of the state shall be free from toxic substances in concentrations that impair designated beneficial uses. These substances do not include suspended sediment produced as a result of nonpoint source activities. (8-24-94)
- Deleterious Materials. Surface waters of the state shall be free from deleterious materials in concentrations that impair designated beneficial uses. These materials do not include suspended sediment produced as a result of nonpoint source activities. (8-24-94)
- Radioactive Materials (7-1-93)
 - a. Radioactive materials or radioactivity shall not exceed the values listed in the Code of Federal Regulations Title 10,

Chapter 1, Part 20, Appendix B, Table 2, Effluent Concentrations, Column 2. (8-24-94)

- b. Radioactive materials or radioactivity shall not exceed concentrations required to meet the standards set forth in Title 10, Chapter 1, Part 20, of the Code of Federal Regulations for maximum exposure of critical human organs in the case of foodstuffs harvested from these waters for human consumption. (7-1-93)
- Floating, Suspended or Submerged Matter. Surface waters of the state shall be free from floating, suspended, or submerged matter of any kind in concentrations causing nuisance or objectionable conditions or that may impair designated beneficial uses. This matter does not include suspended sediment produced as a result of nonpoint source activities. (8-24-94)
- Excess Nutrients. Surface waters of the state shall be free from excess nutrients that can cause visible slime growths or other nuisance aquatic growths impairing designated beneficial uses. (8-24-94)
- Oxygen-Demanding Materials. Surface waters of the state shall be free from oxygen-demanding materials in concentrations that would result in an anaerobic water condition. (7-1-93)
- Sediment. Sediment shall not exceed quantities specified in Section 250., or, in the absence of specific sediment criteria, quantities which impair designated beneficial uses. Determinations of impairment shall be based on water quality monitoring and surveillance and the information utilized as described in Subsection 350.02.b. (8-24-94)

There shall be no discharge of process wastewater pollutants in accordance with EPA's effluent guidelines.

B. Additional Monitoring and Reporting Requirements

1. During the period beginning on January 1, 1997 and lasting until December 31, 1997, monitoring as specified below shall be conducted:

Monitoring Requirements				
Parameter	Units	Location	Frequency	Sample Type
BOD	mg/l	Upstream(1), Effluent, and Downstream(1).	1/Month in April, July, August, September, November(2)	Grab
Total Phosphorus	mg/l	Upstream, Effluent, and Downstream	1/Month in April, July, August, September, November	Grab
Total Nitrogen	mg/l	Upstream, Effluent, and Downstream	1/Month in April, July, August, September, November	Grab
Kejdahl Nitrogen	mg/l	Upstream, Effluent, and Downstream	1/Month in April, July, August, September, November	Grab
Turbidity	NTU	Upstream, Effluent, and Downstream	1/Month in April, July, August, September, November	Grab
Temperature	°C	Upstream, Effluent, and Downstream	1/Month in April, July, August, September, November	Grab
Dissolved Oxygen	mg/l	Upstream, Effluent, and Downstream	1/Month in April, July, August, September, November	Grab
Total Suspended Solids	mg/l	Upstream, Effluent, and Downstream	1/Month in April, July, August, September, November	Grab
Total Petroleum Hydrocarbons (TPH)		Upstream, Effluent, and Downstream	1/Month in April, July, August, September, November	Grab

- (1) The St. Joe River shall be sampled immediately upstream of the permittee's discharge and downstream of the discharge at locations agreed upon by the permittee, IDEQ, and the Coeur d'Alene Tribe. Sampling should also be coordinated with Tribal work being done on the river.
- (2) Monitoring results shall be submitted with discharge monitoring reports (DMRs) to EPA, IDEQ, and the Tribe for the months during which sampling takes place.

C. Toxicity Testing Requirements

1. The permittee shall perform chronic toxicity tests on samples representative of the effluent being discharged at outfall 001. Toxicity testing shall be conducted during August of 2001. Toxicity test results shall be submitted with the monthly DMR, as required in Part II.C., the month after testing is completed. The report of test results shall include all relevant information outlined in Section 9 "Report Preparation" of the EPA document referenced in Part I.B.2. below.
2. Chronic tests for effluent toxicity shall be conducted using protocols contained in Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, Second Edition (EPA-600/4-89/001). Specifically for each test two chronic tests shall be used:

Pimephales promelas (fathead minnow) - static renewal, larval survival, and growth tests, and

Ceriodaphnia dubia (daphnia) - 7-day static renewal, survival, and growth tests.
3. The chronic testing shall identify the no observed effect concentration (NOEC). The NOEC shall be determined to be the effluent concentration for which survival, reproduction, or growth of the test organisms is not significantly different (at the 95% confidence level) from that of the control organisms. Chronic toxic effects will be demonstrated if there is a statistically significant difference in response between the control and test organisms for either toxicity test at less than or equal to 1%.

Daily observations on mortality will allow the permittee to calculate the 96-hour lethal concentration for 50% mortality (96-hour LC₅₀). This calculation shall be reported with the other toxicity monitoring results.

4. Tests shall be conducted on a grab sample of effluent. The sample collected shall be large enough to provide effluent to conduct toxicity tests, plus chemical tests required in Part I.A.1. The tests shall include a series of six dilutions of effluent ranging from control water to 100% effluent such that it includes the expected dilution at the St. Joe River.
5. If, in any test, more than 10% of the control organisms die within 96 hours, or more than 20% of the control organisms die during the duration of the test, the test shall be repeated as soon as practicable using a freshly collected sample. The permittee shall also notify EPA as required in Part II.G.
6. Statistical analysis of the test results shall be determined by hypothesis testing and follow the recommendations for "Data Analysis" in Chapter 2 of the EPA document referenced in Part I.B.2. above.
7. If chronic toxicity is found in either toxicity test at a dilution of less than or equal to 1% effluent, then six more biweekly chronic tests will be required using the most sensitive species.

If acute toxicity is found in either toxicity at a dilution of less than or equal to 1%, then six more biweekly acute tests will be required using the most sensitive species. The acute tests shall be conducted in accordance with the EPA approved protocols.

If toxicity, as defined in I.B.3., is not indicated in any of the six subsequent tests, then the toxicity testing program will be complete and the permit requirement will be satisfied.

8. If the results from the six accelerated tests in Part I.B.7. give NOECs equal to or less than 1% effluent OR if the results from the six acute tests give LC₅₀ equal to or less than 1% effluent, in any one of the tests, then the permittee shall submit to EPA a Toxicity Identification Evaluation (TIE) plan and accompanying implementation

schedule within 90 days of the finalization of the test results. The TIE plan is subject to comment by EPA and Idaho Department of Health & Welfare - Division of Environmental Quality (IDHW-DEQ). The implementation schedule for the TIE is subject to IDHW-DEQ comment and EPA approval. Upon completion of the TIE, a full Toxicity Reduction Evaluation (TRE) may be required.

9. All quality assurance criteria used shall be in accordance with the following documents:

Methods for Measuring the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, EPA/600/4-89/001,

Methods for Measuring Acute Toxicity of Effluent and Receiving Waters to Freshwater and Marine Organisms, EPA/600/4-90/027,

Quality Assurance Guidelines for Biological Testing, EPA/600/4-78/043, and

Quality Assurance Bibliography, EPA/600/4-89/001.

10. Control and dilution water should be synthetic, moderately hard water, as described in the above protocol manuals.

D. Quality Assurance Project Plan

1. The permittee shall develop a Quality Assurance Plan. The primary purpose of the Quality Assurance Plan shall be to assist in planning for the collection and analysis of samples in support of the permit and in explaining data anomalies when they occur.
2. Throughout all sample collection and analysis activities, the permittee shall use the EPA approved quality assurance, quality control, and chain-of-custody procedures described in Interim Guidelines and Specifications For Preparing Quality Assurance Project Plans, QAMS-005/80, December 29, 1980. The permittee's Quality Assurance Plan shall be prepared in the format which is specified in QAMS-005/80. The following two references may be helpful in preparing the Quality Assurance Plan for this permit:

You and Quality Assurance in Region 10, EPA, Region 10, Quality and Data Management Program, March 1988.

Example Format and Critical Elements of Quality Assurance Plan, EPA, Region 10, Quality and Data Management Program.

3. The plan shall be submitted to EPA for review and approval within 90 days of the effective date of this NPDES permit.
4. At a minimum the plan shall include the following:
 - Sampling techniques (field blanks, replicates, duplicates, control samples, etc).
 - Sampling preservation methods.
 - Sampling shipment procedures.
 - Instrument calibration procedures and preventive maintenance (frequency, standard, spare parts).
 - Qualification and training of personnel.
 - Analytical methods (including quality control checks, quantification/detection levels).
5. Name(s), address(es) and telephone number(s) of the laboratories, used by or proposed to be used by the permittee, shall be specified in the Quality Assurance Plan.
6. The permittee shall require the laboratory director of each laboratory providing measurement results in support of this permit to sign and submit to EPA the following statement on a monthly basis with the DMR:

I certify that this data is in compliance with requirements under 40 CFR 136 and other analytical requirements specified in NPDES permit No. ID-000001-9.

Signature: _____ Date: _____

E. Definitions and Acronyms.

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

2. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
3. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.
4. "Debris" is woody material such as bark, twigs, branches, heartwood or sapwood that will not pass through a 2.54 cm (1.0 inch) round opening.
5. A "grab" sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.
6. "Maximum daily discharge limitation" means the highest allowable "daily discharge."
7. "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.
8. A "24-hour composite" sample shall mean a flow-proportioned mixture of not less than 8 discrete aliquots. Each aliquot shall be a grab sample of not less than 100 ml and shall be collected and stored in accordance with procedures prescribed in the most recent edition of Standard Methods for the Examination of Water and Wastewater.
9. "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.

10. "EPA" means the Environmental Protection Agency.
11. "IDHW-DEQ" means the Idaho Department of Health and Welfare - Division of Environmental Quality.
12. "NOEC" means the no observed effect concentration, which is the effluent concentration for which survival, reproduction, or growth of the test organisms is not significantly different (at the 95% confidence level) from that of the control organisms.

II. GENERAL MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under Part I shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.
- C. Reporting of Monitoring Results. Monitoring results shall be summarized each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1). The reports shall be submitted monthly and are to be postmarked by the 10th day of the following month. Legible copies of these, and all other reports, shall be signed and certified in accordance with the requirements of Part IV.H., Signatory Requirements, and submitted to the Director, Water Division, the State agency, and the Tribe at the following addresses:

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

copies to: Idaho Department of Health & Welfare (IDHW-DEQ)
Division of Environmental Quality
2110 Ironwood Parkway
Coeur d'Alene, Idaho 83814
(208) 769-1422

Coeur d'Alene Tribe

Natural Resources
Tribal Headquarters
Subagency Road
Plummer, ID. 83851
(208) 686-1800, Ext. 250

- D. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.
- E. Records Contents. Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements;
 2. The individual(s) who performed the sampling or measurements;
 3. The date(s) analyses were performed;
 4. The individual(s) who performed the analyses;
 5. The analytical techniques or methods used; and
 6. The results of such analyses.
- F. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Director or IDHW-DEQ at any time. Data collected on-site, copies of Discharge Monitoring Reports, and a copy of this NPDES permit must be maintained on-site during the duration of activity at the permitted location.
- G. Twenty-four Hour Notice of Noncompliance Reporting.
1. The following occurrences of noncompliance shall be reported by telephone within 24 hours from the time the permittee becomes aware of the circumstances:

- a. Any noncompliance which may endanger health or the environment;
 - b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part III.G., Bypass of Treatment Facilities.);
 - c. Any upset which exceeds any effluent limitation in the permit (See Part III.H., Upset Conditions.); or
 - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit to be reported within 24 hours.
2. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected; and
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 3. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Compliance Section in Seattle, Washington, by phone, (206) 553-1846.
 4. Reports shall be submitted to the addresses in Part II.C., Reporting of Monitoring Results.
- H. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part II.C. are submitted. The reports shall contain the information listed in Part II.G.2.
- I. Inspection and Entry. The permittee shall allow the Director or an authorized representative (including an authorized contractor acting as a representative of the Administrator) and IDHW-DEQ, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

III. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Director and IDHW-DEQ of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions.
 1. Civil Penalty. The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be subject to a civil penalty, not to exceed \$25,000 per day for each violation.
 2. Criminal Penalties:
 - a. Negligent Violations. The Act provides that any person who negligently violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or by both.

- b. **Knowing Violations.** The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or by both.
- c. **Knowing Endangerment.** The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than \$1,000,000.
- d. **False Statements.** The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both.

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

- C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

- E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and 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.
- F. Removed Substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.
- G. Bypass of Treatment Facilities:
1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this section.
 2. Notice:
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.
 - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.G., Twenty-four Hour Notice of Noncompliance Reporting.
 3. Prohibition of bypass.
 - a. Bypass is prohibited and the Director or IDHW-DEQ may take enforcement action against a permittee for a bypass, unless:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

- (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (3) The permittee submitted notices as required under paragraph 2 of this section.

- b. The Director and IDHW-DEQ may approve an anticipated bypass, after considering its adverse effects, if the Director and IDHW-DEQ determine that it will meet the three conditions listed above in paragraph 3.a. of this section.

H. Upset Conditions.

- 1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph 2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- 2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under Part II.G., Twenty-four Hour Notice of Noncompliance Reporting; and

- d. The permittee complied with any remedial measures required under Part III.D., Duty to Mitigate.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.
- I. Toxic Pollutants. The permittee shall 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.

IV. GENERAL REQUIREMENTS

- A. Changes in Discharge of Toxic Substances. Notification shall be provided to the Director, IDHW-DEQ, and the Tribe as soon as the permittee knows of, or has reason to believe:
 1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 ug/l);
 - b. Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile, five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - d. The level established by the Director in accordance with 40 CFR 122.44(f).
 2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- a. Five hundred micrograms per liter (500 ug/l);
 - b. One milligram per liter (1 mg/l) for antimony;
 - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - d. The level established by the Director in accordance with 40 CFR 122.44(f).
- B. Planned Changes. The permittee shall give notice to the Director, IDHW-DEQ, and the Tribe as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source 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 which are subject neither to effluent limitations in the permit, nor to notification requirements under Part IV.A.1.
- C. Anticipated Noncompliance. The permittee shall also give advance notice to the Director, IDHW-DEQ, and the Tribe of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- D. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- E. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.
- F. Duty to Provide Information. The permittee shall furnish to the Director and IDHW-DEQ, within a reasonable time, any information which the Director or IDHW-DEQ 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 or IDHW-DEQ, upon request, copies of records required to be kept by this permit.

- G. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director or IDHW-DEQ, it shall promptly submit such facts or information.
- H. Signatory Requirements. All applications, reports or information submitted to the Director and IDHW-DEQ shall be signed and certified.
1. All permit applications shall 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, 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 IDHW-DEQ shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Director and IDHW-DEQ, and
 - b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

3. Changes to authorization. If an authorization under paragraph IV.H.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph IV.H.2. must be submitted to the Director and IDHW-DEQ prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- I. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director and IDHW-DEQ. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.
- J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.
- K. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- L. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid,

the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

M. Transfers. This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date;
2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.

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