

Standard Conditions of NPDES Permits



NPDES Permit Writers' Course
Online Training Curriculum



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Standard Conditions Regulations



- Sometimes called “boilerplate” permit conditions
- **40 CFR 122.41**
 - Conditions applicable to all NPDES permits
- **40 CFR 122.42**
 - Additional conditions applicable to specified categories of NPDES permits

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Standard Conditions in the Permit

- Standard conditions must appear in every NPDES permit either
 - expressly (verbatim) or
 - by reference
- States, tribes, or territories might have more stringent requirements



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List of Standard Conditions – § 122.41

- | | |
|--|------------------------------|
| a. Duty to comply | j. Monitoring and records |
| b. Duty to reapply | k. Signatory requirement |
| c. Need to halt or reduce activity not a defense | l. Reporting requirements |
| d. Duty to mitigate | 1. Planned change |
| e. Proper O & M | 2. Anticipated noncompliance |
| f. Permit actions | 3. Transfers |
| g. Property rights | 4. Monitoring reports |
| h. Duty to provide information | 5. Compliance schedules |
| i. Inspection and entry | 6. 24-hour reporting |
| | 7. Other non-compliance |
| | 8. Other information |
| | m. Bypass |
| | n. Upset |

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Bypass [§ 122.41(m)]



- Intentional diversion of waste streams from any portion of a treatment facility
- Bypass not exceeding limitations allowed without notification only where it is for essential maintenance to assure efficient operation [§ 122.41(m)(2)]
- Bypass prohibited otherwise except where [§ 122.41(m)(4)]
 - a bypass was unavoidable to prevent loss of life, personal injury or severe property damage **and**
 - there were no feasible alternatives to the bypass **and**
 - facility gives notice before bypass or within 24 hours if bypass is unexpected

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Upset [§ 122.41(n)]



- An exceptional incident that causes an unintentional, temporary non-compliance with a technology-based effluent limitation
- A demonstrated upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based limitations
- Conditions necessary to demonstrate upset:
 - identify cause of upset
 - show that facility was operated properly at the time
 - proper notices to permitting authority (24-hour reporting)
 - compliance with remedial measures under § 122.41(d)

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Additional Standard Conditions – § 122.42

- Notification levels for existing non-POTWs (industrial dischargers) [§ 122.42(a)]
 - activity resulting in a discharge of toxic pollutants not limited in permit
 - discharged on routine or frequent basis
 - discharged on non-routine or infrequent basis
 - thresholds based on maximum concentration reported in application or, in some cases, specific concentrations
- Notification for POTWs [§ 122.42(b)]
 - introduction of new pollutants
 - change in pollutant volume or character of pollutants introduced
- Requirements for stormwater discharges [§ 122.42(c),(d)]
- Requirements for CAFOs [§ 122.42(e)]

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