

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

**AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

**Kickapoo Tribe in Kansas  
Kickapoo Trading Post and Casino  
Wastewater Treatment Facility  
Horton (Brown County) Kansas  
NPDES Permit No. KS0095192**

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. § 1251, et. seq.; the "Act"), authorization is given to:

Kickapoo Tribe in Kansas  
824 111<sup>th</sup> Drive  
Horton, Kansas 66439

to discharge from a four-cell wastewater lagoon treatment facility located at:

Southwest quadrant of the intersection of Hwy. K20 (110<sup>th</sup> Street) and Goldfinch Road  
NE¼ NE¼ Section 32, Township 4 South, Range 16 East  
Brown County, Kansas  
Latitude (LAT) = 39° 39' 59" N  
Longitude (LONG) = 95° 38' 24" W  
USGS Hydrologic Basin Code (HBC) = 10270103  
Standard Industrial Code (SIC2) = 4952

to receiving waters named: an unnamed tributary, thence to the Delaware River

in accordance with the discharge points, effluent limitations, monitoring requirements, and other conditions set forth herein. Authorization for discharge is limited to those outfalls specifically listed in this permit.

This permit shall become effective on 7/25/19.

This permit and the authorization to discharge shall expire at midnight, July 24, 2024.

Signed this 25<sup>th</sup> day of July, 2019.

Jeffery Robichaud  
Director, Water Division

**A. FACILITY DESCRIPTION**

The Facility is a four-cell, controlled discharge lagoon system, which treats domestic wastewater from the Kickapoo Trading Post, Golden Eagle Casino, 45 housing units, 13 senior housing units (26 apartments), tribal offices building (currently vacant - tribal offices with 20-30 people moved to another building about 1 mile to the west with its own wastewater treatment system), Health Center, other miscellaneous buildings, and the filter backwash decant water from the tribal drinking water treatment plant backwash waste ponds. Sanitary wastewater is collected and flows south by gravity into the lagoon system. The Facility was improved in 2012 by adding a secondary Cell 4; the Facility is now considered a controlled, discharge lagoon system. The originally 3-cell lagoon system was designed as a controlled discharge lagoon system; but, for some years, had been operating as a continuous discharging system. The four lagoon cells are operated in series with discharge to an unnamed tributary, which flows to the Delaware River. The operating surface area of each of the four cells is 3.29 acres for Cell 1 (equipped with two surface aerators), 1.1 acres for Cell 2, 0.3 acres for Cell 3, and 2.7 acres for the new Cell 4. The total operating volume is estimated at 11.5 million gallons; the operating volume of Cell 4 is 3.91 million gallons. The design flow rate of the system is 50,000 gallons per day (0.050 MGD). The Facility serves a total equivalent population of approximately 1110 persons.

Based on reported discharge flow rates since the addition of Cell 4, the Facility has discharged a median discharge flow rate of 710,000 gallons per day (0.710 MGD) over a period of 3 days resulting in a total discharge of 2.13 million gallons. A discharge flow rate of 0.152 MGD over a period of 2 weeks was used in the calculation of the permit limits.

**B. DESCRIPTION OF DISCHARGE POINT**

The authorization to discharge provided under this permit is limited to the outfall specifically designated below as a discharge location. Discharge at any location not authorized under an NPDES permit is a violation of the Clean Water Act and could subject the person(s) responsible for such discharge to penalties under Section 309 of the Act. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge within a reasonable time from first learning of an unauthorized discharge could subject such person(s) to criminal penalties as provided under the Clean Water Act.

**Outfall Serial Number**

**Description of Discharge Point**

001

The discharge is from the outfall line that follows from Cell 4 (final cell) of the lagoon system to an unnamed tributary, and then to the Delaware River. Monitoring shall be done at a point located after the final treatment process and prior to entering the receiving stream.

**C. SPECIFIC EFFLUENT LIMITATIONS AND SELF-MONITORING REQUIREMENTS FOR OUTFALL 001**

The Permittee is authorized to discharge from Outfall 001 as specified in this permit. The effluent limitations below shall be met on the effective date of this permit.

**Effluent Limitations and Monitoring Requirements**

1. Discharges authorized under this permit:
  - a. Shall not be toxic or harmful to human, animal, plant, or aquatic life; and
  - b. Shall be free from pollutants which cause noxious odors; floating, suspended, colloidal, or settleable materials that produce objectionable films, colors, turbidity, or deposits; and the occurrence of undesirable or nuisance aquatic life.
2. The Permittee shall submit Discharge Monitoring Reports (DMRs) quarterly to EPA as required under Attachment A - Standard Condition D.4. of this permit. The initial reporting period shall

begin on the effective date of the permit. Monitoring reports shall be submitted on or before the 28th day of January, April, July, and October. In the event no discharge occurs during the quarter, written notification is still required and will consist of an entry of "NO DISCHARGE DURING THIS REPORTING PERIOD" on the DMR. Influent monitoring and reporting requirements for the Facility identified in Table 2 remain in effect during non-discharging periods.

The National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule requires electronic reporting of NPDES information rather than the previously required paper-based reports from the permitted facilities. To comply with the Federal rule, Permittees will be required to submit DMRs electronically using the EPA NetDMR (Appendix A of 40 CFR Part 127). Permittees may seek an electronic reporting waiver by submitting a letter to EPA Region 7 with a brief written statement regarding the basis for needing such a temporary waiver. The EPA Region 7 will either approve or deny this electronic reporting waiver request. The duration of a temporary waiver may not exceed 5 years, which is the normal period for a NPDES permit term. The Permittee must re-apply for a new temporary waiver. Permittees with an approved reporting waiver request may submit monitoring data and reports on paper to EPA Region 7 for the period that the approved reporting waiver request is effective.

3. Drawdown must not be drawn down below the depth of two feet in the cell being discharged.  
The discharge during the drawdown shall be controlled in such a manner to minimize erosion in the receiving stream, and that the disturbance of the sludge/settled solids is prevented.
4. The Permittee shall control vegetation in and around the lagoon system as needed to preserve the integrity of the cells and prevent the lagoon system itself from being compromised.
5. The Permittee shall comply with the effluent limitations and monitoring requirements in Table 1 and the influent monitoring requirements in Table 2, below.
6. All sample collection and analysis under this permit shall be consistent with methods approved under 40 CFR Part 136.
7. A copy of the laboratory analysis reports shall be retained by the Permittee for review by EPA.

**TABLE 1 – OUTFALL 001  
 EFFLUENT POLLUTANT PARAMETERS AND MONITORING FREQUENCY**

| Effluent Parameters                                    | Parameter Code | Discharge Limits  | Monitoring Frequency          | Sample Type            |
|--|----------------|---|-------------------------------|------------------------|
| Effluent Flow  | 50050          | Monitor and Report<br>Flow in Million Gallons per Day (MGD) | <i>Daily during discharge</i> | Measured or Calculated |
| Total Flow   | 82220          | Monitor and Report - Million Gallons per Month (MGM)        | <i>Final day of drawdown</i>  | Measured or Calculated |
| Duration of Discharge                                  | 81381          | Total Days of Drawdown Event                                | <i>Once per drawdown</i>      | Measured or Calculated |
| Five Day Biochemical Oxygen Demand (BOD <sub>5</sub> ) | 00310          | Monthly Average - 30 mg/L<br>Weekly Average - 45 mg/L       | (a)                           | Grab                   |
| Total Suspended Solids (TSS)                           | 00530          | Monthly Average - 80 mg/L<br>Weekly Average - 120 mg/L      | (a)                           | Grab                   |
| pH <sup>(d)</sup>                                      | 00400          | 6.0 - 9.0 Standard Units                                    | (a) (d)                       | Grab                   |
| Temperature  | 00011          | Monitor and Report - ° F                                    | (a)                           | Grab                   |
| Dissolved Oxygen                                       | 00300          | Minimum - 5.0 mg/L  | (a)                           | Grab                   |
| Oil and Grease   | 00552          | Monthly Average - 10 mg/L<br>Daily Maximum - 15 mg/L        | (a)                           | Grab                   |
| <i>E. coli</i> Bacteria<br>(April 1 - October 31)      | 51041          | Geometric Mean - 262 colony forming units (cfu) /100mL      | (a)                           | Grab                   |
| <i>E. coli</i> Bacteria<br>(November 1- March 31)      | 51041          | Geometric Mean - 2,358 colony forming units (cfu) /100mL    | (a)                           | Grab                   |
| Ammonia, Total as N<br>(March 1 - October 31)          | 00610          | Daily Maximum - 1.43 mg/L<br>Monthly Average - 0.71 mg/L    | (a)                           | Grab                   |
| Ammonia, Total as N<br>(November 1 - February 28 [29]) | 00610          | Daily Maximum - 2.95 mg/L<br>Monthly Average - 1.47 mg/L    | (a)                           | Grab                   |
| Nitrogen, Total as N <sup>(b)</sup>                    | 00600          | Monitor and Report - mg/L                                   | (a)                           | Grab                   |
| Phosphorus, Total as P                                 | 00665          | Monitor and Report - mg/L                                   | (a)                           | Grab                   |
| BOD <sub>5</sub> Percent Removal                       | 81010          | Monthly Average<br>Minimum of 85% removal                   | <i>Each drawdown event</i>    | Calculation<br>(c)     |

Footnotes:

- (a) Effluent sampling shall be performed the next day after the beginning of the discharge. If the discharge continues for more than two weeks, additional sampling shall be performed after the 14<sup>th</sup> day.
- (b) Total Nitrogen means the sum of Total Kjeldahl Nitrogen, Nitrate Nitrogen, and Nitrite Nitrogen.
- (c) The Permittee shall use the results of influent and effluent monitoring for BOD<sub>5</sub> to calculate and report percent removal. This information shall be calculated and reported for each period of discharge from the lagoon system.  
 Percent Removal = 
$$\frac{[\text{Influent BOD}_5 \text{ Concentration}] - [\text{Effluent BOD}_5 \text{ Concentration}]}{[\text{Influent BOD}_5 \text{ Concentration}]}$$
- (d) The pH must be measured within 15 minutes of collecting the sample.

**TABLE 2  
 INFLUENT MONITORING APPLIES ALL YEAR**

| <b>Pollutant Parameters</b>   | <b>Parameter Code</b> | <b>Measurement Units</b>   | <b>Monitoring Frequency</b>     | <b>Sample Type</b>     |
|---|-----------------------|--|---------------------------------|------------------------|
| Influent Flow   | 50050                 | Monitor and Report Average Flow in Million Gallons per Day (MGD) | <i>Daily during discharge</i>   | Measured or Calculated |
| Five Day Biochemical Oxygen Demand (BOD <sub>5</sub> )  | 00310                 | Monitor and report - mg/L  | <i>Quarterly</i> <sup>(a)</sup> | Grab                   |
| Total Suspended Solids (TSS)  | 00530                 | Monitor and report - mg/L  | <i>Quarterly</i> <sup>(a)</sup> | Grab                   |
| Oil and Grease  | 00552                 | Monitor and report - mg/L  | <i>Quarterly</i> <sup>(a)</sup> | Grab                   |
| Footnote:<br>(a) Sampling for BOD <sub>5</sub> , TSS, and Oil and Grease shall be performed at the same time as discharge sampling. (i.e. The next day after the beginning of the discharge. If the discharge continues for more than two weeks, additional sampling shall be performed after the 14 <sup>th</sup> day.) These samplings may be reported as the required quarterly monitored influent values. |                       |  |                                 |                        |

**D. SUPPLEMENTAL CONDITIONS**

**1. Facility Maintenance**

The Permittee shall maintain the wastewater treatment facility and related appurtenances in proper operating condition and shall be operated in a manner to meet the permit requirements and not result in a prohibited bypass or an unauthorized discharge.

The Permittee shall maintain the lagoon system to ensure the integrity of the lagoon cells and the site around the Facility in a manner that will allow adequate inspection and oversight of the Facility. Maintenance activities to facilitate adequate inspection and oversight shall include, but not be limited to, regular mowing of the area around the lagoon system and the grassed dikes to prevent growth of trees or woody plants; prompt removal of cattails, reeds, and other emergent vegetation from the lagoon cells as they appear; quarterly measurement of the freeboard and wastewater depth for each lagoon cell; and monthly walk around and visual inspection of each lagoon cell for breaches, animal activity, or any conditions that may create damage to the lagoon dikes. Damage to lagoon dikes caused by muskrats or other rodents, erosion, tree roots, animal hooves, or any other source shall be promptly repaired. All maintenance activities required to maintain the Facility shall be entered into a log book and retained as a record in accordance with the Standard Conditions of this permit.

**2. Sewage Sludge Handling and Disposal Requirements**

**The following provisions apply if the Permittee disposes of sludge from this facility.**

- a. The Permittee shall develop and submit to EPA Region 7 for review a Sludge Management Plan (SMP) 180 days prior to any planned disposal or application of sludge. After review, EPA may require modification of the SMP.
- b. The Permittee shall dispose of sludge generated at its wastewater treatment plant in accordance with 40 CFR Part 503 and the SMP.
- c. The Permittee shall give notice to EPA Region 7 prior to any change in the Permittee's sludge reuse/transport/disposal practices and/or the SMP.

- d. For sludge that is transported to an off-site location for disposal, the Permittee shall maintain a record of the name and address of the transporter as well as the disposal location.
- e. Copies of all reports pursuant to 40 CFR 503 regulations and the Permittee's SMP shall be retained by the Permittee for review by EPA Region 7.

**E. STANDARD CONDITIONS**

In addition to the Effluent Limitations and Monitoring Requirements, Influent Monitoring, and the Supplemental Conditions specified in this Permit, the Permittee shall comply with the Standard Conditions incorporated into this Permit as Attachment A.

## ATTACHMENT A - STANDARD CONDITIONS

### A. GENERAL CONDITIONS

#### 1. Duty to Comply

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

#### 2. Toxic Pollutants and Sewage Sludge

The Permittee shall comply with effluent standards or prohibitions established under the CWA Section 307(a), 33 U.S.C. § 1317(a), for toxic pollutants and with standards for sewage sludge use or disposal established under the CWA Section 405(d), 33 U.S.C. § 1345(d), within the time provided in the regulations that establish those standards or prohibitions, or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

#### 3. Penalties for Violations of Permit Conditions

The Act provides that any person who violates Sections 301, 302, 306, 307, 308 or 405 of the Act, or any permit condition or limitation implementing such Sections in a permit issued under Section 402 of the Act, is subject to civil monetary penalties not to exceed \$37,500 per day, as modified, from time-to-time under 40 CFR Part 19 - Adjustment of Civil Monetary Penalties for Inflation for each violation under Section 309 of the Act. Any person who willfully or negligently violates Sections 301, 302, 306, 307, or 308 of the Act, or any permit condition or limitation implementing such Sections, may be subject to a fine or imprisonment pursuant to Section 309(c) of the Act. Except as provided in subsections B.3., Bypass of Treatment Facilities, and B.4., Upset, nothing in this permit shall be construed to relieve the Permittee of civil or criminal liability for noncompliance.

#### 4. Duty to Reapply

- a. 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 Permittee shall submit a new application to the U.S. Environmental Protection Agency, Region 7, at least 180 days before the expiration date of this permit.
- b. The terms and conditions of this permit continue in force under 5 U.S.C. § 558 (c) until the effective date of the new permit (or permit denial) only if the Permittee has submitted a timely and complete application under 40 CFR § 122.21 for a renewal permit and the Permitting Authority, through no fault of the Permittee, does not issue a new permit (or deny the permit) before the expiration date of this permit. The permit continued under 5 U.S.C. § 558(c) remains fully effective and enforceable, subject to the actions set forth in 40 CFR § 122.6(c).

#### 5. Duty to Mitigate

The Permittee shall 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.

#### 6. Permit Actions (Modifications, Revocation and Reissuance, or Termination)

- a. This permit may be modified, revoked and reissued, or terminated for causes (as described in 40 CFR §§ 122.62, 122.63, and 122.64), including, but not limited to: violation of any terms or

conditions of this permit; obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge. 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.

- b. Notwithstanding subsection 6.a. of this section:
  - i) If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under the CWA Section 307(a) for a toxic pollutant that is present in the discharge and such standard or prohibition is more stringent than any other limitation for such pollutant in this permit, this permit may be modified or revoked and reissued to conform to the toxic effluent standards or prohibition; and
  - ii) If more stringent water quality standards become effective pursuant to CWA Section 303(c), 33 U.S.C. § 1313 (c), than the water quality standards in effect upon issuance of this permit, this permit may be modified or revoked and reissued to conform with such new water quality standards.

## **7. Effect of Permit/Other Laws**

- a. 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, or any infringement of federal, state, or local laws or regulations.
- b. 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 federal law or regulation under authority preserved by the CWA Section 510.
- c. 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 to under the CWA Section 311 or the Comprehensive Environmental Responses, Compensation and Liability Act (CERCLA) of 1998 Section 106.
- d. Except as provided in permit conditions on Upset, subsection B.4., herein, nothing in this permit shall be construed to relieve the Permittee from civil or criminal penalties for noncompliance with a permit condition.
- e. Pursuant to the CWA Section 509(b)(2), 33 U.S.C. § 1369(b)(2), a challenge to the validity of permit conditions, including the effluent limitations in Part I-C of this permit, shall not be a defense to an enforcement action under the CWA Sections 309 or 505, 33 U.S.C. §§ 1319 or 1365. Each and every violation of a permit condition is subject to an enforcement action.
- f. Compliance with the terms of this permit does not constitute a defense to any action brought under the CWA Section 504, 33 U.S.C. § 1364, or any other law governing protection of public health or welfare, for any imminent and substantial endangerment to public health or welfare.



**8. Inspection and Entry**

The Permittee shall allow the Permitting Authority, or an authorized representative, upon the presentation of credentials 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 purpose of ensuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

**9. Severability**

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

**B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS**

**1. 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) that 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 that are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

**2. Need to Halt or Reduce 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.

**3. Bypass of Treatment Facilities**

a. Definitions

- i) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
- ii) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities that renders them inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass Not Exceeding Limitations

The 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 ensure efficient operation. These bypasses are not subject to the provisions of subsections c. and d. of this section.

c. Notice

- i) Anticipated bypass: If the Permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 30 days before the date of the bypass, including an evaluation of the anticipated quantity, quality and effect of the bypass.
- ii) Unanticipated bypass: The Permittee shall submit notice of an unanticipated bypass as required in subsection D.6., (24-hour notice), herein.

d. Prohibition of Bypass

- i) Bypass is prohibited and the Permitting Authority may take enforcement action against a Permittee for bypass, unless:
  - a) Bypass was unavoidable to prevent loss of life, personal injury, or severe and extensive property damage;
  - b) There were no feasible alternatives to the bypass, such as maintenance of sufficient reserve holding capacity, the use of auxiliary treatment facilities, retention of untreated wastes, waste hauling, 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
  - c) The Permittee submitted notices as required under subsection 3.c. (Notice) of this section.
- ii) The Permitting Authority may, within its authority, approve an anticipated bypass, after considering its adverse effects, if the Permitting Authority determines that it will meet the three conditions listed in subsection 3.d.i), of this section.

4. Upset

- a. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the 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.
- b. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit limitations if the requirements of 40 CFR § 122.41(n)(3) are met. In any enforcement proceedings, the Permittee seeking to establish the occurrence of an upset has the burden of proof. 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 (i.e., Permittee will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limitations).

**5. Schedule of Maintenance**

Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during noncritical water quality periods and carried out in a manner approved by the Permitting Authority.

**6. Removed Substances**

This permit does not authorize the discharge of collected screenings, grit, solids, sludge, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters to waters of the United States unless specifically limited in this permit.

**C. MONITORING AND RECORDS**

**1. Representative Sampling**

Samples and measures taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

**2. Sampling Points**

All samples shall be taken at the monitoring points specified in this permit, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Permitting Authority.

**3. Flow Measurements**

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flow with a maximum deviation of less than +/- 10 percent from the true discharge rates through the range of expected discharge volumes. Guidance in selection, installation, calibration, and operation of acceptable flow measurement devices can be obtained from the following references:

- a. "Water Measurement Manual," U.S. Department of Interior, Bureau of Reclamation, Third Edition, Revised Reprint, 2001.  
(Available online at <http://www.usbr.gov/tsc/techreferences/mands/wmm/index.htm>.)
- b. "NPDES Compliance Flow Measurement Manual," U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD-77, September 1981, 147 pp. (Available online at <http://www.epa.gov/nscep>, and enter NPDES Compliance Flow Measurement Manual, Publication MCD-77 in the search box.)

**4. Test Procedures**

Test procedures for the analyses of pollutants must be conducted according to test procedures approved under 40 CFR Part 136 - Guidelines Establishing Test Procedures for the Analysis of Pollutants, unless other test procedures have been specified in this permit.

**5. Calibration**

The Permittee shall periodically calibrate and perform maintenance on all monitoring and analytical equipment used to monitor the pollutants discharged under this permit, at intervals that will ensure the accuracy of measurements.

**6. Testing Variability Not a Defense**

If the Permittee believes or has reason to believe that monitoring or sampling results reflect an analytical variability so as to render the results inaccurate, he may monitor or sample more frequently than required by this permit. The validity of the testing results, whether or not the Permittee has monitored or sampled more frequently, shall not be a defense to an enforcement action under the CWA Sections 309 or 505, 33 U.S.C. §§ 1319 or 1365.

**7. Penalties for Tampering**

The CWA 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 the first 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. If a conviction of a person is for a violation committed after a first conviction of such person under this section C., punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.

**8. 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 except that records relating to sewage sludge shall be retained for at least five years. This period may be extended by the Permitting Authority at any time.

**9. Monitoring Records**

Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The initials or name of the individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The initials or name of the individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of all required analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine compliance.

**10. 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 Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report (DMR). Such increased frequency shall also be indicated.

## **11. Averaging of Measurements**

Calculations for limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Permitting Authority in the permit.

## **D. REPORTING REQUIREMENTS**

### **1. Change in Discharge**

The Permittee shall give notice to the Permitting Authority as soon as possible of any planned physical alternations or additions to the permitted facility. Notice is required only when:

- a. The alteration or addition to the permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR § 122.29(b);
- b. 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 40 CFR § 122.42(a)(1); or
- c. The alteration or addition results in a significant change in the Permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land applications plan.

### **2. Anticipated Noncompliance**

The Permittee shall give advance notice to the Permitting Authority of any planned change in the permitted facility or activity that may result in noncompliance with permit requirements. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during noncritical water quality periods and carried out in a manner approved by the Permitting Authority.

### **3. Transfer of Ownership or Control**

A permit may be automatically transferred to another party if:

- a. The Permittee notifies the Permitting Authority of the proposed transfer at least 30 days in advance of the proposed transfer date;
- b. The notice includes a written agreement between the existing and new Permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The Permitting Authority does not notify the existing Permittee of its 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 the preceding subsection b.

### **4. Reporting of Monitoring Results**

Monitoring results shall be reported at the intervals specified in the permit. Monitoring results must be reported on Discharge Monitoring Report (DMR) forms provided or specified by the EPA Region 7 for reporting results of monitoring. Monitoring and reporting requirements of sludge use or disposal practices shall be as specified in the permit. As of December 21, 2016 all reports and forms, except

for sludge use or disposal, must be submitted electronically by the Permittee to the EPA, as defined in 40 CFR 127.2(b), in compliance with 40 CFR 3 (including, in all cases, Subpart D to Part 3), 40 CFR 122.22, and 40 CFR 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, Permittees may be required to report electronically if specified by the permit.

Permittees subject to CFR 127 must electronically submit data in compliance with § 127.15 unless a waiver is granted in compliance with §§ 127.15 and 127.24. Temporary waivers from electronic reporting may be granted by the EPA Region 7. To apply for a temporary waiver, the owner, operator, or duly authorized representative of the NPDES Permittee, facility, and entity must submit the following information to the EPA Region 7:

- a. Facility name;
- b. NPDES permit number (if applicable);
- c. Facility address;
- d. Name, address and contact information for the owner, operator, or duly authorized facility representative;
- e. Brief written statement regarding the basis for claiming such a temporary waiver, and;
- f. Any other information required by the authorized NPDES program.

## **5. 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. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, the date completion of the scheduled item is anticipated, and the probability of meeting the next scheduled requirement. Reporting as required under this provision does not relieve the Permittee of the responsibility to timely complete all requirements of a compliance schedule.

## **6. Twenty-four Hour Reporting**

- a. The Permittee shall orally report any noncompliance that may endanger health or the environment as soon as possible, but no later than 24 hours from the time the Permittee becomes aware of the circumstances. The oral report shall be made to the Chief, Water Enforcement Branch, at phone number (913) 551-7544. Reports of noncompliance under this paragraph may be made to the EPA Spill Hotline at (913) 281-0991 if such noncompliance is discovered after regular business hours or on a weekend or holiday and response assistance from EPA is requested.
- b. The following violations shall be included in the 24-hour notice:
  - i) Any unanticipated bypass that exceeds any effluent limitation in the permit;
  - ii) Any upset that exceeds any effluent limitation in the permit; and
- c. A written submission shall also be provided within 5 days of the time the Permittee becomes aware of the circumstances. The written submission shall be submitted to the Chief, Water Enforcement Branch at the addresses indicated in subsection D.4. of this section, and shall contain a description of the noncompliance, its cause, and the period of noncompliance, including exact dates and times.

If the noncompliance has not been corrected, the written submission shall also include the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Permitting Authority may verbally waive the written report, on a case-by case basis, when the oral report is made.

**7. Other Noncompliance**

The Permittee shall report, in narrative form, all instances of noncompliance not previously reported under subsection 1. through 6. of this section at the time monitoring reports are submitted. Reporting noncompliance under this provision does not relieve the Permittee of the duty to comply with all requirements of this permit.

**8. Other Information**

When the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information on a permit application or in any report to the Permitting Authority, it shall promptly submit such facts or information.

**9. Duty to Provide Information**

The Permittee shall furnish to the Permitting Authority, within a reasonable time, any information that 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 also shall furnish to the Permitting Authority, upon request, copies of records required to be kept by this permit.

**10. Signatory Requirements**

All applications, reports, or information submitted to the Permitting Authority shall be signed and certified.

- a. All permit applications shall be signed as follows:
  - i) For a corporation: by a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means: (1) a president, secretary, treasurer or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - ii) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
  - iii) For a municipality, state, federal, other political subdivision, and public agency/agents thereof: by either a principal executive officer or ranking elected official.
- b. All reports required by permit and other information requested by the Permitting Authority

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:

- i) The authorization is made in writing by a person described above;
  - ii) 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 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 thus may be either a named individual or any individual occupying a named position.); and
  - ii) The written authorization is submitted to the Permitting Authority.
- c. Changes to authorization: If an authorization under subsection 10.b. of this section 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 subsection 10.b. of this section must be submitted to the Permitting Authority 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 subsections 10.a. or 10.b. of this section shall make this 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."**

## **11. Availability of Reports**

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

## **12. Penalties for Falsification of Reports**

The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, shall, upon the conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.

## **E. REOPENER PROVISIONS**

### **1. Reopener Provision**

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate



requirements if one or more of the following events occurs:

- a. Water Quality Standards: The water quality standards of the receiving water(s) to which the Permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
- b. Wasteload Allocation: A wasteload allocation is developed or approved by EPA for incorporation in this permit.
- c. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.
- d. Biological Sludge: There have been substantial changes (or such changes are planned) in sludge use or disposal practices; applicable management practices or numerical limitations for pollutants in sludge have been promulgated which are more stringent than the requirements in this permit; and/or it has been determined that the Permittee's sludge use or disposal practices do not comply with existing applicable state or federal regulations.

**F. DEFINITIONS**

1. **"Weekly average or 7-day average"** is the arithmetic average of all samples collected over a calendar week.
2. **The "30-day (and monthly) average,"** other than for *E. coli* bacteria, is the arithmetic average of all samples collected during a calendar month. Geometric means shall be calculated for *E. coli* bacteria.
3. **"Daily Maximum" ("Daily Max.")** is the highest allowable discharge 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 pollutants discharged over the calendar 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 calendar day. If only one measurement or sample is taken during the calendar day, that will be considered the average for the calendar day.
4. **"Composite samples"** shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:
  - a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
  - b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
  - c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and
  - d. Continuous collection of sample, with sample collection rate proportional to flow rate.
5. A **"grab" sample**, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.

6. An **"instantaneous"** measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
7. **"Director"** means the Director, Water, Wetlands, and Pesticide Division of EPA Region VII.
8. The **"Permitting Authority"** for this permit is the Director, Water, Wetlands, and Pesticide Division of EPA Region VII.
9. **"EPA"** means the United States Environmental Protection Agency.
10. **"Biological Sludge"** for the purposes of this permit is any solid, semi-solid or liquid residue generated during the biological treatment of wastewater at this facility (e.g., waste activated sludge) or removed from the biological treatment system.
11. **"Act" or "CWA"** means the Clean Water Act, as amended, (formerly referred to as the Federal Water Pollution Control Act), 33 U.S.C. 1251 et seq.
12. A **"calendar day"** is defined as the period from midnight of one day until midnight of the next day. However, for purposes of this permit, any consecutive 24-hour period that reasonably represents the calendar day may be used for sampling.
13. A **"hazardous substance"** means any substance(s) designated under 40 CFR Part 116 - Designation of Hazardous Substances pursuant to the CWA Section 311, 33 U.S.C. § 1321.
14. A **"toxic" or "priority"** pollutant is one of 126 substances listed as toxic under the CWA Section 307(a)(1), 33 U.S.C. § 1317(a)(1).