

November 10, 1999

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**ORDER NO. 99-71
NPDES NO. CA0107999**

**WASTE DISCHARGE REQUIREMENTS
FOR THE
SAN ELIJO JOINT POWERS AUTHORITY
SAN ELIJO WATER RECLAMATION FACILITY**

**DISCHARGE TO THE PACIFIC OCEAN
VIA THE SAN ELIJO OCEAN OUTFALL**

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**ORDER NO. 99-71
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**WASTE DISCHARGE REQUIREMENTS
FOR THE
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SAN ELIJO WATER POLLUTION CONTROL FACILITY**

**DISCHARGE TO THE PACIFIC OCEAN
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The California Regional Water Quality Control Board, San Diego Region (hereinafter referred to as Regional Board) finds that:

1. On July, 1, 1981, this Regional Board adopted Order No. 81-12, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0107999, Waste Discharge Requirements for the San Elijo Water Pollution Control Facility, San Diego County. Order No. 81-12, and Addenda Nos. 1 and 2 thereto, established requirements for the discharge of up to 3.7 million gallons per day (MGallons/Day) of treated wastewater from the San Elijo Water Pollution Control Facility (SEWPCF) to the Pacific Ocean via the San Elijo Ocean Outfall. Order No. 81-12 had an expiration date of June 1, 1986.
2. On June 6, 1988, this Regional Board adopted Order No. 88-21, NPDES No. CA0107999, Waste Discharge Requirements for the San Elijo Water Pollution Control Facility Discharge Through the San Elijo Ocean Outfall, San Diego County, which superseded Order No. 81-12. Order No. 88-21, and Addenda Nos. 1 and 2 thereto, established requirements for the discharge of an average dry weather flow rate of 3.7 MGallons/Day of treated wastewater from the SEWPCF to the Pacific Ocean via the San Elijo Ocean Outfall. Order No. 88-21, as amended, had an expiration date of June 6, 1993. Monitoring and Reporting Program No. 81-12, as modified by Technical Change Order Nos. T-1 and T-2 remained in effect with the adoption of Order No. 88-21, as no new monitoring and reporting program was issued with Order No. 88-21.
3. On December 9, 1992, the San Elijo Joint Powers Authority (SEJPA) submitted

an application for renewal of its NPDES permit, pursuant to Reporting Requirement No. E.11 of Order No. 88-21, and requested an increase in authorized flow rate from 3.7 MGallons/ Day to the discharger's upgraded design flow of 5.25 MGallons/ Day.

4. On June 26, 1993, the SEJPA notified the Regional Board that it had completed construction of and startup operations for the secondary treatment facilities at the SEWPCF.
5. On November 10, 1994, this Regional Board established Order No. 94-105, which contains requirements for the discharge of an average dry weather flow rate of 3.7 MGallons/ Day of treated wastewater from the SEWPCF to the Pacific Ocean via the San Elijo Ocean Outfall, superseding Order No. 88-21. Order No. 94-105 did not authorize an increase in flow rate from 3.7 MGallons/ Day to 5.25 MGallons/ Day. On July 1, 1995 Technical Change Order No.1 substituted Monitoring and Reporting Program 94-105 in its entirety.
6. The SEWPCF, now called the San Elijo Water Reclamation Facility (SEWRF) is a publicly owned treatment works (POTW) owned by the SEJPA which treats residential and commercial wastewater generated in the City of Solana Beach, Rancho Santa Fe Community Services District (RSFCSD), and the Cardiff Sanitation District. The SEJPA is a joint powers authority established to provide treatment and disposal of wastewater. The City of Solana Beach, RSFCSD, and the Cardiff Sanitation District are the member agencies that comprise the SEJPA. The SEJPA currently contracts with the consulting firm of Camp Dresser & McKee Inc. as its authorized agent for the operation and administration of the SEWRF.
7. The SEWRF is located in the Cardiff area of the City of Encinitas, on 2695 Manchester Avenue, in a small canyon on approximately 27 acres immediately west of Interstate Highway 5 on the north side of San Elijo Lagoon.
8. Wastewater treatment unit operations and processes at the SEWRF consist of preliminary treatment by screening and aerated grit removal, primary sedimentation using clarifiers, and biological treatment using activated sludge followed by secondary clarification. Sludge is anaerobically digested and mechanically dewatered using belt filter presses. Final sludge disposal is by offsite reuse and/or disposal in a landfill. The SEJPA is completing construction of tertiary treatment facilities at the SEWRF to reclaim wastewater for beneficial use. Tertiary treatment will include coagulation and flocculation, filtration, and UV-disinfection. Once complete, the discharge of reclaimed water for beneficial use will be regulated by Order No. 93-71, Waste Discharge Requirements for the San Elijo Joint Powers Authority San Elijo Water Pollution Control Facility, San Diego County.

9. Since the 1993 upgrade to secondary treatment, the design capacity at the SEWRF has been changed to 5.25 MGallons/ Day. The NPDES permitted capacity has remained 3.7 MGallons/ Day. Monitoring reports indicate that the average dry weather flowrate is currently approximately 3.5 MGallons/ Day.
10. On May 10, 1999 the SEJPA submitted an application for renewal of its NPDES permit, requesting a permitted discharge of 5.25 MGallons/ Day at the SEWRF. On July 13, 1999 SEJPA re-submitted their application with a few modifications, and after minor revisions on August 11, 1999, the permit application was determined to be complete.
11. Effluent from the SEWRF is discharged to the Pacific Ocean through the San Elijo Ocean Outfall (SEOO). The SEOO is owned by the SEJPA, and currently 79% of the SEOO capacity is leased to the City of Escondido. A separate NPDES permit (CA0107981) regulates the discharge through the SEOO from the City of Escondido.
12. The SEOO extends southwesterly from a point approximately 2,200 feet south of the mouth of San Elijo Lagoon. The inshore end of the diffuser is located approximately 6,800 feet offshore at a depth of approximately 110 feet. The diffuser, which is collinear with the outfall, is approximately 1,200 feet long and extends to a depth of approximately 148 feet. The terminus of the diffuser is located at Latitude 33° 00' 21" North, Longitude 117° 18' 9" West.
13. The design capacity of the SEOO is 25.5 MGallons/ Day. The current operating capacity of the SEOO is approximately 24.3 MGallons/ Day. The addition of 1.55 MGallons/Day to the SEWRF's previously permitted 3.7, in combination with the City of Escondido's permitted 16.5 MGallons/Day results in a net discharge of 21.75 MGallons/Day to the SEOO. Based on characteristics of the SEOO, State Water Resources Control Board (SWRCB) staff has determined the minimum initial dilution for the SEOO, with 200 diffuser ports open and a flowrate of 24 MGallons/ Day, to be 220, using the computer model UMERGE.
14. The SWRCB adopted a revised Water Quality Control Plan for Ocean Waters of California (California Ocean Plan) on July 23, 1997. The Ocean Plan identifies the following beneficial uses of state ocean waters to be protected:
 - a. Industrial water supply
 - b. Navigation
 - c. Water contact recreation
 - d. Non-contact water recreation

- e. Ocean commercial and sport fishing
- f. Preservation and enhancement of Areas of Special Biological Significance
- g. Preservation of rare and endangered species
- h. Marine habitat
- i. Mariculture
- j. Fish migration
- k. Fish spawning
- l. Shellfish harvesting
- m. Aesthetic enjoyment

In order to protect these beneficial uses, the Ocean Plan establishes water quality objectives (for bacterial, physical, chemical, and biological characteristics, and for radioactivity), general requirements for management of waste discharge to the ocean, quality requirements for waste discharges (effluent water quality requirements), discharge prohibitions, and general provisions.

- 15. The Comprehensive Water Quality Control Plan Report, San Diego Basin (9), (Basin Plan) was adopted by this Regional Board on March 17, 1975 and subsequently approved by the SWRCB. Subsequent revisions to the Basin Plan have also been adopted by the Regional Board and approved by the SWRCB.
- 16. The Basin Plan identifies the following beneficial uses of state ocean waters to be protected:
 - a. Industrial service supply
 - b. Navigation
 - c. Water contact recreation
 - d. Noncontact water recreation
 - e. Ocean commercial and sport fishing
 - f. Preservation of Areas of Special Biological Significance (ASBS)
 - g. Preservation of rare and endangered species
 - h. Marine habitat
 - i. Mariculture
 - j. Fish migration

- k. Fish spawning
- l. Shellfish harvesting
- m. Wildlife habitat

The Basin Plan relies primarily on the requirements of the Ocean Plan for protection of these beneficial uses. However, the Basin Plan establishes additional water quality objectives for dissolved oxygen and pH.

17. The 1997 Ocean Plan states that, "Water shall not be discharged to areas designated as being of special biological significance. Discharges shall be located a sufficient distance from such designated areas to assure maintenance of natural water quality conditions in that area."

The marine habitat beneficial use identified in both the Ocean Plan and Basin Plan provides for the preservation of the marine ecosystem in the City of Encinitas Marine Life Refuge. The City of Encinitas Marine Life Refuge, described in Fish and Game Code Section 10913, is located approximately 11,000 feet northeast of the inshore end of the SEOO diffuser. The refuge is generally bounded to the north by the westerly prolongation of the northerly right-of-way line of D Street, and to the south by the southwesterly prolongation of the southeasterly line of Lot N in Block 3 of Resubdivision of Sea Cliff Villa in the City of Encinitas, and includes submerged lands and ocean waters 600 feet west of the mean high tide line.

Regional Board staff's review of the monitoring data submitted by the discharger in accordance with the Monitoring and Reporting Program of Order No. 94-105 have not revealed any impacts on the City of Encinitas Marine Life Refuge resulting from the SEOO discharge. No impacts to the refuge area are expected to occur in the future.

18. Receiving Water Limitation No. C.1a. (2) of this Order establishes bacterial objectives for areas where shellfish may be harvested for human consumption, as determined by the Regional Board. However, as of the date of adoption of this Order, this Regional Board has not designated any shellfish harvesting area. If and when this Regional Board, in consultation with the Department of Fish and Game, health agencies, and other interested parties, does designate shellfish harvesting areas in the vicinity of this discharge, this Order will be amended to identify the area(s) to which Receiving Water Limitation No. C.1a. (2) applies.
19. Federal regulations (40 CFR Part 403) establish pretreatment program requirements for POTWs that receive pollutants from industries subject to pretreatment standards. Since the SEWRF does not currently receive pollutants from any industry subject to federal pretreatment standards, the SEJPA is not

required to have an industrial pretreatment program at this time. However, this Order requires the SEJPA to conduct a semiannual survey to determine if the SEWRF receives pollutants from any industry subject to pretreatment standards and to submit a semiannual certification report based on that survey. (See Pretreatment Requirements, Section D.) The Regional Board may amend this Order, at any time, to require the discharger to develop and implement an industrial pretreatment program pursuant to the requirements of 40 CFR Part 403, if the Regional Board finds that the SEWRF receives pollutants from an industry which is subject to pretreatment standards or if other circumstances warrant doing so.

20. On November 16, 1990, the United States Environmental Protection Agency (USEPA) promulgated NPDES permit application requirements for storm water discharges (40 CFR Parts 122, 123, and 124) which are applicable to the SEWRF. On November 19, 1991, the State Water Resources Control Board adopted Water Quality Order No. 91-13-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities. Storm water discharges from the SEWRF are subject to the terms and conditions of Water Quality Order No. 91-13-DWQ, as amended.
21. Municipal storm water discharges are regulated separately under NPDES Order No. 90-42 (CA0108758), Waste Discharge Requirements for Storm Water and Urban Runoff from the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District. The SEJPA is considered a co-permittee participant in this permit.
22. On February 19, 1993, the USEPA issued the final rule for the use and disposal of sewage sludge (40 CFR Part 503). This regulation requires that producers of sewage sludge meet certain reporting, handling, and disposal requirements. USEPA, not this Regional Board, will oversee compliance with 40 CFR Part 503.
23. Section 301(b)(1)(B) of the Clean Water Act (CWA) requires POTWs to meet effluent limitations based on secondary treatment as defined by the USEPA Administrator. Secondary treatment is defined by the USEPA Administrator in the federal regulations (40 CFR Part 133.100 to 40 CFR Part 133.105) in terms of three parameters: 5-day biochemical oxygen demand (BOD₅), total suspended solids (TSS), and pH. Federal regulations allow substitution of 5-day carbonaceous biochemical oxygen demand (CBOD₅) limitations for BOD₅ limitations. By letter dated June 4, 1993, the SEJPA requested that CBOD₅ limitations be incorporated in the SEWRF permit renewal in lieu of BOD₅ requirements. Following the approval of this Regional Board, Order No. 94-105 was modified to establish limits for CBOD₅, replacing BOD₅ limitations. This

permit continues to reflect that change. Discharge Specification B.1.a. of this Order establishes effluent limitations for CBOD₅, TSS, and pH in accordance with federal secondary treatment regulations. In addition, Discharge Specification B.1.a of this Order establishes "Maximum at Any Time" limitations for CBOD₅ and TSS. Mass emission rate (MER) limitations have been calculated using a flow rate of 5.25 MGallons/ Day.

24. Effluent limitations, industrial pretreatment standards, sludge use and disposal regulations, and ocean discharge criteria established under Sections 208(b), 301, 302, 303(d), 304, 306, 307, 403, and 405 of the CWA, as amended (Title 33 United States Code (USC) 1251 et seq.), are applicable to the discharge.
25. Waste discharge requirements for this discharge must be in conformance with 40 CFR 131.12 and State Board Resolution No. 68-16, Statement of Policy with Respect to Maintaining High Quality of Waters in California (known collectively as "antidegradation" policies). The Regional Board has taken into consideration the requirements of the State and Federal "antidegradation" policies in establishing the requirements contained herein, and has determined that any reduction in water quality as a result of this discharge will not result in any long-term deleterious effects on water quality.
26. Monitoring and Reporting Program No. 99-71 may be subject to changes during the 5 -year period of this permit. The Southern California Coastal Water Research Project (SCCWRP) is currently investigating more effective techniques to monitor receiving waters of the Pacific Ocean. Once the SCCWRP study is complete, these methods may be incorporated into this Order's Monitoring and Reporting Program through an Addendum to this Order.
27. The Regional Board, in establishing the requirements contained herein, considered factors including, but not limited to, the following:
 - a. Beneficial uses to be protected and the water quality objectives reasonably required for that purpose;
 - b. Other waste discharges;
 - c. The need to prevent nuisance;
 - d. Past, present, and probable future beneficial uses of water;
 - e. Environmental characteristics of the receiving waters under consideration, including the quality of those receiving waters;
 - f. Water quality conditions that could reasonably be achieved through the

- coordinated control of all factors that affect water quality in the area;
- g. Economic considerations;
 - h. The need for developing housing within the region; and
 - i. The need to develop and use recycled water.
28. The issuance of waste discharge requirements for this discharge is exempt from the requirement for preparation of environmental documents under the California Environmental Quality Act (Public Resources Code, Division 13, Chapter 3, Section 21000 et seq.) in accordance with the California Water Code, Section 13389.
29. The Regional Board has notified the San Elijo Joint Powers Authority and all known interested parties of its intent to reissue the NPDES permit for the discharge from the San Elijo Water Reclamation Facility to the Pacific Ocean.
30. The Regional Board, in a public hearing on November 10, 1999, has heard and considered all comments pertaining to the discharge from the San Elijo Water Reclamation Facility to the Pacific Ocean via the San Elijo Ocean Outfall.
31. This Order shall serve as a NPDES Permit for the discharge from the San Elijo Joint Powers Authority San Elijo Water Reclamation Facility to the Pacific Ocean pursuant to Section 402 of the Clean Water Act, and amendments thereto.

IT IS HEREBY ORDERED that the San Elijo Joint Powers Authority (hereinafter discharger), in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder and the provisions of the Clean Water Act and the regulations adopted thereunder, shall comply with the following for the handling, treatment, and disposal of wastes through the San Elijo Ocean Outfall from the San Elijo Joint Powers Authority San Elijo Water Reclamation Facility:

A. PROHIBITIONS

- 1. Discharges of wastes in a manner or to a location which have not been specifically authorized by this Order and for which valid waste discharge requirements are not in force are prohibited.
- 2. The dumping or deposition, from shore or from vessels, of oil, garbage, trash or other solid municipal, industrial, or agricultural waste directly into waters subject to tidal action or adjacent to waters subject to tidal action in any manner which may permit it to be washed into waters subject to tidal action is prohibited.

3. Compliance with Discharge Prohibitions as stated in Chapter V of the 1997 Ocean Plan (Attachment 1) is required as a condition of this Order.
4. Compliance with the Waste Discharge Prohibitions contained in the 1994 Basin Plan (Attachment 2) is also required as a condition of this Order.
5. Discharge to the Pacific Ocean from the San Elijo Water Reclamation Facility via the San Elijo Ocean Outfall in excess of 5.25 MGallons/ Day is prohibited unless the discharger obtains revised waste discharge requirements authorizing an increased flowrate.

B. DISCHARGE SPECIFICATIONS

1. The following effluent limitations apply to the undiluted effluent discharged from the San Elijo Water Reclamation Facility through the San Elijo Ocean Outfall.

a. Effluent Limitations for Major Constituents and Properties of Wastewater

Constituent/ Property	Units	Monthly Average (30 day)	Weekly Average (7 day)	Maximum at any time
CBOD ₅ ¹	mg/L lb/Day	25 1,100	40 1,800	45 2,000
total suspended solids ^{1,2}	mg/L lb/Day	30 1,300	45 2,000	50 2,200
oil & grease ²	mg/L lb/Day	25 1,100	40 1,800	75 3,300
settleable solids ²	mL/L	1.0	1.5	3.0
turbidity ²	NTU	75	100	225
PH ^{1,2}	pH units	Within limits of 6.0 - 9.0 at all times.		
acute toxicity ²	TUa	1.5	2.0	2.5

b. Effluent Limitations on Toxic Materials for Protection of Marine Aquatic Life³

Constituent/ Property	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
arsenic	ug/L lb/Day	1,100 49	6,400 280	17,000 750
cadmium	ug/L lb/Day	220 9.7	880 39	2,200 97
chromium (hexavalent) ⁴	ug/L lb/Day	440 19	1,800 77	4,400 190
copper	ug/L lb/Day	220 9.8	2,200 97	6,200 270
lead	ug/L lb/Day	440 19	1,800 77	4,400 190
mercury	ug/L lb/Day	8.7 0.38	35 1.5	88 3.9
nickel	ug/L lb/Day	1,100 48	4,400 190	11,000 480
selenium	ug/L lb/Day	3,300 145	13,000 580	33,000 1,500
silver	ug/L lb/Day	64 2.8	360 16	960 42
zinc	ug/L lb/Day	2,700 120	16,000 700	42,000 1,900
cyanide ⁵	mg/L lb/Day	0.22 9.7	0.88 39	2.2 97
total chlorine residual ⁶	mg/L lb/Day	0.44 19	1.8 77	13 580
ammonia (as N)	mg/L lb/Day	130 5,800	530 23,000	1,300 58,000
chronic toxicity	TUc	--	200	--
phenolic compounds (non-chlorinated)	mg/L lb/Day	6.6 290	27 1,200	66 2,900

Constituent/ Property	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
chlorinated phenolics	mg/L lb/Day	0.22 9.7	0.88 39	2.2 97
endosulfan ⁷	ug/L lb/Day	2.0 0.087	4.0 0.17	6.0 0.26
endrin	ug/L lb/Day	0.44 0.019	0.88 0.039	1.3 0.058
HCH ⁸	ug/L lb/Day	0.88 0.039	1.8 0.077	2.7 0.12
radioactivity ⁹	Not to exceed limits specified in Title 17, Division 1, Chapter 5, Subsection 4, Group 3, Article 1, Section 30253 of the California Code of Regulations.			

c. **Effluent Limitations for Toxic, Non-carcinogenic Materials for Protection of Human Health³**

Constituent/ Property	Units	Monthly Average (30-day)
acrolein	ug/L lb/Day	49,000 2,100
antimony	ug/L lb/Day	270,000 12,000
bis(2-chloroethoxy) methane	ug/L lb/Day	970 43
bis(2-chloroisopropyl) ether	ug/L lb/Day	270,000 12,000
chlorobenzene	ug/L lb/Day	130,000 5,500
chromium (III) ⁴	ug/L lb/Day	42,000,000 1,800,000
di-n-butyl phthalate	ug/L lb/Day	770,000 34,000
Dichlorobenzenes ¹⁰	ug/L lb/Day	1,100,000 49,000
1,1-dichloroethylene	ug/L lb/Day	1,600,000 69,000
diethyl phthalate	ug/L lb/Day	7,300,000 320,000
dimethyl phthalate	ug/L lb/Day	180,000,000 7,900,000
4,6-dinitro-2-methylphenol	ug/L lb/Day	49,000 2,100
2,4-dinitrophenol	ug/L lb/Day	880 38
ethylbenzene	ug/L lb/Day	910,000 40,000

Constituent/ Property	Units	Monthly Average (30-day)
fluoranthene	ug/L lb/Day	3,300 150
hexachlorocyclopentadiene	ug/L lb/Day	13,000 560
isophorone	ug/L lb/Day	33,000,000 1,500,000
nitrobenzene	ug/L lb/Day	1,100 47
thallium	ug/L lb/Day	3,100 140
toluene	ug/L lb/Day	19,000,000 820,000
1,1,2,2-tetrachloroethane	ug/L lb/Day	270,000 12,000
tributyltin	ug/L lb/Day	0.31 0.014
1,1,1-trichloroethane	ug/L lb/Day	120,000,000 5,200,000
1,1,2-trichloroethane	ug/L lb/Day	9,500,000 420,000

d. Effluent Limitations for Toxic, Carcinogenic Materials for Protection of Human Health³

Constituent/ Property	Units	Monthly Average (30-day)
acrylonitrile	ug/L lb/Day	22 0.97
aldrin	ug/L lb/Day	0.0049 0.00021
benzene	ug/L lb/Day	1,300 57
benzidine	ug/L lb/Day	0.015 0.00067
beryllium	ug/L lb/Day	7.3 0.32
bis(2-chloroethyl)ether	ug/L lb/Day	10 0.44
bis(2-ethylhexyl)phthalate	ug/L lb/Day	770 34
carbon tetrachloride	ug/L lb/Day	200 8.7
Chlordane ¹¹	ug/L lb/Day	0.0051 0.00022
chloroform	ug/L lb/Day	29,000 1,300
DDT ¹²	ug/L lb/Day	0.038 0.0017
1,4-dichlorobenzene	ug/L lb/Day	4,000 170
3,3-dichlorobenzidine	ug/L lb/Day	1.8 0.078
1,2-dichloroethane	ug/L lb/Day	29,000 1,300
dichloromethane	ug/L lb/Day	99,000 4,400

Constituent/ Property	Units	Monthly Average (30-day)
1,3-dichloropropene	ug/L lb/Day	2,000 86
dieldrin	ug/L lb/Day	0.0088 0.00039
2,4-dinitrotoluene	ug/L lb/Day	570 25
1,2-diphenylhydrazine	ug/L lb/Day	35 1.5
Halomethanes ¹³	ug/L lb/Day	29,000 1,300
Heptachlor ¹⁴	ug/L lb/Day	0.16 0.0070
hexachlorobenzene	ug/L lb/Day	0.046 0.002
hexachlorobutadiene	ug/L lb/Day	3,100 140
hexachloroethane	ug/L lb/Day	550 24
N-nitrosodimethylamine	ug/L lb/Day	1,600 71
N-nitrosodiphenylamine	ug/L lb/Day	550 24
PAHs ¹⁵	ug/L lb/Day	1.9 0.085
PCBs ¹⁶	ug/L lb/Day	0.0042 0.00018
TCDD equivalents ¹⁷	pg/l lb/Day	0.86 0.000000038
tetrachloroethylene	ug/L lb/Day	22,000 960
toxaphene	ug/L lb/Day	0.046 0.002

Constituent/ Property	Units	Monthly Average (30-day)
trichloroethylene	ug/L lb/Day	6,000 260
2,4,6-trichlorophenol	ug/L lb/Day	64 2.8
vinyl chloride	ug/L lb/Day	8,000 350

mg/L = milligrams per liter
 ug/L = micrograms per liter
 ng/L = nanograms per liter
 pg/L = picograms per liter
 mL/L = milliliters per liter
 NTU = Nephelometric Turbidity Units
 TUa = toxic units acute
 TUc = toxic units chronic
 lb/Day = pounds per day

2. Any significant change in waste flow shall be cause for reevaluating effluent quality requirements.
3. The 30-day average percent removal of CBOD₅ and TSS shall not be less than 85 percent.
4. Waste management systems that discharge to the ocean must be designed and operated in a manner that will maintain the indigenous marine life and a healthy and diverse marine community.
5. Waste discharged through the San Elijo Ocean Outfall must be essentially free of:
 - a. Material that is floatable or will become floatable upon discharge.
 - b. Settleable material or substances that form sediments which degrade benthic communities or other aquatic life.
 - c. Substances which will accumulate to toxic levels in marine waters, sediments or biota.
 - d. Substances that significantly decrease the natural light to benthic communities and other marine life.
 - e. Materials that result in aesthetically undesirable discoloration of the ocean

surface.

6. Waste discharged through the San Elijo Ocean Outfall shall be discharged in a manner that provides sufficient initial dilution to minimize the concentrations of substances not removed in treatment.
7. Waste that contains pathogenic organisms or viruses should be discharged a sufficient distance from shellfishing and water-contact sports areas to maintain applicable bacterial standards without disinfection. Where conditions are such that an adequate distance cannot be attained, reliable disinfection in conjunction with a reasonable separation of the discharge point from the area of use must be provided. Disinfection procedures that do not increase effluent toxicity and that constitute the least environmental and human hazard shall be used.
8. All waste treatment, containment and disposal facilities shall be protected against 100-year peak stream flows as defined by the San Diego County flood control agency.
9. All waste treatment, containment and disposal facilities shall be protected against erosion, overland runoff and other impacts resulting from a 100-year frequency 24-hour storm.
10. Collected screenings, sludges, and other solids removed from liquid wastes shall be disposed of in a manner approved by the Regional Board Executive Officer (hereinafter Executive Officer).
11. The discharge of substances for which effluent limitations are not established by this Order shall be prevented or, if the discharge cannot be prevented, minimized.

C. RECEIVING WATER LIMITATIONS

1. The discharge of waste through the San Elijo Ocean Outfall shall not, by itself or jointly with any other discharge, cause violation of the following Ocean Plan ocean water quality objectives. Compliance with the water quality objectives shall be determined from samples collected at stations representative of the area within the waste field where initial dilution is completed.

a. Bacterial Characteristics

(1) Water-Contact Standards

Within a zone bounded by the shoreline and a distance of 1,000 feet from the shoreline or the 30-foot depth contour, whichever is further from the shoreline, and in areas outside this zone used for water-contact sports, as determined by the Regional Board, but including all kelp beds, the following bacterial objectives shall be maintained throughout the water

column:

- (a) Samples of water from each sampling station shall have a density of total coliform organisms less than 1,000 per 100 ml (10 per ml); provided that not more than 20 percent of the samples at any sampling station, in any 30-day period, may exceed 1,000 per 100 ml (10 per ml), and provided further that no single sample when verified by a repeat sample taken within 48 hours shall exceed 10,000 per 100 ml (100 per ml).
- (b) The fecal coliform density based on a minimum of not less than five samples for any 30-day period, shall not exceed a geometric mean of 200 per 100 ml nor shall more than 10 percent of the total samples during any 60-day period exceed 400 per 100 ml.

The "Initial Dilution Zone" of wastewater outfalls shall be excluded from designation as kelp beds for purposes of bacterial standards. Adventitious assemblages of kelp plants on waste discharge structures (e.g., outfall pipes and diffusers) do not constitute kelp beds for purposes of bacterial standards. Kelp beds, for the purpose of the bacterial standards of this Order, are significant aggregations of marine algae of the genera Macrocystis and Nereocystis. Kelp beds include the total foliage canopy of Macrocystis and Nereocystis plants throughout the water column.

(2) Shellfish Harvesting Standards

At all areas where shellfish may be harvested for human consumption, as determined by the Regional Board, the following bacterial objectives shall be maintained throughout the water column:

The median total coliform density shall not exceed 70 per 100 ml, and not more than 10 percent of the samples shall exceed 230 per 100 ml.

b. Bacterial Assessment and Remedial Action Requirements

The requirements listed below shall be used to 1) determine the occurrence and extent of any impairment of a beneficial use due to bacterial contamination; 2) generate information which can be used in the development of an enterococcus standard; and 3) provide the basis for remedial actions necessary to minimize or eliminate any impairment of a beneficial use.

Measurement of enterococcus density shall be conducted at all stations where measurement of total and fecal coliforms are required. In addition to the requirements of Receiving Water Limitation C.1.a of this Order, if a shore station consistently exceeds a coliform objective or exceeds a geometric

mean enterococcus density of 24 organisms per 100 ml for a 30-day period or 12 organisms per 100 ml for a six-month period, the Regional Board shall require the discharger to conduct or participate in a survey to determine the source of the contamination. The geometric mean shall be a moving average based on no less than five samples per month, spaced evenly over the time interval. When a sanitary survey identifies a controllable source of indicator organisms associated with a discharge of sewage, the Regional Board may require the discharger and any other responsible parties identified by the Regional Board to take action to control the source.

c. Physical Characteristics

- (1) Floating particulates and grease and oil shall not be visible.
- (2) The discharge of waste shall not cause aesthetically undesirable discoloration of the ocean surface.
- (3) Natural light shall not be significantly reduced at any point outside the initial dilution zone as a result of the discharge of waste.
- (4) The rate of deposition of inert solids and the characteristics of inert solids in ocean sediments shall not be changed such that benthic communities are degraded.

d. Chemical Characteristics

- (1) The dissolved oxygen concentration shall not at any time be depressed more than 10 percent from that which occurs naturally, as a result of the discharge of oxygen-demanding waste materials.
- (2) The pH shall not be changed at any time more than 0.2 units from that which occurs naturally.
- (3) The dissolved sulfide concentration of waters in and near sediments shall not be significantly increased above that present under natural conditions.
- (4) The concentration of substances, set forth in Receiving Water Limitation C.3 of this Order, in marine sediments shall not be increased to levels which would degrade indigenous biota.
- (5) The concentration of organic materials in marine sediments shall not be increased to levels that would degrade marine life.
- (6) Nutrient materials shall not cause objectionable aquatic growths or degrade indigenous biota.

e. Biological Characteristics

- (1) Marine communities, including vertebrate, invertebrate, and plant species, shall not be degraded.
- (2) The natural taste, odor, and color of fish, shellfish, or other marine resources used for human consumption shall not be altered.
- (3) The concentration of organic materials in fish, shellfish, or other marine resources used for human consumption shall not bioaccumulate to levels that are harmful to human health.

f. Radioactivity

Discharge of radioactive waste shall not degrade marine life.

2. The discharge of waste through the San Elijo Ocean Outfall shall not, by itself or jointly with any other discharge, cause violation of the following Basin Plan ocean water quality objectives:
 - a. The mean annual dissolved oxygen concentration shall not be less than 7.0 mg/L nor shall the minimum dissolved oxygen concentration be reduced below 5.0 mg/L at any time.
 - b. The pH value shall not be depressed below 7.0 nor raised above 8.6.

3. Toxic Materials

The discharge through the San Elijo Ocean Outfall shall not by itself or jointly with any other discharge, cause the following Ocean Plan water quality objectives to be exceeded in the receiving water upon completion of initial dilution, except that limitations indicated for radioactivity shall apply directly to the undiluted waste effluent.

a. **Water Quality Objectives for the Protection of Marine Aquatic Life**

Constituent	Units	6 Month Median	Daily Maximum	Instantaneous Maximum
arsenic	ug/L	8	32	80
cadmium	ug/L	1	4	10
chromium (hexavalent)	ug/L	2	8	20
copper	ug/L	3	12	30
lead	ug/L	2	8	20
mercury	ug/L	0.04	0.16	0.4
nickel	ug/L	5	20	50
selenium	ug/L	15	60	150
silver	ug/L	0.45	1.8	4.5
zinc	ug/L	20	80	200
cyanide	mg/L	0.001	0.004	0.010
total chlorine residual	mg/L	0.002	0.008	0.060
ammonia (as N)	mg/L	0.60	2.4	6.0
chronic toxicity	TUc	--	1	--
phenolic compounds (non-chlorinated)	mg/L	0.030	0.12	0.30
chlorinated phenolics	mg/L	0.001	0.004	0.010
Endosulfan ⁷	ug/l	0.009	0.018	0.027
endrin	ug/l	0.002	0.004	0.006
HCH ⁸	ug/l	0.004	0.008	0.012
Radioactivity ⁹	Not to exceed limits specified in Title 17, Division 1, Chapter 5, Subsection 4, Group 3, Article 1, Section 30253 of the California Code of Regulations.			

**b. Water Quality Objectives for the Protection of Human Health --
Noncarcinogens**

Chemical	Units	30-Day Average
acrolein	ug/L	220
antimony	ug/L	1,200
bis(2-chloroethoxy)methane	ug/L	4.4
bis(2-chloroisopropyl)ether	ug/L	1,200
chlorobenzene	ug/L	570
chromium (III)	ug/L	190,000
di-n-butyl phthalate	ug/L	3,500
Dichlorobenzenes ¹⁰	ug/L	5,100
1,1-dichloroethylene	ug/L	7,100
diethyl phthalate	ug/L	33,000
dimethyl phthalate	ug/L	820,000
4,6-dinitro-2-methylphenol	ug/L	220
2,4-dinitrophenol	ug/L	4.0
ethylbenzene	ug/L	4,100
fluoranthene	ug/L	15
hexachlorocyclopentadiene	ug/L	58
isophorone	ug/L	150,000
nitrobenzene	ug/L	4.9
thallium	ug/L	14
toluene	ug/L	85,000
1,1,2,2-tetrachloroethane	ug/L	1,200
tributyltin	ug/l	0.0014
1,1,1-trichloroethane	ug/L	540,000
1,1,2-trichloroethane	ug/L	43,000

c. **Water Quality Objectives for the Protection of Human Health -- Carcinogens**

Chemical	Units	30-Day Average
acrylonitrile	ug/L	0.10
aldrin	ug/l	0.000022
benzene	ug/L	5.9
benzidine	ug/l	0.000069
beryllium	ug/l	0.033
bis(2-chloroethyl)ether	ug/L	0.045
bis(2-ethylhexyl)phthalate	ug/L	3.5
carbon tetrachloride	ug/L	0.90
chlordane ¹¹	ug/l	0.000023
chloroform	ug/L	130
DDT ¹²	ug/l	0.00017
1,4-dichlorobenzene	ug/L	18
3,3-dichlorobenzidine	ug/l	0.0081
1,2-dichloroethane	ug/L	130
dichloromethane	ug/L	450
1,3-dichloropropene	ug/L	8.9
dieldrin	ug/l	0.000040
2,4-dinitrotoluene	ug/L	2.6
1,2-diphenylhydrazine	ug/L	0.16
Halomethanes ¹³	ug/L	130
Heptachlor ¹⁴	ug/l	0.00072
hexachlorobenzene	ug/l	0.00021
hexachlorobutadiene	ug/L	14
hexachloroethane	ug/L	2.5

Chemical	Units	30-Day Average
N-nitrosodimethylamine	ug/L	7.3
N-nitrosodiphenylamine	ug/L	2.5
PAHs ¹⁵	ug/l	0.0088
PCBs ¹⁶	ug/l	0.000019
TCDD equivalents ¹⁷	pg/l	0.0039
tetrachloroethylene	ug/L	99
toxaphene	ug/l	0.00021
trichloroethylene	ug/L	27
2,4,6-trichlorophenol	ug/L	0.29
vinyl chloride	ug/L	36

mg/L = milligrams per liter

ug/L = micrograms per liter

ng/l = nanograms per liter

pg/l = picograms per liter

NTU = Nephelometric Turbidity Unit

TUc = toxic units chronic

D. PRETREATMENT REQUIREMENTS

1. The discharger shall conduct a semi-annual Industrial Waste Survey (IWS) of all the Industrial Users (IUs) in the service area of the San Elijo Water Reclamation Facility (SEWRF) in order to determine whether any such IUs are subject to pretreatment standards specified in 40 CFR 403. The discharger shall also conduct a semi-annual priority pollutant scan of the SEWRF effluent. Based on the results of the IWS, the priority pollutant scan, and review of 40 CFR 403, the discharger shall submit a semi-annual certification report indicating whether the SEWRF receives pollutants from any IU which would require the discharger to establish a pretreatment program in accordance with 40 CFR 403. The semi-annual certification reports, with the IWS and sampling results, shall be submitted no later than February 1st and August 1st of each year. If, and when, the discharger becomes aware of an IU in the service area of the SEWRF which would require the San Elijo Joint Powers Authority to establish a pretreatment program pursuant to 40 CFR 403, the discharger shall notify the Regional Board requesting a modification of this Order and shall develop and implement a pretreatment program in accordance with the requirements of Sections 307(b) and (c), and 402(b)(8) of the CWA and 40 CFR 403.

The discharger shall assure that IUs in the service area of the SEWRF subject to pretreatment standards promulgated in federal regulations or established by the discharger comply with those standards.

2. The Regional Board may amend this Order, at any time, to require the discharger to develop and implement an industrial pretreatment program pursuant to the requirements of 40 CFR 403, if the Regional Board finds that the SEWRF receives pollutants from an industry which is subject to pretreatment standards or if other circumstances warrant doing so.
3. The SEJPA is comprised of two member agencies, the City of Solana Beach, and the Cardiff Sanitation District (City of Encinitas). These agencies provide programs that protect the sewer system from disposal of toxic materials. These programs and activities implemented by the member agencies constitute the Nonindustrial Source Control Program. To ensure continued protection of the sewer system, the SEJPA shall review the sewer protection programs implemented by the agencies and submit a written report at least once before the expiration date of this Order.

E. SLUDGE REQUIREMENTS

1. Management of all solids and sludge must comply with all requirements of CFR Parts 257, 258, 501, and 503, including all monitoring, record-keeping, and reporting requirements. Since the State of California, hence the Regional and State Boards, has not been delegated the authority by the USEPA to implement the sludge program, enforcement of sludge requirements of CFR Part 503 is under USEPA's jurisdiction.
2. All solids and sludge must be disposed of in a municipal solid waste landfill, reused by land application, or disposed of in a sludge-only landfill in accordance with 40 CFR Parts 503 and 258, and Title 23 CCR Chapter 15. If the discharger desires to dispose of solids or sludge by a different method, a request for permit modification must be submitted to the USEPA and this Regional Board 180 days prior to the alternative disposal.
3. Sludge that is disposed of in a municipal solid waste landfill must meet the requirements of 40 CFR 25. In the annual self-monitoring report, the discharger shall include the amount of sludge disposed of, and the landfill(s) to which it was sent.
4. All the requirements of 40 CFR 503 and 23 CCR 15 are enforceable by the USEPA and this Regional Board whether or not the requirements are stated in an NPDES permit or any other permit issued to the discharger.
5. The discharger shall take all reasonable steps to prevent and minimize any sludge use or disposal in violation of this Order that has a likelihood of adversely affecting human health or the environment.

6. Solids and sludge treatment, storage, and disposal or reuse shall not create a nuisance, such as objectionable odors or flies, and shall not result in groundwater contamination.
7. The solids and sludge treatment and storage site shall have facilities adequate to divert surface water runoff from adjacent areas, to protect the boundaries of the site from erosion, and to prevent drainage from the treatment and storage site. Adequate protection is defined as protection from at least a 100-year storm and protection from the highest possible tidal stage that may occur.
8. The discharge of sewage sludge and solids shall not cause waste material to be in a position where it is, or can be, conveyed from the treatment and storage sites and deposited in the waters of the state.
9. The discharger shall submit an annual report to the USEPA and this Regional Board containing monitoring results and pathogen and vector attraction reduction requirements, as specified by 40 CFR 503. The discharger shall also report the quantity of sludge disposed and the disposal method. This self-monitoring report must be postmarked by February 19th of each year and report for the period covering the previous calendar year.

F. PROVISIONS

1. The discharger must comply with all standard provisions, where applicable, as stated in 40 CFR 122.41 (Attachment 3) and Attachment 4.
2. The following sections of 40 CFR (Attachment 5) are incorporated into this permit by reference, and the discharger must comply with these provisions:
 - a)122.5 Effect of a permit
 - b)122.21 Application for a permit
 - c)122.22 Signatories to permit applications and reports
 - d)122.61 Transfer of permits
 - e)122.62 Modification or revocation of permits
 - f)122.63 Minor modifications of permits
 - g)122.64 Termination of permits
3. This Order may be modified, revoked and reissued, or terminated for causes including, but not limited to, the following:
 - a. Violation of any terms or conditions of this Order.

- b. Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts.
 - c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
4. If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the CWA for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in this Order, the Executive Officer may institute proceedings under these regulations to modify or revoke and reissue the Order to conform to the toxic effluent standard or prohibition.
5. The discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use and disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish those standards or prohibitions or standards for sewage sludge use or disposal, even if this Order has not yet been modified to incorporate the requirement.
6. The discharger shall comply with all existing federal and state laws and regulations that apply to its sewage sludge use and disposal practice(s), and with the CWA Section 405(d) and 40 CFR Part 257.
7. This Order does not convey any property rights of any sort or any exclusive privilege. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the discharger from its liabilities under federal, state, or local laws, nor create a vested right for the discharger to continue its waste discharge.
8. It shall not be a defense for the discharger 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 Order. Upon reduction, loss, or failure of a treatment facility, the discharger shall, to the extent necessary to maintain compliance with this Order, control all discharges until the facility is restored or an alternative method of treatment is provided. This provision applies, for example, when the primary source of power of a treatment facility fails, is reduced, or is lost.
9. Supervisors and operators of the discharger's wastewater treatment facilities shall possess a certificate of appropriate grade in accordance with Chapter 14 of Division 4 of Title 23 of the California Code of Regulations.
10. The discharger's wastewater treatment facilities shall be operated and maintained in accordance with the operation and maintenance manual(s) prepared by the discharger through the Clean Water Grant Program.

11. A copy of this Order shall be posted at a prominent location at or near the treatment and disposal facilities, and shall be available to operating personnel at all times.
12. The discharger shall comply with any interim effluent limitations as established by an addendum, enforcement action or revised waste discharge requirements which have been or may be adopted by this Regional Board.
13. All proposed new treatment facilities and expansions of existing treatment facilities shall be completely constructed and operable prior to initiation of the discharge from the new or expanded facilities. The discharger shall submit a certification report for each new treatment facility, expansion of an existing treatment facility, and re-rating of an existing treatment facility. For new treatment facilities and expansions, the certification report shall be prepared by the design engineer. For re-ratings, the certification report shall be prepared by the engineer who evaluated the treatment facility capacity. The certification report shall:
 - a. Identify the design capacity of the treatment facility;
 - b. Certify the adequacy of each component of the treatment facility; and
 - c. Contain a requirement-by-requirement analysis, based on acceptable engineering practices, of how the process and physical design of the facility will ensure compliance with this Order.

The signature and engineering license number of the engineer preparing the certification report shall be affixed to the report. The certification report, should, if possible, be submitted prior to beginning construction. The discharger shall not initiate a discharge from a new treatment facility or initiate a discharge from an existing treatment facility at a 30-day average dry weather flowrate in excess of its previously approved design capacity until:

- a. The certification report is received by the Executive Officer;
 - b. The Executive Officer has received written notification of the completion of construction (new treatment facilities and expansions only);
 - c. An inspection of the plant has been made by the Regional Board staff (new treatment facilities and expansions only); and
 - d. The Executive Officer has provided the discharger with written authorization to discharge at a 30-day average dry weather flowrate not to exceed the revised design capacity.
14. If only one sample is collected during the time period associated with the effluent limitations (e.g., 30-day average or 6-month median), the single measurement shall be used to determine compliance with the effluent limitation for the entire time

period.

15. All analytical data shall be reported uncensored with detection limits and quantitation limits identified. For any effluent limitation, compliance shall be determined using appropriate statistical methods to evaluate multiple samples. Sufficient sampling and analysis shall be conducted to determine compliance.
16. Compliance based on a single sample analysis shall be determined where appropriate as described below.
 - a. When a calculated effluent limitation is greater than or equal to the PQL (defined below), compliance shall be determined based on the calculated effluent limitation and either single or multiple sample analyses.
 - b. When the calculated effluent limitation is below the PQL, compliance determinations based on analysis of a single sample shall only be undertaken if the concentration of the constituent of concern in the sample is greater than or equal to the PQL.
 - c. When the calculated effluent limitation is below the PQL and recurrent analytical responses between the PQL and the calculated limit occur, compliance shall be determined by statistical analysis of multiple samples.
17. Published values for MDLs (defined below) and PQLs should be used except where revised MDLs and PQLs are available from recent laboratory performance evaluations, in which case the revised MDLs and PQLs should be used. Where published values are not available, the Executive Officer will determine appropriate values based on available information, including information submitted by the discharger upon request of the Executive Officer.
 - a. The Method Detection Limit (MDL) is the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero, as defined in 40 CFR Part 136 Appendix B.
 - b. The Practical Quantitation Level (PQL) is the lowest concentration of a substance which can be consistently determined within +/-20% of the true concentration by 75% of the labs tested in a performance evaluation study. Alternatively, if performance data are not available, the PQL for carcinogens is the MDL x 5, and for noncarcinogens is the MDL x 10.
18. When determining compliance based on a single sample, with a single effluent limitation which applies to a group of chemicals (e.g., PCBs) concentrations of individual members of the group may be considered to be zero if the analytical response for individual chemicals falls below the MDL for that parameter.

19. The 6-month median effluent concentration limitation shall apply as a moving median of daily values for any 180-day period in which daily values represent flow-weighted average concentrations within a 24-hour period. For intermittent discharges, the daily value shall be considered to equal zero for days on which no discharge occurred. The 6-month median receiving water limitation shall apply as a moving median of all values collected for any 180-day period.
20. The 30-day average effluent limitation shall be the moving arithmetic mean of daily concentrations over the specified 30-day period.
21. The 7-day average shall be the moving arithmetic mean of daily concentrations over the specified 7-day period.
22. The daily maximum effluent limitation shall apply to flow-weighted 24-hour composite samples. The daily maximum receiving water limitation shall apply to grab sample determinations.
23. The instantaneous maximum effluent limitation shall apply to grab sample determinations. The instantaneous maximum receiving water limitation shall apply to grab sample determinations.
24. The mass emission rate (MER), in pounds per day, shall be obtained from the following calculation for any calendar day:

$$\text{mass emission rate (lb/Day)} = 8.34 \times Q \times C$$

in which Q and C are the flow rate in MGallons/ Day and the constituent concentration in mg/L, respectively, and 8.34 is a conversion factor. If a composite sample is taken, then C is the concentration measured in the composite sample and Q is the average flow rate occurring during the period over which the samples are composited.

25. Compliance with the Acute Toxicity limitation in Discharge Specification B.1.a. of this Order shall be determined using an established protocol, e.g., American Society for Testing Materials (ASTM), USEPA, American Public Health Association, or State Board. Acute Toxicity (TUa) shall be expressed in Toxic Units Acute (TUa), where:

$$\text{TUa} = \frac{100}{96\text{-hour LC}_{50}}$$

Where LC_{50} is the Lethal Concentration 50% and the percent waste giving 50% survival of test organisms. LC_{50} shall be determined by static or continuous flow bioassay techniques using standard test species. If specific identifiable substances in wastewater can be demonstrated by the discharger as being rapidly rendered harmless upon discharge to the marine environment, but not as a result of dilution, the LC_{50} may be determined after the test samples are adjusted to remove the

influence of those substances.

When it is not possible to measure the 96-hour LC_{50} due to greater than 50% survival of the test species in 100% waste, the toxicity concentration shall be calculated by the following:

$$TUa = \frac{\log(100 - S)}{1.7}$$

where S is the percentage survival in 100% waste. If $S > 99$, TUa shall be reported as zero.

26. Compliance with the Chronic Toxicity effluent limitation established in Discharge Specification No. B.1.b of this Order shall be determined using critical life stage toxicity tests. Chronic Toxicity (TUc) shall be expressed as Toxic Units Chronic (TUc), where:

$$TUc = \frac{100}{NOEL}$$

where NOEL is the No Observed Effect Level and is expressed as the maximum percent effluent that causes no observable effect on a test organism, as determined by the result of a critical life stage toxicity test listed below.

A minimum of three test species with approved test protocols shall be used to measure compliance with the chronic toxicity objective. If possible, the test species shall include a fish, an invertebrate, and an aquatic plant. After a screening period, monitoring may be reduced to the most sensitive species. Dilution and control water should be obtained from an unaffected area of the receiving waters. The sensitivity of the test organisms to a reference toxicant shall be determined concurrently with each bioassay test and reported with the test results.

The tests specified in the July 1997 Ocean Plan shall be used to measure TUc. Other tests may be added to the list when approved by the SWRCB.

27. If toxicity testing results show a violation of any acute or chronic toxicity limitation identified in Discharge Specification B.1 of this Order, the discharger shall:
- a. Take all reasonable measures necessary to immediately minimize toxicity; and
 - b. Increase the frequency of the toxicity test(s) that showed a violation to at least two times per month until the results of at least two consecutive toxicity tests do not show violations.

If the Executive Officer determines that toxicity testing shows consistent violation of

any acute or chronic toxicity limitation identified in Discharge Specification B.1. of this Order, the discharger shall conduct a Toxicity Reduction Evaluation (TRE) which includes all reasonable steps to identify the source of toxicity. Once the source of toxicity is identified, the discharger shall take all reasonable steps to reduce the toxicity to meet the toxicity limitations identified in Discharge Specification B.1 of this Order.

Within fourteen days of completion of the TRE, the discharger shall submit the results of the TRE, including a summary of the findings, data generated, a list of corrective actions necessary to achieve consistent compliance with all the toxicity limitations of this Order and prevent recurrence of violations of those limitations, and a time schedule for implementation of such corrective actions. The corrective actions and time schedule shall be modified at the direction of the Executive Officer.

28. For all bacterial analyses, sample dilutions should be performed so the range of values extends from 2 to 16,000 MPN (most probable number). The detection methods used for each analysis shall be reported with the results of the analysis. Detection methods used for coliforms (total and fecal) shall be those presented in the most recent edition of Standard Methods for the Examination of Water and Wastewater or any improved method determined by the Regional Board (and approved by USEPA) to be appropriate. Detection methods used for enterococcus shall be those presented in USEPA publication USEPA 600/4-85/076, Test Methods for Escherichia coli and Enterococci in Water By Membrane Filter Procedure or any improved method determined by the Regional Board to be appropriate.
29. The geometric mean used for determining compliance with bacterial standards is calculated with the following equation:

$$\text{Geometric Mean} = (C_1 \times C_2 \times \dots \times C_n)^{1/n}$$

where n is the number of days samples were collected during the period and C is the concentration of bacteria (MPN/100 mL) found on each day of sampling.

30. As used in this Order, waste includes a discharger's total discharge, of whatever origin (i.e. gross, not net, discharge).
31. Reduction of natural light may be determined by the Regional Board by measurement of light transmissivity or total irradiance, or both, according to the monitoring needs of the Regional Board.
32. The discharger shall maintain a Sewer Overflow Prevention Plan (SOPP) in an up-to-date condition and shall amend the SOPP whenever there is a change (e.g. in the design, construction, operation, or maintenance of the sewerage system or sewerage facilities) which materially affects the potential for sewer overflows. The discharger shall review and amend the SOPP as appropriate after each sewer overflow from the SEOO or in the service area of the SEWRF. The SOPP and any

amendments thereto, shall be subject to the approval of the Executive Officer and shall be modified as directed by the Executive Officer. The discharger shall submit the SOPP and any amendments thereto to the Executive Officer upon request of the Executive Officer. The discharger shall ensure that the up-to-date SOPP is readily available to sewerage system personnel at all times and that sewerage system personnel are familiar with it.

33. The discharger shall maintain a Sewer Overflow Response Plan (SORP) for the SEOO and the service area of the SEWRF. The SORP shall establish procedures for responding to sewer overflows from the SEOO and to sewer overflows in the service area of the SEWRF so as to (a) minimize the sewer overflow volume which enters surface waters, and (b) minimize the adverse effects of sewer overflows on water quality and beneficial uses. The discharger shall maintain the SORP in an up-to-date condition and shall amend the SORP as necessary to accomplish these objectives. The discharger shall review and amend the SORP as appropriate after each sewer overflow from the SEOO or in the service area of the SEWRF. The SORP, and any amendments thereto, shall be subject to the approval of the Executive Officer and shall be modified as directed by the Executive Officer. The discharger shall submit the SORP and any amendments thereto to the Executive Officer upon request of the Executive Officer. The discharger shall ensure that the up-to-date SORP is readily available to sewerage system personnel at all times and that sewerage system personnel are familiar with it.
34. No later than 10 months after the adoption of this Order, the discharger shall submit a written report to the Executive Officer, addressing the following:
 - a. Most current information on the capacity of the San Elijo Ocean Outfall.
 - b. The dischargers' best estimate of when the average daily dry-weather flow will equal or exceed the SEOO capacity.
 - c. The dischargers' intended schedule for studies, design, and other steps needed to provide additional capacity for the SEOO and/or to control the flowrate before the flowrate is equal to the current outfall capacity.
 - d. The report must be signed, and agreed upon by each of the parties discharging to the SEOO.

G. REPORTING REQUIREMENTS

1. The discharger must comply with standard monitoring and reporting requirements, where applicable, as stated in 40 CFR 122.41 (Attachment 3) and Attachment 4.
2. This Order expires November 10, 2004. If the discharger wishes to continue an activity regulated by this Order after the expiration date of this Order, the discharger must apply for and obtain new waste discharge requirements. The discharger must

submit a full and complete Report of Waste Discharge in accordance with Title 23 of the California Code of Regulations, to the Executive Officer, not later than 180 days in advance of the expiration date of this Order, as application for issuance of new waste discharge requirements. Not less than 180 days prior to any material change in the character, location, volume, or amount of waste discharge, the Discharger shall submit a technical report describing such changes. Such changes include but are not limited to the following:

- a. Addition of a major industrial waste discharge to a discharge of essentially domestic sewage, or the addition of a new process or product by an industrial facility resulting in a change in the character of the waste.
 - b. Significant change in disposal method, e.g., change from land disposal to a direct discharge to water, or change in the method of treatment which would significantly alter the characteristics of the waste.
 - c. Significant change in the disposal area, e.g., moving the discharge to another drainage area, to a different water body, or to a disposal area significantly removed from the original area potentially causing different water quality or nuisance problems.
 - d. Increase in flow beyond that specified in the waste discharge requirements.
 - e. Increase in area or depth to be used for solid waste disposal beyond that specified in the waste discharge requirements. [CWC 13372, 13376, 13264, 23 CCR 2210]
 - f. Any substantial change in the amount or characteristics of pollutants used, handled, stored, or generated.
 - g. Any new discharge of pollutants or new potential pollutant source.
 - h. Other circumstances which could result in a material change in the character, amount, or location of discharges. [CWC 13372, 13264, 23 CCR 2210]
3. Pursuant to State Board Order No. WQ 84-7, the discharger shall submit with its Report of Waste Discharge for reissuance of its NPDES permit, sufficient information to justify why any effluent proposed to be discharged to the ocean is not being reclaimed for beneficial use.
 4. The discharger shall report sewer overflow events in accordance with the following procedures:
 - a. All sewer overflow events that occur in the service area of the SEWRF shall

be reported to the Regional Board and the County of San Diego Department of Environmental Health Services. A sewer overflow event is a discharge of treated or untreated wastewater at a location not authorized by waste discharge requirements and/or NPDES permit which results from a pump station failure, sewer line break, obstruction, surcharge, or any other circumstance.

- b. If a sewer overflow event results in a discharge to surface waters:
 - (1) The sewer overflow event shall be reported to the Regional Board and the County of San Diego Environmental Health Services by telephone within 24 hours of the time the discharger becomes aware of the sewer overflow event. The telephone report shall include only the information specified by Item Nos. 1 through 5, 8, 12 A, 12 B and 13 contained in the Sewer Overflow Report (SOR) form supplied by the Regional Board.
 - (2) An SOR form (completed in accordance with the instructions), as well as any additional pertinent information, shall be submitted to the Regional Board no later than five days following the starting date of the sewer overflow event.
- c. If a sewer overflow event does not result in a discharge to surface waters:
 - (1) No telephone report is required.
 - (2) A SOR form (completed in accordance with the instructions), as well as any additional pertinent information, shall be submitted to the Regional Board no later than five days following the starting date of the sewer overflow event.

- 5. The discharger shall provide adequate notice to the Executive Officer of the following:
 - a. Any new introduction of pollutants into the discharger's treatment works from an indirect discharger which would be subject to Section 301 or 306 of the CWA if it were directly discharging those pollutants;
 - b. Any substantial change in the volume or character of pollutants being introduced into the discharger's treatment works by a source introducing pollutants into the treatment works at the time of issuance of this Order; and
 - c. For purposes of this paragraph, adequate notice shall include information on:
 - (1) The quality and quantity of effluent introduced into the POTW, and

- (2) Any anticipated impact of the change on the quantity or quality of effluent and/or sludge to be discharged from the POTW.
6. Whenever a receiving water sample is found to contain levels of bacteria which exceed bacterial water quality objectives specified in Receiving Water Limitation C.1.a. (1) of this Order, the discharger shall immediately notify the County of San Diego Department of Environmental Health Services and post signs prohibiting body contact with the water in all areas affected by the contamination.
7. 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.
8. The discharger shall submit a written report to the Executive Officer within 90 days after the average dry weather influent flowrate for any 30-day period equals or exceeds 75 percent of the design capacity of the waste treatment and/or disposal facilities. The discharger's senior administrative officer shall sign a letter which transmits that report and certifies that the policy-making body is adequately informed about it. The report shall include:
 - a. Average daily flow for the 30-day period, the date on which the instantaneous peak flow occurred, the rate of that peak flow, and the total flow for that day.
 - b. The discharger's best estimate of when the average daily dry-weather flowrate will equal or exceed the design capacity of the facilities.
 - c. The discharger's intended schedule for studies, design, and other steps needed to provide additional capacity for the waste treatment and/or disposal facilities and/or control the flowrate before the waste flowrate equals the capacity of present units.
9. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this Order shall be available for public inspection at the offices of the California Regional Water Quality Control Board, San Diego Region. As required by the CWA, Reports of Waste Discharge, this Order, and effluent data shall not be considered confidential.
10. The discharger shall submit reports and provide notifications to the Regional Board and other agencies as specified in this Order. These other agencies include USEPA, and the San Diego County Department of Health Services. Reports shall be submitted and notifications shall be made to:
 - a. Executive Officer
California Regional Water Quality Control Board
San Diego Region
9771 Clairemont Mesa Boulevard, Suite A

San Diego, California 92124-1324
Phone - (858) 467-2952
Fax - (858) 571-6972

- b. Regional Administrator
U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, California 94105

- c. Environmental Health Services Division
Department of Health Services
County of San Diego
P.O. Box 85261
San Diego, California 92138-5261
Phone - (619) 338-2222
Fax - (619) 338-2174

H. NOTIFICATIONS

1. California Water Code Section 13263(g) states:

No discharge of waste into the waters of the state, whether or not such discharge is made pursuant to waste discharge requirements, shall create a vested right to continue such discharge. All discharges of waste into waters of the state are privileges, not rights.

2. The discharger is held accountable for responsibilities, liabilities, legal actions, and penalties as stated in Attachment 4 and Attachment 5 of this Order.
3. This Order shall become effective 10 days after the date of its adoption provided the Regional Administrator, USEPA, has no objection. If the Regional Administrator objects to its issuance, this Order shall not become effective until such objection is withdrawn.
4. This Order supersedes Order No. 94-105 when this Order becomes effective.

ORDER NO. 99-71 ENDNOTES

1 Secondary treatment is defined by the USEPA Administrator in the federal regulations (40 CFR Part 133.100 to 40 CFR Part 133.105) in terms of three parameters: 5-day biochemical oxygen demand (BOD), total suspended solids (TSS), and pH. Federal regulations allow substitution of 5-day carbonaceous biological demand (CBOD) limitations for BOD limitations.

2 Effluent concentration limitations are specified in the 1997 Ocean Plan, Table A. Mass emission rate (MER) limitations, where applicable, were determined using procedures outlined in the Ocean Plan, equation 2, and a flowrate of 5.25 MGallons/ Day.

3 Effluent limitations were determined using the procedures outlined in the 1997 Ocean Plan, and an initial dilution of 220. Mass emission rate (MER) limitations were determined using procedures outlined in the Ocean Plan, Equation 2, and a flowrate of 5.25 MGallons/ Day.

4 The discharger may, at its option, meet this limitation as a total chromium limitation.

5 If the discharger can demonstrate to the satisfaction of the Regional Board (subject to EPA approval) that an analytical method is available to reliably distinguish between strongly and weakly complexed cyanide, effluent limitations for cyanide may be met by the combined measurement of free cyanide, simple alkali metal cyanides, and weakly complexed organometallic cyanide complexes. In order for the analytical method to be acceptable, the recovery of free cyanide from metal complexes must be comparable to that achieved by Standard Methods 412 F, G, and H (Standard Methods for the Examination of Water and Wastewater, Joint Editorial Board, American Public Health Association, American Water Works Association, and Water Pollution Control Federation, most recent edition.)

6 The effluent concentration and mass emission rate limitations for total chlorine residual are based on a continuous discharge of chlorine. Effluent concentration limitations for total chlorine residual, which are applicable to intermittent discharges not exceeding 2 hours, shall be determined through the use of the following equations:

$$\log C_o = -0.43 (\log x) + 1.8$$

$$C_e = C_o + D_m (C_o - C_s)$$

where:

- C_o = the concentration (in ug/L) to be met at the completion of initial dilution
- x = the duration of uninterrupted chlorine discharge in minutes
- C_e = the effluent concentration limitation ug/L to apply when chlorine is being intermittently discharged
- D_m = the minimum probable initial dilution
- C_s = the background seawater concentration = 0

7 Endosulfan shall mean the sum of endosulfan-alpha and -beta and endosulfan sulfate.

8 HCH shall mean the sum of the alpha, beta, gamma (lindane) and delta isomers of hexachlorocyclohexane.

9 The 1997 Ocean Plan refers to limits specified in Title 17, Division 5, Chapter 4, Group 3, Article 3, Section 32069 of the California Code of Regulations. This section has been repealed, and substituted with limitations set forth in this Order.

10 Dichlorobenzenes shall mean the sum of 1,2- and 1,3-dichlorobenzene.

11 Chlordane shall mean the sum of chlordane-alpha, chlordane-gamma, chlordene-alpha, chlordene-gamma, nonachlor-alpha, nonachlor-gamma, and oxychlordane.

12 DDT shall mean the sum of 4,4'DDT, 2,4'DDT, 4,4'DDE, 2,4'DDE, 4,4'DDD, and 2,4'DDD.

13 Halomethanes shall mean the sum of bromoform, bromomethane (methyl bromide), chloromethane (methyl chloride), chlorodibromomethane, and dichlorobromomethane.

14 Heptachlor shall mean the sum of heptachlor and heptachlor epoxide.

15 PAHs (polynuclear aromatic hydrocarbons) shall mean the sum of acenaphthylene, anthracene, 1,2-benzanthracene, 3,4-benzofluoranthene, benzo[k]fluoranthene, 1,12-benzoperylene, benzo[a]pyrene, chrysene, dibenzo[ah]anthracene, fluorene, indeno[1,2,3-cd]pyrene, phenanthrene and pyrene.

16 PCBs (polychlorinated biphenyls) shall mean the sum of chlorinated biphenyls whose analytical characteristics resemble those of Aroclor-1016, Aroclor-1221, Aroclor-1232, Aroclor-1242, Aroclor-1248, Aroclor-1254 and Aroclor-1260.

17 TCDD EQUIVALENTS shall mean the sum of the concentrations of chlorinated dibenzodioxins (2,3,7,8-CDDs) and chlorinated dibenzofurans (2,3,7,8-CDFs) multiplied by their respective toxicity factors, as shown in the table below.

<u>Isomer Group</u>	<u>Toxicity Equivalence Factor</u>
2,3,7,8-tetra CDD	1.0
2,3,7,8-penta CDD	0.5
2,3,7,8-hexa CDDs	0.1
2,3,7,8-hepta CDD	0.01
octa CDD	0.001
2,3,7,8 tetra CDF	0.1
1,2,3,7,8 penta CDF	0.05
2,3,4,7,8 penta CDF	0.5
2,3,7,8 hexa CDFs	0.1
2,3,7,8 hepta CDFs	0.01
octa CDF	0.001

DISCHARGE PROHIBITIONS

A. Hazardous Substances

The discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste* into the ocean* is prohibited.

B. Areas of Special Biological Significance

Waste* shall not be discharged to areas designated as being of special biological significance. Discharges shall be located a sufficient distance from such designated areas to assure maintenance of natural water quality conditions in these areas.

C. Sludge

Pipeline discharge of sludge to the ocean* is prohibited by federal law; the discharge of municipal and industrial waste* sludge directly to the ocean*, or into a waste* stream that discharges to the ocean*, is prohibited by this Plan. The discharge of sludge digester supernatant directly to the ocean*, or to a waste* stream that discharges to the ocean* without further treatment, is prohibited.

It is the policy of the SWRCB that the treatment, use and disposal of sewage sludge shall be carried out in the manner found to have the least adverse impact on the total natural and human environment. Therefore, if federal law is amended to permit such discharge, which could affect California waters, the SWRCB may consider requests for exceptions to this section under Chapter VI, F. of this Plan, provided further that an Environmental Impact Report on the proposed project shows clearly that any available alternative disposal method will have a greater adverse environmental impact than the proposed project.

D. By-Passing

The by-passing of untreated wastes* containing concentrations of pollutants in excess of those of Table A or Table B to the ocean* is prohibited.

Attachment 2
BASIN PLAN WASTE DISCHARGE SPECIFICATIONS

California Water Code Section 13243 provides that a Regional Board, in a water quality control plan, may specify certain conditions or areas where the discharge of waste, or certain types of waste is not permitted. The following discharge prohibitions are applicable to any person as defined by Section 13050(c) of the California Water Code and to any person who is a citizen, domiciliary, or political agency or entity of California whose activities in California could affect the quality of waters of the state within the boundaries of the San Diego Region.

1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in California Water Code Section 13050, is prohibited.
2. The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code Section 13264, is prohibited.
3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by an NPDES permit or a dredged or fill material permit (subject to the exemption described in California Water Code §13376) is prohibited.
4. The discharge of treated or untreated waste to lakes or reservoirs used for municipal water supply, or to inland surface water tributaries thereto, is prohibited.
5. The discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with applicable receiving water quality objectives, is prohibited. Allowances for dilution may be made at the discretion of the Regional Board. Consideration would include streamflow data, the degree of treatment provided and safety measures to ensure reliability of facility performance. As an example, discharge of secondary effluent would probably be permitted if streamflow provided 100:1 dilution capability.
6. The discharge of waste in a manner causing flow, ponding, or surfacing on lands not owned or under the control of the discharger is prohibited, unless the discharge is authorized by the Regional Board.
7. The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into

the waters, is prohibited unless authorized by the Regional Board.

8. Any discharge to a storm water conveyance system that is not composed entirely of storm water is prohibited unless authorized by the Regional Board. (The federal regulations, 40 CFR 122.26(b)(13), define storm water as storm water runoff, snow melt runoff, and surface runoff and drainage. 40 CFR 122.26(b)(2) defines an illicit discharge as any discharge to a storm water conveyance system that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharge resulting from fire fighting activities.) (§122.26 amended at 56 FR 56553, November 5, 1991 57 FR 11412, April 2, 1992).
9. The authorized discharge of treated or untreated sewage to waters of the state or to a storm water conveyance system is prohibited.
10. The discharge of industrial wastes to conventional septic tank/subsurface disposal systems, except as authorized by the terms described in California Water Code Section 13264, is prohibited.
11. The discharge of radioactive waste amenable to alternative methods of disposal into the waters of the state is prohibited.
12. The discharge of any radiological, chemical, or biological warfare agent into waters of the state is prohibited.
13. The discharge of waste into a natural or excavated site below historic water levels is prohibited unless the discharge is authorized by the Regional Board.
14. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.
15. The discharge of treated or untreated sewage from vessels to Mission Bay, Oceanside Harbor, Dana Point Harbor, or other small boat harbors is prohibited.
16. The discharge of untreated sewage from vessels to San Diego Bay is prohibited.

17. The discharge of treated sewage from vessels to portion of San Diego Bay that are less than 30 feet deep at mean lower low water (MLLW) is prohibited.
18. The discharge of treated sewage from vessels, which do not have a properly functioning US Coast Guard certified Type I or Type II marine sanitation device, to portions of San Diego Bay that are greater than 30 feet deep a mean lower low water (MLLW) is prohibited.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD (RWQCB)
SAN DIEGO REGION

STANDARD PROVISIONS

A. General Provisions (Applicable To All Permits)

1. Duty To Comply [40 CFR 122.41(a)][CWC 133.81]
 - a. The discharger must comply with all of the conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action, for permit termination, revocation and reissuance or modification, or for denial of a permit renewal application.
 - b. The discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions, even if this permit has not been modified to incorporate the requirement.
2. Duty To Reapply [40 CFR 122.41(b)][CWC 2235.4]
 - a. If the discharger wishes to continue an activity regulated by this permit after the expiration date of this permit, the discharger must apply for and obtain a new permit. The discharger shall submit a new application at least 180 days before the permit expires.
 - b. The terms and conditions of an expired permit are automatically continued pending issuance of a new permit if all requirements of the federal NPDES regulations on continuation of expired permits are complied with.
3. Duty To Mitigate [40 CFR 122.41(d)]
 - a. The discharger shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
4. Proper Operation and Maintenance [40 CFR 122.41(e)]
 - a. The discharger shall at all time properly operate

and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the discharger to achieve compliance with this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a discharger only when necessary to achieve compliance with the conditions of this permit.

5. Permit Actions [40 CFR 122.41(f)][CWC 1326(e)][40 CFR 122.44(b)(1)]
 - a. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the discharger 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. The RWQCB also review and revise this permit at any time upon application of any affected person, or on the Regional Board's own motion.
 - c. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge, and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the discharger so notified.
6. Property Rights [40 CFR 122.41(g)][CWC 13263(g)]
 - a. This permit does not convey any property rights of any sort, or any exclusive privileges.
 - b. All discharges of waste into waters of the state are privileges, not rights.
7. Duty To Provide Information [40 CFR 122.41(h)]
 - a. The discharger shall furnish the RWQCB, SWRCB, or EPA, within a reasonable time, any information which the RWQCB, SWRCB, or EPA may request to determine whether cause exists for modifying,

revoking and reissuing, or terminating this permit or to determine compliance with this permit. The discharger shall also furnish to the RWQCB, SWRCB, or EPA upon request, copies of records required to be kept by this permit.

✓ 8. Inspection and Entry [40 CFR 122.41(1)]

a. The discharger shall allow the Regional Board, State Board, EPA, and/or their authorized representatives (including an authorized contractor acting as their representative) upon the presentation of credentials and other documents as may be required by law, to:

- (1) Enter upon the discharger's premises where a regulated facility or activity is located or conducted, or where records are 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 and photograph, 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 purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act or Porter-Cologne Water Quality Control Act, any substances or parameters at any location.

9. Bypass [40 CFR 122.41(m)]

a. Definitions.

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

- b. The discharger 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. Such bypasses are not subject to paragraphs (c) and (d) of this provision.
 - c. Notice.
 - (1) If the discharger 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.
 - (2) The discharger shall submit notice of an unanticipated bypass as required in paragraph B.5 of the Monitoring and Reporting Requirements (24-hour notice).
 - d. Bypass is prohibited, and the Regional Board may take enforcement action against the discharger for bypass, unless:
 - (1) 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 discharger submitted notices as required under paragraph c. of this provision.
 - e. The RWQCB may approve an anticipated bypass, after considering its adverse effects, if the RWQCB determines that it will meet the three conditions listed in paragraph (d) of this provision.
10. Upset [40 CFR 122.41(n)]
- a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the

reasonable control of the discharger. 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 effluent limitations if the requirements of paragraph (c) of this provision are met. No determination made before an action for noncompliance, such as during administrative review of claims that noncompliance was caused by upset, is final administrative action subject to judicial review.
- c. A discharger that wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and that the discharger can identify the cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The discharger submitted notice of the upset as required in provision B.5 of the Monitoring and Reporting Requirements (24-hour notice); and
 - (4) The discharger complied with any remedial measures required under provision A.3 of the General Provisions.
- d. In any enforcement proceeding, the discharger seeking to establish the occurrence of an upset has the burden of proof.

11. Transfers [40 CFR 122.41(L)(3)][CWC 13377][40 CFR 122.61 (a)(b)]

- a. This permit is not transferable to any person except after notice to the RWQCB. The RWQCB may require modification or revocation and reissuance of the permit to change the name of the discharger and incorporate such other requirements as may be necessary under the Clean Water Act and the Porter-Cologne Water Quality Control Act.

- b. Except as provided in paragraph (c) below, a permit may be transferred by the discharger to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made to identify the new discharger and incorporate such other requirements as may be necessary under the Clean Water Act.
- c. As an alternative to transfers under paragraph (b) above, any NPDES permit may be automatically transferred to a new discharger if:
 - (1) The current discharger notifies the Regional Board at least 30 days in advance of the proposed transfer date in paragraph (c) (2) below;
 - (2) The notice includes a written agreement between the existing and new dischargers containing a specific date for transfer of permit responsibility, coverage, and liability; and
 - (3) The RWQCB does not notify the existing discharger and the proposed new discharger of its intent to modify or revoke and reissue the permit. A modification under this subparagraph may also be a minor modification under 40 CFR Part 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (c) (2) above.

12. Severability

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

13. Pollution, Contamination, Nuisance [CWC 13050]

- a. Neither the treatment nor the discharge shall create a condition of pollution, contamination or nuisance.

B. Monitoring and Reporting Requirements (Applicable To All Permits)1. Monitoring and Records [40 CFR 122.41(j)]

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

2. Plant Supervision and Operation [Title 23, CCR, Div 3, Chap 14]

- a. If the discharger's wastewater treatment plant is publicly owned or subject to regulation by the California Public Utilities Commission, it shall be supervised and operated by persons possessing certificates of appropriate grade.
- b. Except for records of monitoring information required by this permit related to the discharger's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), the discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings of 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 RWQCB, SWRCB, or EPA at any time.
- c. 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 analysis;
 - (5) The analytical techniques or methods used; and
 - (6) The results of such analyses.

- d. Monitoring results must be conducted according to test procedures under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR Part 503, unless other test procedures have been specified in this permit.

3. Signatory Requirements [40 CFR 122.41(k)][40 CFR 122.22]

- a. All permit applications submitted to the RWQCB, SWRCB, and/or EPA shall be signed as follows:
 - (1) For a corporation: by a responsible corporate officer. For the purpose of this provision, a responsible corporate officer means: 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 the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this provision, a principal executive officer of a Federal agency includes: the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- b. All reports required by this permit and other information requested by the RWQCB, State Board, or EPA shall be signed by a person described in paragraph (a) of this provision, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - (1) The authorization is made in writing by a person described in paragraph (a) of this

provision;

- (2) 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) and,
 - (3) The written authorization is submitted to the RWQCB, SWRCB or EPA.
- c. If an authorization under paragraph (b) of this provision 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 (b) of this provision must be submitted to the RWQCB, SWRCB or EPA prior to or together with any reports, information, or applications to be signed by an authorized representative.
 - d. Any person signing a document under paragraph (a) or (b) of this provision 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."

4. Monitoring Reports [40 CFR 122.41(1)(4)]

- a. Monitoring results shall be reported at the intervals specified in the permit.

- b. Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms approved by the RWQCB for reporting results of monitoring of pollutants and sludge use or disposal practices.
 - c. If the discharger monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in Part 503, 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 or other approved form.
 - d. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.
5. Compliance Schedules [40 CFR 122.41(1)(5)]
- a. 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.
6. Twenty-four Hour Reporting [40 CFR 122.41(1)(6)]
- a. The discharger shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the discharger becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - b. The following shall be included as information that must be reported within 24 hours under this paragraph:
 - (1) Any unanticipated bypass which exceeds any effluent limitation in the permit.

- (2) Any upset which exceeds any effluent limitation in the permit.
 - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the RWQCB in this permit is to be reported within 24 hours. The RWQCB may waive the above required written report on a case-by-case basis for reports under this provision if an oral report has been received within 24 hours.
7. Other Noncompliance [40 CFR 122.41(1)(7)]
- a. The discharger shall report all instances of noncompliance not reported under Provisions (B.3), (B.4), and (B.5) at the time monitoring reports are submitted. The reports shall contain the information listed in Provision (B.5).
8. Other Information [40 CFR 122.41(1)(8)]
- a. When the discharger becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the RWQCB, the discharger shall promptly submit such facts or information.
9. Planned Changes [40 CFR 122.41(1)(1)]
- a. The discharger shall give notice to the RWQCB as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision 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 in 40 CFR Part 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, not to notification requirements under 40 CFR Part 122.42 (a)(1); or
 - (3) The alteration or addition results in a significant change in the discharger'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 application plan.

10. Anticipated Noncompliance [40 CFR 122.41(1)(2)]
 - a. The discharger shall give advance notice to the RWQCB of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
11. Discharge Monitoring Quality Assurance (DMQA) Program [SWRCB/EPA 106 MOA]
 - a. The discharger shall conduct appropriate analyses on any sample provided by EPA as part of the DMQA program. The results of such analyses shall be submitted to EPA's DMQA manager.

C. Enforcement Provisions (Applicable To All Permits)

1. The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day of violation. Any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day for each violation, or by imprisonment of not more than 1 year, or both. Higher penalties may be imposed for knowing violations and for repeat offenders. The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to, and in some cases greater than, those provided under the Clean Water Act. [40 CFR 122.41(a)(2)][CWC Sections 13385 and 13387]
2. The Clean Water Act 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 conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both. [40 CFR 122.41(k)(2)]

3. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. Higher penalties may be imposed for repeat offenders. [40 CFR 122.41(j)(5)]

D. Additional Conditions Applicable to Specified Categories of Discharges1. Existing Manufacturing, Commercial, Mining, and Silvicultural Discharges [40 CFR 122.42(a)]

a. In addition to the Standard Provisions in Sections A, B, and C, the above classes of dischargers must notify the RWQCB as soon as they know or have 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 $\mu\text{g}/\text{l}$);

(b) Two hundred micrograms per liter (200 $\mu\text{g}/\text{l}$) for acrolein and acrylonitrile; five hundred micrograms per liter (500 $\mu\text{g}/\text{l}$) 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 Regional Board 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 $\mu\text{g}/\text{l}$)

(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).

- (d) The level established by the RWQCB in accordance with 40 CFR 122.44(f).

2. Publicly-Owned Treatment Works (POTW) [40 CFR 122.42(b)]

a. All POTWs must provide adequate notice to the RWQCB of the following:

- (1) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to Section 301 or 306 of the CWA if it were directly discharging those pollutants; and any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- (2) For purposes of this section, adequate notice shall include information on the quality and quantity of effluent introduced into the POTW and any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

Attachment 4
Standard Provisions

1. *Review and revision of permit:* Upon application by any affected person, or on its own motion, the SDRWQCB may review and revise this permit. [CWC 13263(e); also see Provision F.2.e, detailed in Attachment E]
2. *Termination or modification of permit:* This permit may be terminated or modified for causes, including, but not limited to, all of the following:
 - (a) Violation of any condition contained in this permit.
 - (b) Obtaining this permit by misrepresentation, or failure to disclose fully all relevant facts.
 - (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge. [CWC 13381; also see Provision F.2.g, detailed in Attachment E]
3. *Material change:* Not less than 180 days prior to any material change in the character, location, volume, or amount of waste discharge, the Discharger shall submit a technical report describing such changes. Such changes include but are not limited to the following:
 - (a) Addition of a major industrial waste discharge to a discharge of essentially domestic sewage, or the addition of a new process or product by an industrial facility resulting in a change in the character of the waste.
 - (b) Significant change in disposal method, e.g., change from land disposal to a direct discharge to water, or change in the method of treatment which would significantly alter the characteristics of the waste.
 - (c) Significant change in the disposal area, e.g., moving the discharge to another drainage area, to a different water body, or to a disposal area significantly removed from the original area potentially causing different water quality or nuisance problems.
 - (d) Increase in flow beyond that specified in the waste discharge requirements.
 - (e) Increase in area or depth to be used for solid waste disposal beyond that specified in the waste discharge requirements. [CWC 13372, 13376, 13264, 23 CCR 2210]
 - (f) Any substantial change in the amount or characteristics of pollutants used, handled, stored, or generated.

- (g) Any new discharge of pollutants or new potential pollutant source.
 - (h) Other circumstances which could result in a material change in the character, amount, or location of discharges. [CWC 13372, 13264,23 CCR 2210]
4. *Transfers*: When this permit is transferred to a new owner or operator, such requirements as may be necessary under the California Water Code may be incorporated into this permit. (Also see Provision F.2.d, detailed in Attachment E.)
 5. *Conditions not stayed*: The filing of a request by the Discharger for modification, revocation and reissuance, or termination of this Order, or a notification of planned change in or anticipated noncompliance with this Order does not stay any condition of this Order.
 6. *Monitoring and Reporting Program*: The Discharger shall conduct monitoring and submit reports in accordance with Monitoring and Reporting Program (MRP) No. 99-72. Monitoring results shall be reported at the intervals specified in MRP No. 99-72. [CWC 13267 & 13383, 23 CCR 2230, 40 CFR 122.43(a), 122.44(1)(4), 122.48]
 7. *Availability*: A copy of this Order shall be kept at a readily accessible location and shall be available to on-site personnel at all times.
 8. *Duty to minimize or correct adverse impacts*: The Discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.
 9. *Responsibilities, liabilities, legal action, penalties*: The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to, and in some cases greater than, those provided for under the Clean Water Act. [CWC 13385, 13387]

Nothing in this Order shall be construed to protect the Discharger from its liabilities under federal, state, or local laws.

Except as provided for in 40 CFR 122.41(m) and (n), nothing in this Order shall be construed to relieve the Discharger from civil or criminal penalties for noncompliance.

Nothing in this Order shall be construed to preclude the institution of any legal action or relieve the Discharger from any responsibilities, liabilities, or penalties to which the Discharger is or may be subject to under Section 311 of the CWA.

Nothing in this Order shall be construed to preclude institution of any legal action or relieve the Discharger from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authoring preserved by Section 510 of the CWA.

10. *Noncompliance*: Any noncompliance with this permit constitutes violation of the California Water Code and is grounds for denial of an application for permit modification. (Also see 40 CFR 122.41 (a) in Attachment E)
11. *Discharge is a privilege*: No discharge of waste into waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights. {CWC 13263(g)}
12. *Permittee*: For the purposes of this permit, the term "permittee" used in parts of 40 CFR incorporated into this permit by reference and/or applicable to this permit shall have the same meaning as the term "Discharger" used elsewhere in this permit.
13. *Director*: For the purposes of this permit, the term "Director" used in parts of 40 CFR incorporated into this permit by reference and/or applicable to this permit shall have the same meaning as the term "SDRWQCB" used elsewhere in this permit, except that in 40 CFR 122.41(h) & (I), "Director" shall mean "SDRWQCB, SWRCB, and USEPA."
14. *Effective date*: This Order shall become effective ten days after the date of its adoption provided the USEPA Regional Administrator has no objection. If the Regional Administrator objects to its issuance, this Order shall not become effective until such objection is withdrawn.
15. *Expiration*: This Order expires November 10, 2004. [40 CFR 122.43, 122.44(h), 122.46]
16. *Continuation of expired permit*: After this permit expires, the terms and conditions of this permit are automatically continued pending issuance of a new permit if all requirements of the federal NPDES regulations on the continuation of expired permits are complied with. [40 CFR 122.6, 23 CCR 2235.4]
17. *Applications*: Any application submitted by the Discharger for reissuance or modification of this permit shall satisfy all applicable requirements specified in federal regulations as well as any additional requirements for submittal of a Report of Waste Discharge specified in the California Water Code and the California Code of Regulations.
18. *Confidentiality*: Except as provided for in 40 CFR 122.7, no information or documents submitted in accordance with or in application for this permit will be

considered confidential, and all such information and documents shall be available for review by the public at the offices of the SDRWQCB.

19. *Severability*: The provisions of this order are severable, and if any provision of this order, or the application of any provisions of this order to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this order shall not be affected thereby.
20. *Discharge Monitoring Quality Assurance (DMQA) Program*: Then Discharger shall conduct appropriate analyses on any sample provided by EPA as part of the SMQA program. The results of such analyses shall be submitted to EPA's SMQA manager. [SWRCB/USEPA 106 MOA]
21. *Pollution, Contamination, Nuisance*: The handling, transport, treatment, or disposal of waste or the discharge of waste to waters of the state in a manner which causes or threatens to cause a condition of pollution, contamination, or nuisance, as those terms are defined in CWC 13050, is prohibited.
22. *Additional Reporting Requirements*: [40 CFR 122.42(a)] In addition to the reporting requirements under Attachment E [40 CFR 122.41 (I)], all existing manufacturing, commercial, mining, and silvicultural discharges must notify the SDRWQCB as soon as they know or have 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, of 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) The level established by the SDRWQCB in accordance with 40 CFR 122.44(f).
 - (2) That any activity has occurred or will occurred 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).
- (d) The level established by the SDRWQCB in accordance with 40 CFR 122.44(f).

23. *Report Submittal*: Reports and other documents required under this Order to shall be submitted to:

Surface Water Unit
California Regional Water Quality Control Board
San Diego Region
9771 Clairemont Mesa Boulevard, Suite A
San Diego, California 92124-1324
Phone - (858) 467-2952
Fax - (858) 571-6972

ATTACHMENT 5
SECTIONS OF 40 CFR INCORPORATED BY REFERENCE

40 CFR 122.5 Effect of a permit.

40 CFR 122.5(a)

(a) Applicable to State programs, see §123.25.

40 CFR 122.5(a)(1)

(1) Except for any toxic effluent standards and prohibitions imposed under section 307 of the CWA and standards for sewage sludge use or disposal" under §405(d) of the CWA, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with sections 301, 302, 306, 307, 318, 403, and 405(a)-(b) of CWA. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in §§122.62 and 122.64.

40 CFR 122.5(a)(2)

(2) Compliance with a permit condition which implements a particular "standard for sewage sludge use or disposal" shall be an affirmative defense in any enforcement action brought for a violation of that "standard for sewage sludge use or disposal" pursuant to sections 405(e) and 309 of the CWA.

40 CFR 122.5(b)

(b) Applicable to State programs, See §123.25. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

40 CFR 122.5(c)

(c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

40 CFR 122.21 Application for a permit (applicable to State programs, see §123.25).

40 CFR 122.21(a)

(a) Duty to apply. Any person who discharges or proposes to discharge pollutants or who owns or operates a "sludge- only facility" and who does not have an effective permit, except persons covered by general permits under §122.28, excluded under §122.3, or a user of a privately owned treatment works unless the Director requires otherwise under §122.44(m), shall submit a complete application (which shall include a BMP program if necessary under 40 CFR 125.102) to the Director in accordance with this section and part 124.

40 CFR 122.21(b)

(b) Who applies? When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.

40 CFR 122.21(c)

(c) Time to apply.

40 CFR 122.21(c)(1)

(1) Any person proposing a new discharge, shall submit an application at least 180 days before the date on which the discharge is to commence, unless permission for a later date has been granted by the Director. Facilities proposing a new discharge of storm water associated with industrial activity shall submit an application 180 days before that facility commences industrial activity which may result in a discharge of storm water associated with that industrial activity. Facilities described under §122.26(b)(14)(x) shall submit applications at least 90 days before the date on which construction is to commence. Different submittal dates may be required under the terms of applicable general permits. Persons proposing a new discharge are encouraged to submit their applications well in advance of the 90 or 180 day requirements to avoid delay. See also paragraph (k) of this section and §122.26(c)(1)(i)(G) and (c)(1)(ii). New discharges composed entirely of storm water, other than those dischargers identified by §122.26(a)(1), shall apply for and obtain a permit according to the application requirements in §122.26(g).

[§122.21(c)(1) amended at 60 FR 17957, April 7, 1995; 60 FR 40235, Aug. 7, 1995]
40 CFR 122.21(c)(2)

(2) Permits under section 405(f) of CWA.
40 CFR 122.21(c)(2)(i)

(i) Any existing "treatment works treating domestic sewage" required to have, or requesting site-specific pollutant limits as provided in 40 CFR part 503, must submit the permit application information required by paragraph (d)(3)(ii) of this section within 180 days after publication of a standard applicable to its sewage sludge use or disposal practice(s). After this 180 day period, "treatment works treating domestic sewage" may only apply for site-specific pollutant limits for good cause and such requests must be made within 180 days of becoming aware that good cause exists.

[New §122.21(c)(2)(i) added at 58 FR 9413, Feb. 19, 1993]
40 CFR 122.21(c)(2)(ii)

(ii) Any "treatment works treating domestic sewage" with a currently effective NPDES permit, not addressed under paragraph (c)(2)(i) of this section, must submit the application information required by paragraph (d)(3)(ii) of this section at the time of its next NPDES permit renewal application. Such information must be submitted in accordance with paragraph (d) of this section.

[Former §122.21(c)(2)(i) revised and redesignated as new (ii) at 58 FR 9413, Feb. 19, 1993]

40 CFR 122.21(c)(2)(iii)

(iii) Any other existing "treatment works treating domestic sewage" not addressed under paragraphs (c)(2)(i) or (ii) of this section must submit the information listed in paragraphs (c)(2)(iii)(A)-(E) of this section, to the Director within 1 year after publication of a standard applicable to its sewage sludge use or disposal practice(s). The Director shall determine when such "treatment works treating domestic sewage" must apply for a permit.

40 CFR 122.21(c)(2)(iii)(A)

(A) Name, mailing address and location of the "treatment works treating domestic sewage;"

40 CFR 122.21(c)(2)(iii)(B)

(B) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public or other entity;

40 CFR 122.21(c)(2)(iii)(C)

(C) A description of the sewage sludge use or disposal practices (including, where applicable, the location of any sites where sewage sludge is transferred for treatment, use, or disposal, as well as the name of the applicator or other contractor who applies the sewage sludge to land, if different from the "treatment works treating domestic sewage," and the name of any distributors if the sewage sludge is sold or given away in a bag or similar enclosure for application to the land, if different from the "treatment works treating domestic sewage");

40 CFR 122.21(c)(2)(iii)(D)

(D) Annual amount of sewage sludge generated, treated, used or disposed (dry weight basis); and

40 CFR 122.21(c)(2)(iii)(E)

(E) The most recent data the "treatment works treating domestic sewage" may have on the quality of the sewage sludge.

[Former §122.21(c)(2)(ii) revised and redesignated as new (iii) at 58 FR 9413, Feb. 19, 1993]

40 CFR 122.21(c)(2)(iv)

(iv) Notwithstanding paragraphs (c)(2)(i), (ii), or (iii) of this section, the Director may require permit applications from any "treatment works treating domestic sewage" at any time if the Director determines that a permit is necessary to protect public health and the environment from any potential adverse effects that may occur from toxic pollutants in sewage sludge.

[New §122.21(c)(2)(iv) added at 58 FR 9413, Feb. 19, 1993]

40 CFR 122.21(c)(2)(v)

(v) Any "treatment works treating domestic sewage" that commences operations after promulgation of an applicable "standard for sewage sludge use or disposal" shall submit an application to the Director at least 180 days prior to the date proposed for commencing operations.

[Former §122.21(c)(2)(iii) redesignated as new (v) at 58 FR 9413, Feb. 19, 1993]

40 CFR 122.21(d)

(d) Duty to reapply.

40 CFR 122.21(d)(1)

(1) Any POTW with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Director. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

40 CFR 122.21(d)(2)

(2) All other permittees with currently effective permits shall submit a new application 180 days before the existing permit expires, except that:

40 CFR 122.21(d)(2)(i)

(i) The Regional Administrator may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date; and

40 CFR 122.21(d)(3)

(3) (i) All applicants for EPA-issued permits, other than POTWs, new sources, and "sludge-only facilities," must complete Forms 1 and either 2b or 2c of the consolidated permit application forms to apply under §122.21 and paragraphs (f), (g), and (h) of this section.

40 CFR 122.21(d)(3)(ii)

(ii) In addition to any other applicable requirements in this part, all POTWs and other "treatment works treating domestic sewage," including "sludge-only facilities," must submit with their applications the information listed at 40 CFR 501.15(a)(2) within the time frames established in paragraph (c)(2) of this section.

40 CFR 122.21(e)

(e) Completeness. The Director shall not issue a permit before receiving a complete application for a permit except for NPDES general permits. An application for a permit is complete when the Director receives an application form and any supplemental information which are completed to his or her satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity. For EPA administered NPDES programs, an application which is reviewed under §124.3 is complete when the Director receives either a complete application or the information listed in a notice of deficiency.

40 CFR 122.21(f)

(f) Information requirements. All applicants for NPDES permits shall provide the following information to the Director, using the application form provided by the Director (additional information required of applicants is set forth in paragraphs (g) through (k) of this section).

40 CFR 122.21(f)(1)

(1) The activities conducted by the applicant which require it to obtain an NPDES permit.

40 CFR 122.21(f)(2)

(2) Name, mailing address, and location of the facility for which the application is submitted.

40 CFR 122.21(f)(3)

(3) Up to four SIC codes which best reflect the principal products or services provided by the facility.

40 CFR 122.21(f)(4)

(4) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.

40 CFR 122.21(f)(5)

(5) Whether the facility is located on Indian lands.

40 CFR 122.21(f)(6)

(6) A listing of all permits or construction approvals received or applied for under any of the following programs:

40 CFR 122.21(f)(6)(i)

(i) Hazardous Waste Management program under RCRA.

40 CFR 122.21(f)(6)(ii)

(ii) UIC program under SDWA.

40 CFR 122.21(f)(6)(iii)

(iii) NPDES program under CWA.

40 CFR 122.21(f)(6)(iv)

(iv) Prevention of Significant Deterioration (PSD) program under the Clean Air Act.

40 CFR 122.21(f)(6)(v)

(v) Nonattainment program under the Clean Air Act.

40 CFR 122.21(f)(6)(vi)

(vi) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.

40 CFR 122.21(f)(6)(vii)

(vii) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act.

40 CFR 122.21(f)(6)(viii)

(viii) Dredge or fill permits under section 404 of CWA.

40 CFR 122.21(f)(6)(ix)

(ix) Other relevant environmental permits, including State permits.

40 CFR 122.21(f)(7)

(7) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area.

40 CFR 122.21(f)(8)

(8) A brief description of the nature of the business.

40 CFR 122.21(g)

(g) Application requirements for existing manufacturing, commercial, mining, and silvicultural dischargers. Existing manufacturing, commercial mining, and silvicultural dischargers applying for NPDES permits, except for those facilities subject to the

requirements of §122.21(h) , shall provide the following information to the Director, using application forms provided by the Director.

40 CFR 122.21(g)(1)

(1) Outfall location. The latitude and longitude to the nearest 15 seconds and the name of the receiving water.

40 CFR 122.21(g)(2)

(2) Line drawing. A line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. Similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under paragraph (g)(3) of this section. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units. If a water balance cannot be determined (for example, for certain mining activities), the applicant may provide instead a pictorial description of the nature and amount of any sources of water and any collection and treatment measures.

40 CFR 122.21(g)(3)

(3) Average flows and treatment. A narrative identification of each type of process, operation, or production area which contributes wastewater to the effluent for each outfall, including process wastewater, cooling water, and stormwater runoff; the average flow which each process contributes; and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes, operations, or production areas may be described in general terms (for example, "dye-making reactor", "distillation tower"). For a privately owned treatment works, this information shall include the identity of each user of the treatment works. The average flow of point sources composed of storm water may be estimated. The basis for the rainfall event and the method of estimation must be indicated.

40 CFR 122.21(g)(4)

(4) Intermittent flows. If any of the discharges described in paragraph (g)(3) of this section are intermittent or seasonal, a description of the frequency, duration and flow rate of each discharge occurrence (except for stormwater runoff, spillage or leaks).

40 CFR 122.21(g)(5)

(5) Maximum production. If an effluent guideline promulgated under section 304 of CWA applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline. The reported measure must reflect the actual production of the facility as required by §122.45(b)(2) .

40 CFR 122.21(g)(6)

(6) Improvements. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates.

40 CFR 122.21(g)(7)

(7) Effluent characteristics. Information on the discharge of pollutants specified in this paragraph (except information on storm water discharges which is to be provided as specified in §122.26). When "quantitative data" for a pollutant are required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR part 136. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. When an applicant has two or more outfalls with substantially identical effluents, the Director may allow the applicant to test only one outfall and report that the quantitative data also apply to the substantially identical outfalls. The requirements in paragraphs (g)(7)(iii) and (iv) of this section that an applicant must provide quantitative data for certain pollutants known or believed to be present do not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform and fecal streptococcus. For all other pollutants, 24-hour composite samples must be used. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours. In addition, for discharges other than storm water discharges, the Director may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that the minimum of four (4) grab samples will be a representative sample of the effluent being discharged. For storm water discharges, all samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area. For all applicants, a flow-weighted composite shall be taken for either the entire discharge or for the first three hours of the discharge. The flow-weighted composite sample for a storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen minutes (applicants submitting permit applications for storm water discharges under §122.26(d) may collect flow weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots, subject to the approval of the Director). However, a minimum of one grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than 24 hours. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required. For storm water discharge samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first thirty minutes (or as soon thereafter as practicable) of the discharge for all pollutants specified in §122.26(c)(1). For all storm water permit applicants taking flow-weighted composites, quantitative data must be

reported for all pollutants specified in §122.26 except pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. The Director may allow or establish appropriate site- specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples under 40 CFR part 136, and additional time for submitting data on a case-by-case basis. An applicant is expected to "know or have reason to believe" that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility.)

40 CFR 122.21(g)(7)(i)

(i) (A) Every applicant must report quantitative data for every outfall for the following pollutants:

Biochemical Oxygen Demand (BOD5)
Chemical Oxygen Demand
Total Organic Carbon
Total Suspended Solids
Ammonia (as N)
Temperature (both winter and summer)
pH

40 CFR 122.21(g)(7)(i)(B)

(B) The Director may waive the reporting requirements for individual point sources or for a particular industry category for one or more of the pollutants listed in paragraph (g)(7)(i)(A) of this section if the applicant has demonstrated that such a waiver is appropriate because information adequate to support issuance of a permit can be obtained with less stringent requirements.

40 CFR 122.21(g)(7)(ii)

(ii) Each applicant with processes in one or more primary industry category (see appendix A to part 122) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

40 CFR 122.21(g)(7)(ii)(A)

(A) The organic toxic pollutants in the fractions designated in table I of appendix D of this part for the applicant's industrial category or categories unless the applicant qualifies as a small business under paragraph (g)(8) of this section. Table II of appendix D of this part lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography/mass spectrometry. A determination that an applicant falls

within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes.

[See Notes 2, 3, and 4 of this section.]

40 CFR 122.21(g)(7)(ii)(B)

(B) The pollutants listed in table III of appendix D of this part (the toxic metals, cyanide, and total phenols).

40 CFR 122.21(g)(7)(iii)

(iii) (A) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in table IV of appendix D (certain conventional and nonconventional pollutants) is discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged which is not so limited in an effluent limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

40 CFR 122.21(g)(7)(iii)(B)

(B) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants listed in table II or table III of appendix D (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under paragraph (g)(7)(ii) of this section, is discharged from each outfall. For every pollutant expected to be discharged in concentrations of 10 ppb or greater the applicant must report quantitative data. For acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol, where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or greater the applicant must report quantitative data. For every pollutant expected to be discharged in concentrations less than 10 ppb, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol, in concentrations less than 100 ppb, the applicant must either submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged. An applicant qualifying as a small business under paragraph (g)(8) of this section is not required to analyze for pollutants listed in table II of appendix D (the organic toxic pollutants).

40 CFR 122.21(g)(7)(iv)

(iv) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in table V of appendix D of this part (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.

40 CFR 122.21(g)(7)(v)

(v) Each applicant must report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

40 CFR 122.21(g)(7)(v)(A)

(A) Uses or manufactures 2,4,5- trichlorophenoxy acetic acid (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5- trichlorophenol (TCP); or hexachlorophene (HCP); or 40 CFR 122.21(g)(7)(v)(B)

(B) Knows or has reason to believe that TCDD is or may be present in an effluent.

40 CFR 122.21(g)(8)

(8) Small business exemption. An applicant which qualifies as a small business under one of the following criteria is exempt from the requirements in paragraph (g)(7)(ii)(A) or (g)(7)(iii)(A) of this section to submit quantitative data for the pollutants listed in table II of appendix D of this part (the organic toxic pollutants):

40 CFR 122.21(g)(8)(i)

(i) For coal mines, a probable total annual production of less than 100,000 tons per year.

40 CFR 122.21(g)(8)(ii)

(ii) For all other applicants, gross total annual sales averaging less than \$100,000 per year (in second quarter 1980 dollars).

40 CFR 122.21(g)(9)

(9) Used or manufactured toxics. A listing of any toxic pollutant which the applicant currently uses or manufactures as an intermediate or final product or byproduct. The Director may waive or modify this requirement for any applicant if the applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant and the Director has adequate information to issue the permit.

40 CFR 122.21(g)(10)

(10) [Reserved]

40 CFR 122.21(g)(11)

(11) Biological toxicity tests. An identification of any biological toxicity tests which the applicant knows or has reason to believe have been made within the last 3 years on any of the applicant's discharges or on a receiving water in relation to a discharge.

40 CFR 122.21(g)(12)

(12) Contract analyses. If a contract laboratory or consulting firm performed any of the analyses required by paragraph (g)(7) of this section, the identity of each laboratory or firm and the analyses performed.

40 CFR 122.21(g)(13)

(13) Additional information. In addition to the information reported on the application form, applicants shall provide to the Director, at his or her request, such other information as the Director may reasonably require to assess the discharges of the facility and to determine whether to issue an NPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and requirements to determine the cause of the toxicity.

40 CFR 122.21(h)

(h) Application requirements for manufacturing, commercial, mining and silvicultural facilities which discharge only non-process wastewater. Except for stormwater discharges, all manufacturing, commercial, mining and silvicultural dischargers applying for NPDES permits which discharge only non-process wastewater not regulated by an effluent limitations guideline or new source performance standard shall provide the following information to the Director, using application forms provided by the Director:

40 CFR 122.21(h)(1)

(1) Outfall location. Outfall number, latitude and longitude to the nearest 15 seconds, and the name of the receiving water.

40 CFR 122.21(h)(2)

(2) Discharge date (for new dischargers). Date of expected commencement of discharge.

40 CFR 122.21(h)(3)

(3) Type of waste. An identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, restaurant or cafeteria wastes, or noncontact cooling water. An identification of cooling water additives (if any) that are used or expected to be used upon commencement of operations, along with their composition if existing composition is available.

40 CFR 122.21(h)(4)

(4) Effluent characteristics.

40 CFR 122.21(h)(4)(i)

(i) Quantitative data for the pollutants or parameters listed below, unless testing is waived by the Director. The quantitative data may be data collected over the past 365 days, if they remain representative of current operations, and must include maximum daily value, average daily value, and number of measurements taken. The applicant must collect and analyze samples in accordance with 40 CFR part 136. Grab samples must be used for pH, temperature, oil and grease, total residual chlorine, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. New dischargers must include estimates for the pollutants or parameters listed below instead of actual sampling data, along with the source of each estimate. All levels must be reported or estimated as concentration and as total mass, except for flow, pH, and temperature.

40 CFR 122.21(h)(4)(i)(A)

(A) Biochemical Oxygen Demand (BOD5).

40 CFR 122.21(h)(4)(i)(B)

(B) Total Suspended Solids (TSS).

40 CFR 122.21(h)(4)(i)(C)

(C) Fecal Coliform (if believed present or if sanitary waste is or will be discharged).

40 CFR 122.21(h)(4)(i)(D)

- (D) Total Residual Chlorine (if chlorine is used).
- 40 CFR 122.21(h)(4)(i)(E)
- (E) Oil and Grease.
- 40 CFR 122.21(h)(4)(i)(F)
- (F) Chemical Oxygen Demand (COD) (if non-contact cooling water is or will be discharged).
- 40 CFR 122.21(h)(4)(i)(G)
- (G) Total Organic Carbon (TOC) (if non-contact cooling water is or will be discharged).
- 40 CFR 122.21(h)(4)(i)(H)
- (H) Ammonia (as N).
- 40 CFR 122.21(h)(4)(i)(I)
- (I) Discharge Flow.
- 40 CFR 122.21(h)(4)(i)(J)
- (J) pH.
- 40 CFR 122.21(h)(4)(i)(K)
- (K) Temperature (Winter and Summer).
- 40 CFR 122.21(h)(4)(ii)
- (ii) The Director may waive the testing and reporting requirements for any of the pollutants or flow listed in paragraph (h)(4)(i) of this section if the applicant submits a request for such a waiver before or with his application which demonstrates that information adequate to support issuance of a permit can be obtained through less stringent requirements.
- 40 CFR 122.21(h)(4)(iii)
- (iii) If the applicant is a new discharger, he must complete and submit Item IV of Form 2e (see §122.21(h)(4)) by providing quantitative data in accordance with that section no later than two years after commencement of discharge. However, the applicant need not complete those portions of Item IV requiring tests which he has already performed and reported under the discharge monitoring requirements of his NPDES permit.
- 40 CFR 122.21(h)(4)(iv)
- (iv) The requirements of parts i and iii of this section that an applicant must provide quantitative data or estimates of certain pollutants do not apply to pollutants present in a discharge solely as a result of their presence in intake water. However, an applicant must report such pollutants as present. Net credit may be provided for the presence of pollutants in intake water if the requirements of §122.45(g) are met.
- 40 CFR 122.21(h)(5)
- (5) Flow. A description of the frequency of flow and duration of any seasonal or intermittent discharge (except for stormwater runoff, leaks, or spills).
- 40 CFR 122.21(h)(6)
- (6) Treatment system. A brief description of any system used or to be used.
- 40 CFR 122.21(h)(7)

(7) Optional information. Any additional information the applicant wishes to be considered, such as influent data for the purpose of obtaining "net" credits pursuant to §122.45(g).

40 CFR 122.21(h)(8)

(8) Certification. Signature of certifying official under §122.22.

40 CFR 122.21(h)(8)(i)

(i) Application requirements for new and existing concentrated animal feeding operations and aquatic animal production facilities. New and existing concentrated animal feeding operations (defined in §122.23) and concentrated aquatic animal production facilities (defined in §122.24) shall provide the following information to the Director, using the application form provided by the Director:

40 CFR 122.21(h)(1)

(1) For concentrated animal feeding operations:

40 CFR 122.21(h)(1)(i)

(i) The type and number of animals in open confinement and housed under roof.

40 CFR 122.21(h)(1)(ii)

(ii) The number of acres used for confinement feeding.

40 CFR 122.21(h)(1)(iii)

(iii) The design basis for the runoff diversion and control system, if one exists, including the number of acres of contributing drainage, the storage capacity, and the design safety factor.

40 CFR 122.21(h)(2)

(2) For concentrated aquatic animal production facilities:

40 CFR 122.21(h)(2)(i)

(i) The maximum daily and average monthly flow from each outfall.

40 CFR 122.21(h)(2)(ii)

(ii) The number of ponds, raceways, and similar structures.

40 CFR 122.21(h)(2)(iii)

(iii) The name of the receiving water and the source of intake water.

40 CFR 122.21(h)(2)(iv)

(iv) For each species of aquatic animals, the total yearly and maximum harvestable weight.

40 CFR 122.21(h)(2)(v)

(v) The calendar month of maximum feeding and the total mass of food fed during that month.

40 CFR 122.21(j)

(j) Application requirements for new and existing POTWs.

40 CFR 122.21(j)(1)

(1) The following POTWs shall provide the results of valid whole effluent biological toxicity testing to the Director:

40 CFR 122.21(j)(1)(i)

(i) All POTWs with design influent flows equal to or greater than one million gallons per day;

40 CFR 122.21(j)(1)(ii)

(ii) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program;

40 CFR 122.21(j)(2)

(2) In addition to the POTWs listed in paragraph (j)(1) of this section, the Director may require other POTWs to submit the results of toxicity tests with their permit applications, based on consideration of the following factors:

40 CFR 122.21(j)(2)(i)

(i) The variability of the pollutants or pollutant parameters in the POTW effluent (based on chemical-specific information, the type of treatment facility, and types of industrial contributors);

40 CFR 122.21(j)(2)(ii)

(ii) The dilution of the effluent in the receiving water (ratio of effluent flow to receiving stream flow);

40 CFR 122.21(j)(2)(iii)

(iii) Existing controls on point or nonpoint sources, including total maximum daily load calculations for the waterbody segment and the relative contribution of the POTW;

40 CFR 122.21(j)(2)(iv)

(iv) Receiving stream characteristics, including possible or known water quality impairment, and whether the POTW discharges to a coastal water, one of the Great Lakes, or a water designated as an outstanding natural resource; or

40 CFR 122.21(j)(2)(v)

(v) Other considerations (including but not limited to the history of toxic impact and compliance problems at the POTW), which the Director determines could cause or contribute to adverse water quality impacts.

40 CFR 122.21(j)(3)

(3) For POTWs required under paragraph (j)(1) or (j)(2) of this section to conduct toxicity testing, POTWs shall use EPA's methods or other established protocols which are scientifically defensible and sufficiently sensitive to detect aquatic toxicity. Such testing must have been conducted since the last NPDES permit reissuance or permit modification under 40 CFR 122.62(a), whichever occurred later.

40 CFR 122.21(j)(4)

(4) All POTWs with approved pretreatment programs shall provide the following information to the Director: a written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1).

40 CFR 122.21(k)

(k) Application requirements for new sources and new discharges. New manufacturing, commercial, mining and silvicultural dischargers applying for NPDES permits (except for new discharges of facilities subject to the requirements of paragraph (h) of this section or new discharges of storm water associated with

industrial activity which are subject to the requirements of §122.26(c)(1) and this section (except as provided by §122.26(c)(1)(ii)) shall provide the following information to the Director, using the application forms provided by the Director:

40 CFR 122.21(k)(1)

(1) Expected outfall location. The latitude and longitude to the nearest 15 seconds and the name of the receiving water.

40 CFR 122.21(k)(2)

(2) Discharge dates. The expected date of commencement of discharge.

40 CFR 122.21(k)(3)

(3) Flows, sources of pollution, and treatment technologies—

40 CFR 122.21(k)(3)(i)

(i) Expected treatment of wastewater. Description of the treatment that the wastewater will receive, along with all operations contributing wastewater to the effluent, average flow contributed by each operation, and the ultimate disposal of any solid or liquid wastes not discharged.

40 CFR 122.21(k)(3)(ii)

(ii) Line drawing. A line drawing of the water flow through the facility with a water balance as described in §122.21(g)(2) .

40 CFR 122.21(k)(3)(iii)

(iii) Intermittent flows. If any of the expected discharges will be intermittent or seasonal, a description of the frequency, duration and maximum daily flow rate of each discharge occurrence (except for stormwater runoff, spillage, or leaks).

40 CFR 122.21(k)(4)

(4) Production. If a new source performance standard promulgated under section 306 of CWA or an effluent limitation guideline applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's expected actual production reported in the units used in the applicable effluent guideline or new source performance standard as required by §122.45(b)(2) for each of the first three years. Alternative estimates may also be submitted if production is likely to vary.

40 CFR 122.21(k)(5)

(5) Effluent characteristics. The requirements in paragraphs (h)(4)(i) , (ii), and (iii) of this section that an applicant must provide estimates of certain pollutants expected to be present do not apply to pollutants present in a discharge solely as a result of their presence in intake water; however, an applicant must report such pollutants as present. Net credits may be provided for the presence of pollutants in intake water if the requirements of §122.45(g) are met. All levels (except for discharge flow, temperature, and pH) must be estimated as concentration and as total mass.

40 CFR 122.21(k)(5)(i)

(i) Each applicant must report estimated daily maximum, daily average, and source of information for each outfall for the following pollutants or parameters. The Director may waive the reporting requirements for any of these pollutants and

parameters if the applicant submits a request for such a waiver before or with his application which demonstrates that information adequate to support issuance of the permit can be obtained through less stringent reporting requirements.

40 CFR 122.21(k)(5)(i)(A)

(A) Biochemical Oxygen Demand (BOD).

40 CFR 122.21(k)(5)(i)(B)

(B) Chemical Oxygen Demand (COD).

40 CFR 122.21(k)(5)(i)(C)

(C) Total Organic Carbon (TOC).

40 CFR 122.21(k)(5)(i)(D)

(D) Total Suspended Solids (TSS).

40 CFR 122.21(k)(5)(i)(E)

(E) Flow.

40 CFR 122.21(k)(5)(i)(F)

(F) Ammonia (as N).

40 CFR 122.21(k)(5)(i)(G)

(G) Temperature (winter and summer).

40 CFR 122.21(k)(5)(i)(H)

(H) pH.

40 CFR 122.21(k)(5)(ii)

(ii) Each applicant must report estimated daily maximum, daily average, and source of information for each outfall for the following pollutants, if the applicant knows or has reason to believe they will be present or if they are limited by an effluent limitation guideline or new source performance standard either directly or indirectly through limitations on an indicator pollutant: all pollutants in table IV of appendix D of part 122 (certain conventional and nonconventional pollutants).

40 CFR 122.21(k)(5)(iii)

(iii) Each applicant must report estimated daily maximum, daily average and source of information for the following pollutants if he knows or has reason to believe that they will be present in the discharges from any outfall:

40 CFR 122.21(k)(5)(iii)(A)

(A) The pollutants listed in table III of appendix D (the toxic metals, in the discharge from any outfall: Total cyanide, and total phenols);

40 CFR 122.21(k)(5)(iii)(B)

(B) The organic toxic pollutants in table II of appendix D (except bis (chloromethyl) ether, dichlorofluoro- methane and trichlorofluoro- methane). This requirement is waived for applicants with expected gross sales of less than \$100,000 per year for the next three years, and for coal mines with expected average production of less than 100,000 tons of coal per year.

40 CFR 122.21(k)(5)(iv)

(iv) The applicant is required to report that 2,3,7,8 Tetrachlorodibenzo-P-Dioxin (TCDD) may be discharged if he uses or manufactures one of the following compounds, or if he knows or has reason to believe that TCDD will or may be present in an effluent:

40 CFR 122.21(k)(5)(iv)(A)

(A) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T) (CAS #93-76-5);

40 CFR 122.21(k)(5)(iv)(B)

(B) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #93-72-1);

40 CFR 122.21(k)(5)(iv)(C)

(C) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136-25-4);

40 CFR 122.21(k)(5)(iv)(D)

(D) 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Rannel) (CAS #299-84-3);

40 CFR 122.21(k)(5)(iv)(E)

(E) 2,4,5-trichlorophenol (TCP) (CAS #95-95-4); or

40 CFR 122.21(k)(5)(iv)(F)

(F) Hexachlorophene (HCP) (CAS #70-30-4);

40 CFR 122.21(k)(5)(v)

(v) Each applicant must report any pollutants listed in table V of appendix D (certain hazardous substances) if he believes they will be present in any outfall (no quantitative estimates are required unless they are already available).

40 CFR 122.21(k)(5)(vi)

(vi) No later than two years after the commencement of discharge from the proposed facility, the applicant is required to complete and submit Items V and VI of NPDES application Form 2c (see §122.21(g)). However, the applicant need not complete those portions of Item V requiring tests which he has already performed and reported under the discharge monitoring requirements of his NPDES permit.

40 CFR 122.21(k)(6)

(6) Engineering Report. Each applicant must report the existence of any technical evaluation concerning his wastewater treatment, along with the name and location of similar plants of which he has knowledge.

40 CFR 122.21(k)(7)

(7) Other information. Any optional information the permittee wishes to have considered.

40 CFR 122.21(k)(8)

(8) Certification. Signature of certifying official under §122.22.

40 CFR 122.21(l)

(l) Special provisions for applications from new sources.

40 CFR 122.21(l)(1)

(1) The owner or operator of any facility which may be a new source(as defined in §122.2) and which is located in a State without an approved NPDES program must comply with the provisions of this paragaraph.

40 CFR 122.21(l)(2)

(2) (i) Before beginning any on-site construction as defined in §122.29, the owner or operator of any facility which may be a new source must submit information to the Regional Administrator so that he or she can determine if the facility is a new source. The Regional Administrator may request any additional information needed to determine whether the facility is a new source.

40 CFR 122.21(l)(2)(ii)

(ii) The Regional Administrator shall make an initial determination whether the facility is a new source within 30 days of receiving all necessary information under paragraph (k)(2)(i) of this section.

40 CFR 122.21(l)(3)

(3) The Regional Administrator shall issue a public notice in accordance with §124.10 of the new source determination under paragraph (k)(2) of this section. If the Regional Administrator has determined that the facility is a new source, the notice shall state that the applicant must comply with the environmental review requirements of 40 CFR 6.600 et seq.

40 CFR 122.21(l)(4)

(4) Any interested person may challenge the Regional Administrator's initial new source determination by requesting an evidentiary hearing under subpart E of part 124 within 30 days of issuance of the public notice of the initial determination. If all parties to the evidentiary hearing on the determination agree, the Regional Administrator may defer the hearing until after a final permit decision is made, and consolidate the hearing on the determination with any hearing on the permit.

40 CFR 122.21(m)

(m) Variance requests by non-POTWs. A discharger which is not a publicly owned treatment works (POTW) may request a variance from otherwise applicable effluent limitations under any of the following statutory or regulatory provisions within the times specified in this paragraph:

40 CFR 122.21(m)(1)

(1) Fundamentally different factors.

40 CFR 122.21(m)(1)(i)

(i) A request for a variance based on the presence of "fundamentally different factors" from those on which the effluent limitations guideline was based shall be filed as follows:

40 CFR 122.21(m)(1)(i)(A)

(A) For a request from best practicable control technology currently available (BPT), by the close of the public comment period under §124.10.

40 CFR 122.21(m)(1)(i)(B)

(B) For a request from best available technology economically achievable (BAT) and/or best conventional pollutant control technology (BCT), by no later than: 40 CFR 122.21(m)(1)(i)(B)(1)

(1) July 3, 1989, for a request based on an effluent limitation guideline promulgated before February 4, 1987, to the extent July 3, 1989 is not later than that provided under previously promulgated regulations; or 40 CFR 122.21(m)(1)(i)(B)(2)

(2) 180 days after the date on which an effluent limitation guideline is published in the FEDERAL REGISTER for a request based on an effluent limitation guideline promulgated on or after February 4, 1987. 40 CFR 122.21(m)(1)(ii)

(ii) The request shall explain how the requirements of the applicable regulatory and/or statutory criteria have been met. 40 CFR 122.21(m)(2)

(2) Non-conventional pollutants. A request for a variance from the BAT requirements for CWA section 301(b)(2)(F) pollutants (commonly called "non-conventional" pollutants) pursuant to section 301 (c) of CWA because of the economic capability of the owner or operator, or pursuant to section 301(g) of the CWA (provided however that a §301(g) variance may only be requested for ammonia; chlorine; color; iron; total phenols (4AAP) (when determined by the Administrator to be a pollutant covered by section 301(b)(2)(F)) and any other pollutant which the Administrator lists under section 301(g)(4) of the CWA) must be made as follows: 40 CFR 122.21(m)(2)(i)

(i) For those requests for a variance from an effluent limitation based upon an effluent limitation guideline by: 40 CFR 122.21(m)(2)(i)(A)

(A) Submitting an initial request to the Regional Administrator, as well as to the State Director if applicable, stating the name of the discharger, the permit number, the outfall number(s), the applicable effluent guideline, and whether the discharger is requesting a section 301(c) or section 301(g) modification or both. This request must have been filed not later than: 40 CFR 122.21(m)(2)(i)(A)(1)

(1) September 25, 1978, for a pollutant which is controlled by a BAT effluent limitation guideline promulgated before December 27, 1977; or 40 CFR 122.21(m)(2)(i)(A)(2)

(2) 270 days after promulgation of an applicable effluent limitation guideline for guidelines promulgated after December 27, 1977; and 40 CFR 122.21(m)(2)(i)(B)

(B) Submitting a completed request no later than the close of the public comment period under §124.10 demonstrating that the requirements of §124.13 and the applicable requirements of part 125 have been met. Notwithstanding this provision, the complete application for a request under section 301(g) shall be filed 180 days

before EPA must make a decision (unless the Regional Division Director establishes a shorter or longer period).

40 CFR 122.21(m)(2)(ii)

(ii) For those requests for a variance from effluent limitations not based on effluent limitation guidelines, the request need only comply with paragraph (m)(2)(i)(B) of this section and need not be preceded by an initial request under paragraph (m)(2)(i)(A) of this section.

40 CFR 122.21(m)(3)

(3) [Reserved]

[§122.21(m)(3) removed and reserved at 60 FR 33931, June 29, 1995]

40 CFR 122.21(m)(4)

(4) [Reserved]

[§122.21(m)(4) removed and reserved at 60 FR 33931, June 29, 1995]

40 CFR 122.21(m)(5)

(5) Water quality related effluent limitations. A modification under section 302(b)(2) of requirements under section 302(a) for achieving water quality related effluent limitations may be requested no later than the close of the public comment period under §124.10 on the permit from which the modification is sought.

40 CFR 122.21(m)(6)

(6) Thermal discharges. A variance under CWA section 316(a) for the thermal component of any discharge must be filed with a timely application for a permit under this section, except that if thermal effluent limitations are established under CWA section 402(a)(1) or are based on water quality standards the request for a variance may be filed by the close of the public comment period under §124.10. A copy of the request as required under 40 CFR part 125, subpart H, shall be sent simultaneously to the appropriate State or interstate certifying agency as required under 40CFR part 125. (See §124.65 for special procedures for section 316(a) thermal variances.)

40 CFR 122.21(n)

(n) Variance requests by POTWs. A discharger which is a publicly owned treatment works (POTW) may request a variance from otherwise applicable effluent limitations under any of the following statutory provisions as specified in this paragraph:

40 CFR 122.21(n)(1)

(1) Discharges into marine waters. A request for a modification under CWA section 301(h) of requirements of CWA section 301(b)(1)(B) for discharges into marine waters must be filed in accordance with the requirements of 40 CFR part 125, subpart G.

40 CFR 122.21(n)(2)

(2) [Reserved]

[§122.21(n)(2) removed and reserved at 60 FR 33931, June 29, 1995]

40 CFR 122.21(n)(3)

(3) Water quality based effluent limitation. A modification under CWA section 302(b)(2) of the requirements under section 302(a) for achieving water quality based

effluent limitations shall be requested no later than the close of the public comment period under §124.10 on the permit from which the modification is sought.

40 CFR 122.21(o)

(o) Expedited variance procedures and time extensions.

40 CFR 122.21(o)(1)

(1) Notwithstanding the time requirements in paragraphs (m) and (n) of this section, the Director may notify a permit applicant before a draft permit is issued under §124.6 that the draft permit will likely contain limitations which are eligible for variances. In the notice the Director may require the applicant as a condition of consideration of any potential variance request to submit a request explaining how the requirements of part 125 applicable to the variance have been met and may require its submission within a specified reasonable time after receipt of the notice. The notice may be sent before the permit application has been submitted. The draft or final permit may contain the alternative limitations which may become effective upon final grant of the variance.

40 CFR 122.21(o)(2)

(2) A discharger who cannot file a timely complete request required under paragraph (m)(2)(i)(B) or (m)(2)(ii) of this section may request an extension. The extension may be granted or denied at the discretion of the Director. Extensions shall be no more than 6 months in duration.

40 CFR 122.21(p)

(p) Recordkeeping. Except for information required by paragraph (d)(3)(ii) of this section, which shall be retained for a period of at least five years from the date the application is signed (or longer as required by 40 CFR part 503), applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this section for a period of at least 3 years from the date the application is signed.

[Note 1: At 46 FR 2046, Jan. 8, 1981, the Environmental Protection Agency suspended until further notice §122.21(g)(7)(ii)(A) and the corresponding portions of Item V-C of the NPDES application Form 2c as they apply to coal mines. This revision continues that suspension.]¹

[Note 2: At 46 FR 22585, April 20, 1981, the Environmental Protection Agency suspended until further notice §122.21(g)(7)(ii)(A) and the corresponding portions of Item V-C of the NPDES application Form 2c as they apply to:

a. Testing and reporting for all four organic fractions in the Greige Mills Subcategory of the Textile Mills industry (subpart C—Low water use processing of 40 CFR part 410), and testing and reporting for the pesticide fraction in all other subcategories of this industrial category.

b. Testing and reporting for the volatile, base/neutral and pesticide fractions in the Base and Precious Metals Subcategory of the Ore Mining and Dressing industry (subpart B of 40 CFR part 440), and testing and reporting for all four fractions in all other subcategories of this industrial category.

c. Testing and reporting for all four GC/MS fractions in the Porcelain Enameling industry.

This revision continues that suspension.]¹

[Note 3: At 46 FR 35090, July 1, 1981, the Environmental Protection Agency suspended until further notice §122.21(g)(7)(ii)(A) and the corresponding portions of Item V-C of the NPDES application Form 2c as they apply to:

a. Testing and reporting for the pesticide fraction in the Tall Oil Rosin Subcategory (subpart D) and Rosin-Based Derivatives Subcategory (subpart F) of the Gum and Wood Chemicals industry (40 CFR part 454), and testing and reporting for the pesticide and base-neutral fractions in all other subcategories of this industrial category.

b. Testing and reporting for the pesticide fraction in the Leather Tanning and Finishing, Paint and Ink Formulation, and Photographic Supplies industrial categories.

c. Testing and reporting for the acid, base/neutral and pesticide fractions in the Petroleum Refining industrial category.

d. Testing and reporting for the pesticide fraction in the Papergrade Sulfite subcategories (subparts J and U) of the Pulp and Paper industry (40 CFR part 430); testing and reporting for the base/neutral and pesticide fractions in the following subcategories: Deink (subpart Q), Dissolving Kraft (subpart F), and Paperboard from Waste Paper (subpart E); testing and reporting for the volatile, base/neutral and pesticide fractions in the following subcategories: BCT Bleached Kraft (subpart H), Semi-Chemical (subparts B and C), and Nonintegrated-Fine Papers (subpart R); and testing and reporting for the acid, base/neutral, and pesticide fractions in the following subcategories: Fine Bleached Kraft (subpart I), Dissolving Sulfite Pulp (subpart K), Groundwood-Fine Papers (subpart O), Market Bleached Kraft (subpart G), Tissue from Wastepaper (subpart T), and Nonintegrated-Tissue Papers (subpart S).

e. Testing and reporting for the base/neutral fraction in the Once-Through Cooling Water, Fly Ash and Bottom Ash Transport Water process wastestreams of the Steam Electric Power Plant industrial category.

This revision continues that suspension.]¹

[Editor's note: Forms 1, 2d, and 2e referenced in the following Appendix are published at the end of this regulation.]

¹ Editorial Note: The words "This revision" refer to the document published at 48 FR 14153, April 1, 1983.

40 CFR 122.22 Signatories to permit applications and reports (applicable to State programs, see §123.25).

40 CFR 122.22(a)

(a) Applications. All permit applications shall be signed as follows:

40 CFR 122.22(a)(1)

(1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) 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 (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

NOTE: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in §122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under §122.22(a)(1)(ii) rather than to specific individuals.

40 CFR 122.22(a)(2)

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

40 CFR 122.22(a)(3)

(3) For a municipality, State, Federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

40 CFR 122.22(b)

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

40 CFR 122.22(b)(1)

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

40 CFR 122.22(b)(2)

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

40 CFR 122.22(b)(3)

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

40 CFR 122.22(c)

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

40 CFR 122.22(d)

(d) Certification. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

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

[Editor's note: The authority for §122.22 is the Clean Water Act (33 U.S.C. 1251 et seq.), Safe Drinking Water Act (42 U.S. C. 300f et seq.), Clean Air Act (42 U.S.C. 7401 et seq.), and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.)]

40 CFR 122.41 Conditions applicable to all permits.

The following conditions apply to all NPDES permits. Additional conditions applicable to NPDES permits are in §122.42. All conditions applicable to NPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved State regulations) must be given in the permit.

40 CFR 122.41(a)

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

40 CFR 122.41(a)(1)

(1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

40 CFR 122.41(a)(2)

(2) The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The Clean Water Act provides that any person who negligently violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

40 CFR 122.41(a)(3)

(3) Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

40 CFR 122.41(b)

(b) 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.

40 CFR 122.41(c)

(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.

40 CFR 122.41(d)

(d) Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

40 CFR 122.41(e)

(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.

40 CFR 122.41(f)

(f) 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.

40 CFR 122.41(g)

(g) Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

40 CFR 122.41(h)

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

40 CFR 122.41(i)

(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), upon presentation of credentials and other documents as may be required by law, to:

40 CFR 122.41(i)(1)

(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;

40 CFR 122.41(i)(2)

(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

40 CFR 122.41(i)(3)

(3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

40 CFR 122.41(i)(4)

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

40 CFR 122.41(j)

(j) Monitoring and records.

40 CFR 122.41(j)(1)

(1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

40 CFR 122.41(j)(2)

(2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), 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 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

40 CFR 122.41(j)(3)

(3) Records of monitoring information shall include:

40 CFR 122.41(j)(3)(i)

(i) The date, exact place, and time of sampling or measurements;

40 CFR 122.41(j)(3)(ii)

(ii) The individual(s) who performed the sampling or measurements;

40 CFR 122.41(j)(3)(iii)

(iii) The date(s) analyses were performed;

40 CFR 122.41(j)(3)(iv)

(iv) The individual(s) who performed the analyses;

40 CFR 122.41(j)(3)(v)

(v) The analytical techniques or methods used; and

40 CFR 122.41(j)(3)(vi)

(vi) The results of such analyses.

40 CFR 122.41(j)(4)

(4) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40

CFR part 136 unless otherwise specified in 40 CFR part 503, unless other test procedures have been specified in the permit.

40 CFR 122.41(j)(5)

(5) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

40 CFR 122.41(k)

(k) Signatory requirement.

40 CFR 122.41(k)(1)

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

40 CFR 122.41(k)(2)

(2) 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 non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

40 CFR 122.41(l)

(l) Reporting requirements.

40 CFR 122.41(l)(1)

(1) Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

40 CFR 122.41(l)(1)(i)

(i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in §122.29(b); or

40 CFR 122.41(l)(1)(ii)

(ii) 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 §122.42(a)(1).

40 CFR 122.41(l)(1)(iii)

(iii) 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 application plan;

40 CFR 122.41(l)(2)

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

40 CFR 122.41(l)(3)

(3) Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See §122.61; in some cases, modification or revocation and reissuance is mandatory.)

40 CFR 122.41(l)(4)

(4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

40 CFR 122.41(l)(4)(i)

(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.

40 CFR 122.41(l)(4)(ii)

(ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.

40 CFR 122.41(l)(4)(iii)

(iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

40 CFR 122.41(l)(5)

(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.

40 CFR 122.41(l)(6)

(6) Twenty-four hour reporting.

40 CFR 122.41(l)(6)(i)

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause;

the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

40 CFR 122.41(l)(6)(ii)

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

40 CFR 122.41(l)(6)(ii)(A)

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See §122.41(g)).

40 CFR 122.41(l)(6)(ii)(B)

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

40 CFR 122.41(l)(6)(ii)(C)

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See §122.44(g).)

40 CFR 122.41(l)(6)(iii)

(iii) The Director may waive the written report on a case-by-case basis for reports under paragraph (l)(6)(ii) of this section if the oral report has been received within 24 hours.

40 CFR 122.41(l)(7)

(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (l)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (l)(6) of this section .

40 CFR 122.41(l)(8)

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

40 CFR 122.41(m)

(m) Bypass

40 CFR 122.41(m)(1)

(1) Definitions.

40 CFR 122.41(m)(1)(ii)

(ii) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

40 CFR 122.41(m)(1)(ii)

(ii) "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.

40 CFR 122.41(m)(2)

(2) 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 (m)(3) and (m)(4) of this section .

40 CFR 122.41(m)(3)

(3) Notice

40 CFR 122.41(m)(3)(i)

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

40 CFR 122.41(m)(3)(ii)

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (l)(6) of this section (24-hour notice).

40 CFR 122.41(m)(4)

(4) Prohibition of bypass.

40 CFR 122.41(m)(4)(i)

(i) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

40 CFR 122.41(m)(4)(i)(A)

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

40 CFR 122.41(m)(4)(i)(B)

(B) 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

40 CFR 122.41(m)(4)(i)(C)

(C) The permittee submitted notices as required under paragraph (m)(3) of this section.

40 CFR 122.41(m)(4)(ii)

(ii) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (m)(4)(i) of this section.

40 CFR 122.41(n)

(n) Upset

40 CFR 122.41(n)(1)

(1) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly

designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

40 CFR 122.41(n)(2)

(2) 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 (n)(3) 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.

40 CFR 122.41(n)(3)

(3) 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:

40 CFR 122.41(n)(3)(i)

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

40 CFR 122.41(n)(3)(ii)

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

40 CFR 122.41(n)(3)(iii)

(iii) The permittee submitted notice of the upset as required in paragraph (1)(6)(ii)(B) of this section (24 hour notice).

40 CFR 122.41(n)(3)(iv)

(iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

40 CFR 122.41(n)(4)

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

Clean Water Act (33 U.S.C. 1251 et seq.), Safe Drinking Water Act (42 U.S.C. 300f et seq.), Clean Air Act (42 U.S.C. 7401 et seq.), Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.)

[§122.41 amended at 58 FR 18015, April 7, 1993]

40 CFR 122.61 Transfer of permits (applicable to State programs, see §123.25).

40 CFR 122.61(a)

(a) Transfers by modification. Except as provided in paragraph (b) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under §122.62(b)(2)), or a minor modification made (under §122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.

40 CFR 122.61(b)

(b) Automatic transfers. As an alternative to transfers under paragraph (a) of this section, any NPDES permit may be automatically transferred to a new permittee if:

40 CFR 122.61(b)(1)

(1) The current permittee notifies the Director at least 30 days in advance of the proposed transfer date in paragraph (b)(2) of this section;
40 CFR 122.61(b)(2)

(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
40 CFR 122.61(b)(3)

(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. A modification under this subparagraph may also be a minor modification under §122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section.

40 CFR 122.62 Modification or revocation and reissuance of permits (applicable to State programs, see §123.25).

When the Director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see §122.41), receives a request for modification or revocation and reissuance under §124.5, or conducts a review of the permit file) he or she may determine whether or not one or more of the causes listed in paragraphs (a) and (b) of this section for modification or revocation and reissuance or both exist. If cause exists, the Director may modify or revoke and reissue the permit accordingly, subject to the limitations of §124.5(c), and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. See §124.5(c) (2). If cause does not exist under this section or §122.63, the Director shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in §122.63 for minor modifications" the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in part 124 (or procedures of an approved State program) followed.
40 CFR 122.62(a)

(a) Causes for modification. The following are causes for modification but not revocation and reissuance of permits except when the permittee requests or agrees.
40 CFR 122.62(a)(1)

(1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity (including a change or changes in the permittee's sludge use or disposal practice) which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
NOTE: Certain reconstruction activities may cause the new source provisions of §122.29 to be applicable.
40 CFR 122.62(a)(2)

(2) Information. The Director has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For NPDES general permits (§122.28) this cause includes any information indicating that cumulative effects on the environment are unacceptable. For new source or new discharger NPDES permits (§§122.21, 122.29), this cause shall include any significant information derived from effluent testing required under §122.21(k)(5)(vi) or §122.21(h)(4)(iii) after issuance of the permit.

40 CFR 122.62(a)(3)

(3) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

40 CFR 122.62(a)(3)(i)

(i) For promulgation of amended standards or regulations, when:

40 CFR 122.62(a)(3)(i)(A)

(A) The permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA approved or promulgated water quality standards, or the Secondary Treatment Regulations under part 133; and

40 CFR 122.62(a)(3)(i)(B)

(B) EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit condition was based, or has approved a State action with regard to a water quality standard on which the permit condition was based; and

40 CFR 122.62(a)(3)(i)(C)

(C) A permittee requests modification in accordance with §124.5 within ninety (90) days after FEDERAL REGISTER notice of the action on which the request is based.

40 CFR 122.62(a)(3)(ii)

(ii) For judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the permittee in accordance with §124.5 within ninety (90) days of judicial remand.

40 CFR 122.62(a)(3)(iii)

(iii) For changes based upon modified State certifications of NPDES permits, see §124.55(b).

40 CFR 122.62(a)(4)

(4) Compliance schedules. The Director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which

there is no reasonably available remedy. However, in no case may an NPDES compliance schedule be modified to extend beyond an applicable CWA statutory deadline. See also §122.63(c) (minor modifications) and paragraph (a)(14) of this section (NPDES innovative technology).

40 CFR 122.62(a)(5)

(5) When the permittee has filed a request for a variance under CWA section 301(c), 301(g), 301(h), 301(i), 301(k), or 316(a) or for "fundamentally different factors" within the time specified in §122.21 or §125.27(a).

40 CFR 122.62(a)(6)

(6) 307(a) toxics. When required to incorporate an applicable 307(a) toxic effluent standard or prohibition (see §122.44(b)).

40 CFR 122.62(a)(7)

(7) Reopener. When required by the "reopener" conditions in a permit, which are established in the permit under §122.44(b) (for CWA toxic effluent limitations and standards for sewage sludge use or disposal, see also §122.44(c)) or 40 CFR 403.10(e) (pretreatment program).

40 CFR 122.62(a)(8)

(8) (i) Net limits. Upon request of a permittee who qualifies for effluent limitations on a net basis under §122.45(h).

40 CFR 122.62(a)(8)(ii)

(ii) When a discharger is no longer eligible for net limitations, as provided in §122.45(h)(1)(ii)(B).

40 CFR 122.62(a)(9)

(9) Pretreatment. As necessary under 40 CFR 403.8(e) (compliance schedule for development of pretreatment program).

40 CFR 122.62(a)(10)

(10) Failure to notify. Upon failure of an approved State to notify, as required by section 402(b)(3), another State whose waters may be affected by a discharge from the approved State.

40 CFR 122.62(a)(11)

(11) Non-limited pollutants. When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under §125.3(c).

40 CFR 122.62(a)(12)

(12) Notification levels. To establish a "notification level" as provided in §122.44(f).

40 CFR 122.62(a)(13)

(13) Compliance schedules. To modify a schedule of compliance to reflect the time lost during construction of an innovative or alternative facility, in the case of a POTW which has received a grant under section 202(a)(3) of CWA for 100% of the costs to modify or replace facilities constructed with a grant for innovative and alternative wastewater technology under section 202(a)(2). In no case shall the compliance

schedule be modified to extend beyond an applicable CWA statutory deadline for compliance.

40 CFR 122.62(a)(14)

(14) [Reserved]

[§122.62(a)(14) removed and reserved at 60 FR 33931, June 29, 1995]

40 CFR 122.62(a)(15)

(15) To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions.

40 CFR 122.62(a)(16)

(16) When the discharger has installed the treatment technology considered by the permit writer in setting effluent limitations imposed under section 402(a)(1) of the CWA and has properly operated and maintained the facilities but nevertheless has been unable to achieve those effluent limitations. In this case, the limitations in the modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by a subsequently promulgated effluent limitations guideline).

40 CFR 122.62(a)(17)

(17) [Reserved]

[§122.62(a)(17) removed and reserved at 60 FR 33931, June 29, 1995]

40 CFR 122.62(a)(18)

(18) Land application plans . When required by a permit condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise an existing land application plan, or to add a land application plan.

40 CFR 122.62(b)

(b) Causes for modification or revocation and reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

40 CFR 122.62(b)(1)

(1) Cause exists for termination under §122.64, and the Director determines that modification or revocation and reissuance is appropriate.

40 CFR 122.62(b)(2)

(2) The Director has received notification (as required in the permit, see §122.41(l)(3)) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (§122.61(b)) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

[Editor's note: The authority for §122.62 is the Clean Water Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.)]

40 CFR 122.63 Minor modifications of permits.

Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section,

without following the procedures of part 124. Any permit modification not processed as a minor modification under this section must be made for cause and with part 124 draft permit and public notice as required in §122.62. Minor modifications may only:

40 CFR 122.63(a)

(a) Correct typographical errors;

40 CFR 122.63(b)

(b) Require more frequent monitoring or reporting by the permittee;

40 CFR 122.63(c)

(c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or

40 CFR 122.63(d)

(d) Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.

40 CFR 122.63(e)

(e) (1) Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under §122.29.

40 CFR 122.63(e)(2)

(2) Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.

40 CFR 122.63(f)

(f) [Reserved]

[§122.63(f) removed and reserved at 60 FR 33931, June 29, 1995]

40 CFR 122.63(g)

(g) Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 (or a modification thereto that has been approved in accordance with the procedures in 40 CFR 403.18) as enforceable conditions of the POTW's permits.

40 CFR 122.64 Termination of permits (applicable to State programs, see §123.25).

40 CFR 122.64(a)

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

40 CFR 122.64(a)(1)

(1) Noncompliance by the permittee with any condition of the permit;

40 CFR 122.64(a)(2)

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

40 CFR 122.64(a)(3)

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

40 CFR 122.64(a)(4)

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

40 CFR 122.64(b)

(b) The Director shall follow the applicable procedures in part 124 or State procedures in terminating any NPDES permit under this section.

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**MONITORING AND REPORTING PROGRAM NO. 99-71
NPDES PERMIT NO. CA0107999
FOR THE
SAN ELIJO JOINT POWERS AUTHORITY
SAN ELIJO WATER RECLAMATION FACILITY DISCHARGE
TO THE PACIFIC OCEAN
VIA THE SAN ELIJO OCEAN OUTFALL**

This Monitoring and Reporting Program Supersedes Technical Change Order No. 1 to Order 94-105 in its entirety. This Monitoring and Reporting program shall become effective with the adoption of Order No. 99-71.

I. Purpose

This monitoring program is intended to:

- Document short-term and long-term effects of the discharge on receiving waters, sediments, biota, and beneficial uses of the receiving water.
- Determine compliance with NPDES permit terms and conditions.
- Assess the need for industrial pretreatment and toxic control programs.

The monitoring data will be used to determine compliance with water quality standards.

II. Monitoring Provisions

1. Samples and measurements taken as required herein shall be representative of the volume and nature¹ of the monitored discharge. All samples shall be taken at the monitoring points specified in this monitoring program and, 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 Executive Officer. Samples shall be collected at times representative of "worse case" conditions with respect to compliance with the requirements of Order No. 99-71.
2. 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 are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than $\pm 10\%$ from true discharge rates throughout the range of expected discharge volumes.

3. Monitoring must be conducted according to United States Environmental Protection Agency (USEPA) test procedures approved under Title 40 of the Code of Federal Regulations Part 136 (40 CFR 136), Guidelines Establishing Test Procedures for the Analysis of Pollutants, as amended, unless otherwise specified for sludge in 40 CFR 503, or unless other test procedures have been specified in Order No. 99-71 and/ or in this monitoring and reporting program.
4. If the discharger monitors any pollutants more frequently than required by Order No. 99-71 or by this monitoring and reporting program, using test procedures approved under 40 CFR Part 136, or as specified in Order No. 99-71 and this monitoring and reporting program, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the discharger's monitoring report. The increased frequency of monitoring shall also be reported.
5. The discharger 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 Order No. 99-71 and this monitoring and reporting program, and records of all data used to complete the application for Order No. 99-71. Records shall be maintained for a minimum of 5 years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Regional Board Executive Officer or the USEPA.
6. Records of monitoring information shall include:
 - a. The date, exact location, and time of sampling or measurements;
 - b. The name(s) of individual(s) who performed the sampling or measurements;
 - c. The date(s) analyses were performed;
 - d. The name(s) of the laboratory and individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
7. Calculations for all limitations that receive averaging of measurements shall utilize an arithmetic mean unless otherwise specified in Order 99-71 or this monitoring and reporting program.
8. All monitoring instruments and devices used by the discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary to ensure their continued accuracy. All flow measurement devices shall be calibrated at least once per year, or more frequently, to ensure continued accuracy of the devices.
9. All analyses shall be performed in a laboratory certified to perform such analyses by the California Department of Health Services or a laboratory approved by the Regional Board Executive Officer.

10. The discharger shall have, and implement, an acceptable written quality assurance (QA) plan for laboratory analyses. An annual report shall be submitted by February 1st of each year that summarizes the QA activities for the previous year. Duplicate chemical analyses must be conducted on a minimum of ten percent of the samples, or at least one sample per month, whichever is more frequent. A similar frequency shall be maintained for analyzing spiked samples. When requested by the USEPA or the Regional Board, the discharger will participate in the NPDES discharge monitoring report QA performance study. The discharger shall have a success rate equal to or greater than 80 percent.
11. The discharger shall report all instances of noncompliance not reported under Reporting Requirement G.4 of Order No. 99-71 at the time monitoring reports are submitted. The reports shall contain the information listed in Reporting Requirement G.4 of Order No. 99-71.
12. By February 1st of each year, the discharger shall submit an annual report to the Regional Board and USEPA Region 9 that contains tabular and graphical summaries of the monitoring data obtained during the previous year. The discharger shall discuss the compliance record and corrective actions taken, or which may be needed to bring the discharge into full compliance with the requirements of Order No. 99-71 and this monitoring and reporting program.
13. Laboratory method detection limits (MDLs) and practical quantitation levels (PQLs) shall be identified for each constituent in the matrix being analyzed with all reported analytical data. Acceptance of data shall be based on demonstrated laboratory performance.
14. Monitoring results shall be reported at intervals and in a manner specified in Order No. 99-71 and in this monitoring and reporting program. Monitoring reports shall be submitted to the Regional Board and to USEPA Region 9 according to the following schedule:

<u>Monitoring Frequency</u>	<u>Reporting Period</u>	<u>Report Due</u>
Continuous, Daily, Weekly, or Monthly	All	By the first day of the second month after the month of sampling.
Quarterly	Jan.-March	May 1
	April-June	August 1
	July-September	November 1
	October-December	February 1
Semiannually	January-June	August 1
	July-December	February 1
Annually Once every 5 years	January-December	February 1
	---	February 1

III. Influent Monitoring

Influent monitoring is intended to:

- Determine compliance with NPDES permit conditions and water quality standards.
- Assess treatment plant performance.
- Assess the need for an Industrial Pretreatment Program and a Toxic Control Program.

Sampling stations shall be established at each point of inflow to all treatment plants and shall be located upstream of any in-plant return flows, and where representative samples of the influent can be obtained. Influent samples shall be collected on the same day as, and shortly before the collection of effluent samples.

During periods when no effluent from a particular treatment plant is discharged to the Pacific Ocean, no influent monitoring, except for flowrate monitoring, is required at that treatment plant.

The following shall constitute the influent monitoring program:

<u>Parameter</u>	<u>Unit</u>	<u>Type of Sample¹</u>	<u>Minimum Frequency</u>
Flowrate	MGallons/Day	recorder/ totalizer	continuous
CBOD ₅ @ 20°C	mg/L	24-hour composite	weekly
Suspended Solids	mg/L	24-hour composite	weekly

IV. Effluent Monitoring

Effluent monitoring is intended to:

- Determine compliance with NPDES permit conditions and water quality standards.
- Identify operational problems in order to improve plant performance.
- Provide information on waste characteristics and flows for use in interpreting water quality and biological data.

The effluent sampling station shall be located downstream of any in-plant return flows, and disinfection units, where representative samples of the effluent discharged through the ocean outfall can be obtained.

During periods where no effluent from a particular treatment plant is discharged to the Pacific Ocean, no effluent monitoring, except for flowrate monitoring, is required at that treatment plant.

The following shall constitute the effluent monitoring program:

<u>Parameter</u>	<u>Unit</u>	<u>Type of Sample</u> ¹	<u>Minimum Frequency</u>
CBOD ₅ @ 20°C	mg/L	24-hour composite	daily ²
BOD ₅	mg/L	24-hour composite	monthly
Suspended Solids	mg/L	24-hour composite	daily ²
pH	pH units	grab	daily ²
Oil and Grease	mg/L	grab	monthly ³
Settleable Solids	mL/L	grab	daily ²
Turbidity	NTU	24-hour composite	weekly ³
Acute Toxicity	TUa	24-hour composite	quarterly
Dissolved Oxygen	mg/L	grab	weekly
Temperature	°F	--	weekly
Arsenic	ug/L	24-hour composite	semiannually ^{3,4}
Cadmium	ug/L	24-hour composite	semiannually ^{3,4}
Chromium(hexavalent)	ug/L	24-hour composite	semiannually ^{3,4,5}
Copper	ug/L	24-hour composite	semiannually ^{3,4}
Lead	ug/L	24-hour composite	semiannually ^{3,4}
Mercury	ug/L	24-hour composite	semiannually ^{3,4}
Nickel	ug/L	24-hour composite	semiannually ^{3,4}
Selenium	ug/L	24-hour composite	semiannually ^{3,4}
Silver	ug/L	24-hour composite	semiannually ^{3,4}
Zinc	ug/L	24-hour composite	semiannually ^{3,4}
Cyanide	mg/L	24-hour composite	semiannually ^{3,4}
Total Residual Cl	mg/L	grab	daily ⁶
Ammonia (as N)	mg/L	24-hour composite	monthly ³
Chronic Toxicity	TUc	24-hour composite	quarterly ⁷
Phenolic Compounds (nonchlorinated)	mg/L	24-hour composite	semiannually ^{3,4}
Phenolic Compounds (chlorinated)	mg/L	24-hour composite	semiannually ^{3,4}
Endosulfan	ug/L	24-hour composite	semiannually ^{3,4}
Endrin	ug/L	24-hour composite	semiannually ^{3,4}
HCH	ug/L	24-hour composite	semiannually ^{3,4}
Radioactivity	pCi/L	24-hour composite	semiannually ³
Acrolein	ug/L	grab	annually ³
Antimony	ug/L	24-hour composite	annually ³
bis(2-chloroethoxy) methane	ug/L	grab	annually ³
bis(2-chloroisopropyl) ether	ug/L	grab	annually ³
chlorobenzene	ug/L	grab	annually ³
chromium (III)	ug/L	24-hour composite	annually ³
di-n-butyl phthalate	ug/L	grab	annually ³
dichlorobenzenes	ug/L	grab	annually ³
1,1-dichloroethylene	ug/L	grab	annually ³
diethyl phthalate	ug/L	grab	annually ³
dimethyl phthalate	ug/L	grab	annually ³
4,6-dinitro-2- methylphenol	ug/L	grab	annually ³
2,4 dinitrophenol	ug/L	grab	annually ³

<u>Parameter</u>	<u>Unit</u>	<u>Type of Sample¹</u>	<u>Minimum Frequency</u>
ethylbenzene	ug/L	grab	annually ³
fluoranthene	ug/L	grab	annually ³
hexacyclopentadiene	ug/L	grab	annually ³
isophorone	ug/L	grab	annually ³
nitrobenzene	ug/L	grab	annually ³
thallium	ug/L	24-hour composite	annually ³
toluene	ug/L	grab	annually ³
1,1,2,2-tetrachloro-ethane	ug/L	grab	annually ³
tributyltin	ug/L	24-hour composite	annually ³
1,1,1-trichloroethane	ug/L	grab	annually ³
1,1,2-trichloroethane	ug/L	grab	annually ³
acrylonitrile	ug/L	grab	annually ³
aldrin	ug/L	grab	annually ³
benzene	ug/L	grab	annually ³
benzidine	ug/L	grab	annually ³
beryllium	ug/L	24-hour composite	annually ³
bis(2-chloroethyl) ether	ug/L	grab	annually ³
bis(2-ethylhexyl) phthalate	ug/L	grab	annually ³
carbon tetrachloride	ug/L	grab	annually ³
chlordane	ug/L	grab	annually ³
chloroform	ug/L	grab	annually ³
DDT	ug/L	grab	annually ³
1,4-dichlorobenzene	ug/L	grab	annually ³
3,3-dichlorobenzidine	ug/L	grab	annually ³
1,2-dichloroethane	ug/L	grab	annually ³
dichloromethane	ug/L	grab	annually ³
1,3-dichloropropene	ug/L	grab	annually ³
dieldrin	ug/L	grab	annually ³
2,4-dinitrotoluene	ug/L	grab	annually ³
1,2-diphenylhydrazine	ug/L	grab	annually ³
halomethanes	ug/L	grab	annually ³
heptachlor	ug/L	grab	annually ³
hexachlorobenzene	ug/L	grab	annually ³
hexachlorobutadiene	ug/L	grab	annually ³
hexachloroethane	ug/L	grab	annually ³
N-nitrosodimethylamine	ug/L	grab	annually ³
N-nitrosodiphenylamine	ug/L	grab	annually ³
PAHs	ug/L	grab	annually ³
PCBs	ng/L	grab	annually ³
TCDD equivalents	pg/L	grab	annually ^{8,3}
Tetrachloroethylene	ug/L	grab	annually ³
Toxaphene	ug/L	grab	annually ³
Trichloroethylene	ug/L	grab	annually ³
2,4,6-trichlorophenol	ug/L	grab	annually ³
vinyl chloride	ug/L	grab	annually ³

V. Solids Monitoring

Solids monitoring is intended to:

- Assess the need for a pretreatment program.
- Maintain a record of the volume of solids generated and disposal sites used.
- Evaluate the character of sludge to ensure that appropriate disposal methods are employed.

A report identifying the volume of screenings, sludges, grit, and other solids removed from the wastewater and the point(s) at which these wastes were disposed of shall be submitted annually. A copy of all annual reports required by 40 CFR 503 shall be submitted to the Regional Board at the same time those reports are submitted to the USEPA.

VI. Receiving Water Monitoring

To determine compliance with water quality standards, the receiving water quality monitoring program must document conditions in the vicinity of the "Zone of Initial Dilution" (ZID) boundary, at reference stations, and at areas beyond the ZID where discharge impacts might reasonably be expected. Monitoring must reflect conditions during all critical environmental periods.

Receiving water and sediment monitoring in the vicinity of the San Elijo Ocean Outfall (SEOO) shall be conducted as specified below. Station location, sampling, sample preservation and analyses, when not specified, shall be by methods approved by the Executive Officer. The monitoring program may be modified by the Executive Officer at any time.

The receiving water and sediment monitoring program for the SEOO may be conducted jointly with other dischargers to the SEOO if the discharger so chooses. Receiving water and sediment monitoring stations shall be located and numbered as follows:

Monitoring Station Locations

<u>Station</u>	<u>Description</u>
	<u>Surf Zone Stations</u>
S1	Surf zone, 8,000' south of the outfall.
S2	Surf zone, 4,500' south of the outfall.
S3	Surf zone, 2,500' south of the outfall.
S4	Surf zone, 500' south of the outfall.
S5	Surf zone, 500' north of the outfall.
S6	Surf zone, 2,200' north of the outfall.
S7	Surf zone, 4,000' north of the outfall.
	<u>Nearshore Stations</u>
N1	Opposite S1, 3,000 feet seaward, MLLW.
N2	Opposite S2, 3,000 feet seaward, MLLW.

N3	Opposite S3, 3,000 feet seaward, MLLW.
N4	Opposite S4, 3,000 feet seaward, MLLW.
N5	Opposite S5, 3,000 feet seaward, MLLW.
N6	Opposite S6, 3,000 feet seaward, MLLW.
N7	Opposite S7, 3,000 feet seaward, MLLW.

Offshore Stations

A14S	At the 120' depth contour, 14,000' south of the outfall.
A4S	At the 120' depth contour, 4,000' south of the outfall.
A2S	At the 120' depth contour, 2,000' south of the outfall.
A1S	At the 120' depth contour, 1,000' south of the outfall.
A0.5S	At the 120' depth contour, 500' south of the outfall.
A1N	At the 120' depth contour, 1,000' north of the outfall.
A2N	At the 120' depth contour, 2,000' north of the outfall.

Biological Transects

T0.5S	At the 20, 40, 60, and 80 foot depth contours along the transect located 500 feet downcoast of and parallel to the outfall.
T4S	At the 20, 40, 60, and 80 foot depth contours along the transect located 4,000 feet downcoast of and parallel to the outfall.
T14S	At the 20, 40, 60, and 80 foot depth contours along the transect located 14,000 feet downcoast of and parallel to the outfall.

It is recommended that stations be located using a land-based microwave positioning system, such as Mini-Ranger or trisponder, or a satellite positioning system such as Global Positioning System (GPS). The high levels of accuracy and precision afforded by this type of positioning system will ensure that stations are properly located with respect to the ZID. If an alternate navigation system (e.g. Loran C) is proposed, its accuracy should be compared to that of the systems recommended herein, and any compromises in accuracy should be justified.

Monitoring station locations may be modified with the approval of the Executive Officer.

A. SURF ZONE WATER QUALITY MONITORING

Surf zone monitoring is intended to assess bacteriological conditions in areas used for body-contact activities (e.g., swimming); and to assess aesthetic conditions for general recreational uses (e.g., picnicking).

All "surf zone stations" shall be monitored as follows:

1. Grab samples shall be collected and analyzed for total and fecal coliforms, and enterococcus at a minimum frequency of once per week from May 1 through October 31, and at a minimum frequency of once every other week from November 1, through April 30 of each year.
2. At the same time samples are collected from "surf zone stations" the following information shall be recorded: observation of wind (direction and speed), weather (e.g., cloudy, sunny, or rainy), current (e.g., direction), and tidal conditions; observations of water color, discoloration, oil and grease, turbidity, odor, and materials of sewage origin in the water or on

the beach; water temperature (°F); and status of San Elijo Lagoon mouth (e.g. open, closed, flow).

B. NEARSHORE WATER QUALITY MONITORING

Nearshore monitoring is intended to assess bacteriological conditions in areas used for body-contact activities (e.g. scuba diving) and where shellfish and/or kelp may be harvested; and to assess aesthetic conditions for general boating and recreational uses.

All "nearshore stations" shall be monitored as follows:

1. Reduced Monitoring

If the Executive Officer determines that the effluent at all times complies with Discharge Specifications B.1 and B.3 of Order No. 99-71, only the reduced nearshore water quality monitoring specified below is required.

<u>Determination</u>	<u>Units</u>	<u>Type of Sample</u>	<u>Minimum Frequency</u>
Visual Observations	--	--	Monthly
Total and Fecal Coliforms,	#/100mL	Grab ⁹	Monthly
Enterococcus ¹⁰	#/100mL	Grab ⁹	Monthly

2. Intensive Monitoring

The intensive nearshore water quality monitoring specified below is required during the 12-month period beginning May 1, 2003 through April 30, 2004, and must be submitted by May 31, 2004. This monitoring data will assist Regional Board staff in the evaluation of the Report of Waste Discharge required by Reporting Requirement G.2 to be submitted by May 10, 2004, 180 days prior to the Order's expiration date of November 10, 2004. The intensive nearshore water quality monitoring specified below is also required if the Executive Officer determines that the effluent does not at all times comply with Discharge Specifications B.1 and B.3 of Order No. 99-71.

<u>Determination</u>	<u>Units</u>	<u>Type of Sample</u>	<u>Minimum Frequency</u>
Visual Observations	--	--	Monthly
Total and Fecal Coliforms,	#/100mL	Grab ¹¹	Monthly
Enterococcus	#/100mL	Grab ¹¹	Monthly

C. OFFSHORE WATER QUALITY MONITORING

Offshore monitoring is intended to determine compliance with the Ocean Plan; and to determine if the applicant's discharge causes significant impacts on the water quality within the ZID and beyond the ZID as compared to reference areas.

All "offshore stations" shall be monitored as follows:

1. Reduced Monitoring

If the Executive Officer determines that the effluent at all times complies with Discharge Specifications B.1 and B.3 of Order No. 99-71, only the reduced offshore water quality monitoring specified below is required.

<u>Determination</u>	<u>Units</u>	<u>Type of Sample</u>	<u>Minimum Frequency</u>
Visual Observations	--	--	Monthly
Total and Fecal Coliforms,	#/100mL	Grab ¹¹	Monthly
Enterococcus ¹⁰	#/100mL	Grab ¹¹	Monthly

2. Intensive Monitoring

The intensive water quality monitoring specified below is required during the 12-month period beginning May 1, 2003 through April 30, 2004, and must be submitted by May 31, 2004. This monitoring data will assist Regional Board staff in the evaluation of the Report of Waste Discharge required by Reporting Requirement G.2 to be submitted by May 10, 2004, 180 days prior to the Order's expiration date of November 10, 2004. The intensive offshore water quality monitoring specified below is also required if the Executive Officer determines that the effluent does not at all times comply with Discharge Specifications B.1 and B.3 of Order No. 99-71.

<u>Determination</u>	<u>Units</u>	<u>Type of Sample</u>	<u>Minimum Frequency</u>
Visual Observations	--	--	Monthly
Total and Fecal Coliforms,	#/100mL	Grab ¹¹	Monthly
Enterococcus	#/100mL	Grab ¹¹	Monthly
Temperature	°F	Grab ¹²	Monthly
Dissolved Oxygen	mg/L	Grab ¹²	Monthly
Light Transmittance	%	Instrument ¹²	Monthly
pH	pH units	Grab ⁹	Annually

D. BENTHIC MONITORING

Benthic monitoring is intended to assess the status of the benthic community, and to evaluate the physical and chemical quality of the sediments.

The intensive monitoring specified below is required during the 12-month period beginning May 1, 2003 through April 30, 2004, and must be submitted by May 31, 2004. This monitoring data will assist Regional Board staff in the evaluation of the Report of Waste Discharge required by Reporting Requirement G.2 to be submitted by May 10, 2004, 180 days prior to the Order's expiration date of November 10, 2004. The sediment monitoring specified below is also required if the Executive Officer determines that the effluent does not at all times comply with Discharge Specifications B.1 and B.3 of Order No. 99-71. Sediment monitoring shall be conducted at all "offshore stations".

1. Sediment Characteristics

Analyses shall be performed on the upper two inches of core.

<u>Determination</u>	<u>Units</u>	<u>Type of Sample</u>	<u>Minimum Frequency</u>
Sulfides	mg/kg	Core	Semiannually

Total Chlorinated Hydrocarbons	mg/kg	Core	Semiannually
BOD	mg/kg	Core	Semiannually
COD	mg/kg	Core	Semiannually
Particle Size Distribution --		Core	Semiannually
Arsenic	mg/kg	Core	Annually
Cadmium	mg/kg	Core	Annually
Total Chromium	mg/kg	Core	Annually
Copper	mg/kg	Core	Annually
Lead	mg/kg	Core	Annually
Mercury	mg/kg	Core	Annually
Nickel	mg/kg	Core	Annually
Silver	mg/kg	Core	Annually
Zinc	mg/kg	Core	Annually
Cyanide	mg/kg	Core	Annually
Phenolic Compounds	mg/kg	Core	Annually
Radioactivity	pCi/kg	Core	Annually

2. Infauna

Samples are to be collected with a Paterson, Smith-McIntyre, or orange-peel-type dredge, having an open sampling area of not less than 124 square inches and a sediment capacity of not less than 210 cubic inches. The sediment shall be sifted through a one-millimeter mesh screen and all organisms shall be identified to as low a taxon as possible.

<u>Determination</u>	<u>Units</u>	<u>Minimum Frequency</u>
Benthic Biota	Identification and Enumeration	3 Grabs Semiannually

E. ADDITIONAL BIOLOGICAL MONITORING

1. Demersal Fish and Macroinvertebrates

The intensive monitoring specified below is required during the 12-month period beginning May 1, 2003 through April 30, 2004, and must be submitted by May 31, 2004. This monitoring data will assist Regional Board staff in the evaluation of the Report of Waste Discharge required by Reporting Requirement G.2 to be submitted by May 10, 2004, 180 days prior to the Order's expiration date of November 10, 2004. The biological transect monitoring specified below is also required if the Executive Officer determines that the effluent does not at all times comply with Discharge Specification B.1, and B.3 of Order No. 99-71.

<u>Determination</u>	<u>Units</u>	<u>Type of Sample¹³</u>	<u>Minimum Frequency</u>
Biological Transects	Identification and Enumeration	***	Annually

In rocky or cobble areas, a 30-meter band transect, one meter wide shall established on the ocean bottom. Operations at each underwater station shall include: (1) Water temperature (may be measured from a boat), estimated visibility and pelagic macrobiota at each 10-foot depth increment throughout the water column and at the bottom recorded; (2)

general bottom description recorded; (3) enumeration by estimate of the larger plants and animals in the band transect area recorded; (4) representative photographic record of sampled area taken; and (5) within each band, three one-quarter meter square areas shall be randomly selected and all macroscopic plant and animal life shall be identified to as low a taxon as possible and measured.

For both epifauna and infauna, size frequency and distribution shall be shown for at least the three numerically largest populations identified to the lowest possible taxon and appropriate graphs showing the relationship between species frequency and population shall be plotted from each sample.

2. Kelp Bed Monitoring

Kelp bed monitoring is intended to assess the extent to which the discharge of wastes may affect the areal extent and health of coastal kelp beds.

The discharger shall participate with other ocean dischargers in the San Diego Region in an annual regional kelp bed photographic survey. Kelp beds shall be monitored annually by means of vertical aerial infrared photography to determine the maximum areal extent of the region's coastal kelp beds within the calendar year. Surveys shall be conducted as close as possible to the time when kelp bed canopies cover the greatest area. The entire San Diego Region coastline, from the international boundary to the San Diego Region/ Santa Ana Region boundary, shall be photographed on the same day.

The images produced by the surveys shall be presented in the form of a 1:24,000 scale photo-mosaic of the entire San Diego Region coastline. Onshore reference points, locations of all ocean outfalls and diffusers, and the 30-foot (MLLW) and 60-foot (MLLW) depth contours shall be shown.

The areal extent of the various kelp beds photographed in each survey shall be compared to that noted in surveys of previous years. Any significant losses which persist for more than one year shall be investigated by divers to determine the probable reason for the loss.

I, John H. Robertus, Executive Officer of the San Diego Regional Water Quality Control Board, do hereby certify the foregoing is a full, true, and correct copy of Order No. 99-71 adopted by the California Regional Water Quality Control Board, San Diego Region, on November 10, 1999.



JOHN H. ROBERTUS
Executive Officer

MONITORING AND REPORTING PROGRAM ENDNOTES

1 For samples collected from the various treatment plants which are to be physically composited prior to analysis or for the results of analyses which are to be arithmetically composited, the basis for compositing shall be the rate of discharge from the various plants to the ocean, not the rate of inflow to the various plants.

2 Five days per week except seven days per week for at least one week in July or August of each year.

3 The minimum frequency of monitoring for this constituent shall be automatically increased to twice the minimum frequency specified here if any analysis for this constituent yields a result higher than the effluent limit specified in Order No. 99-71 for this constituent. The increased minimum frequency of monitoring shall remain in effect until the results of a minimum of four consecutive analyses for this constituent are below all effluent limits specified in Order No. 99-71 for this constituent.

4 The minimum frequency of monitoring for this constituent is automatically reduced to annually if the results of twelve consecutive analyses, representing each month of the year, or the results of twenty-four consecutive analyses, representing each quarter of the year, are below the Ocean Plan 6-month median water quality objective for this constituent, or below the laboratory MDL for this constituent in the matrix being analyzed, whichever is higher.

5 The discharger may at its option monitor for total chromium. If the measured total chromium concentration exceeds the hexavalent chromium limitation, it will be assumed that the hexavalent chromium limitation was exceeded unless the results of a hexavalent chromium analysis of a replicate sample indicate otherwise. When analyzing for hexavalent chromium, the appropriate sampling and analytical method must be used (i.e., 24-hour composite cooled to 4° C and analyzed within 24 hours).

6 Monitoring of Total Chlorine Residual is not required on days when none of the treatment facilities that are subject to Order No. 99-71 use chlorine for disinfection. If only one sample is collected for total Chlorine residual analysis on a particular day, that samples must be collected at the time when the concentration of total chlorine residual in the discharge would be expected to be greatest. The times of chlorine discharges on the days the samples are collected, and the time at which samples are collected shall be reported.

7 A screening period for chronic toxicity shall be conducted every other year for three quarters, using a minimum of three test species (one plant, one invertebrate, and one vertebrate) chosen from the list of approved chronic toxicity test protocols specified in the 1997 Ocean Plan. After the screening period, the most sensitive species (i.e. the species exhibiting the lowest NOEL) shall be used for the quarterly testing. Repeat screening periods may be terminated after the first month if the most sensitive species is the same as the species previously found to be most sensitive.

Results for chronic toxicity shall be submitted, electronically, in the TOXIS version 2.4-database format. After one year, the data will be evaluated by regional board staff to determine if a reduction in the minimum monitoring

frequency is appropriate. If the Executive Officer determines that a reduction in the minimum monitoring frequency is appropriate, the minimum monitoring frequency will be specified by the Executive Officer.

⁸ EPA method 8280 shall be used to analyze for TCDD equivalents.

⁹ at the surface.

¹⁰ If the discharger demonstrates to the satisfaction of the Executive Officer, by means of daily analyses, that the concentrations of total and fecal coliform bacteria in the effluent are consistently less than 1,000 per 100 mL, enterococcus monitoring may be suspended. The discharger shall conduct the monitoring as specified unless the Executive Officer provides written authorization to suspend it. If this monitoring is suspended, the discharger shall resume it at the request of the Executive Officer.

¹¹ At surface and mid-depth.

¹² At surface, mid-depth, and bottom.

¹³ ***Sampling techniques will follow those employed by biologist divers of the California State Department of Fish and Game. In sandy areas, a 30 meter band transect, one meter wide, shall be established on the ocean bottom. Operations at each underwater station shall include: (1) Water temperature (may be measured from a boat), estimated visibility and pelagic macrobiota at each 10-foot depth increment throughout the water column and at the bottom recorded; (2) general bottom description recorded; (3) height, period, and crest direction of ripple marks recorded; (4) amount, description, and location of detritus on bottom recorded; (5) representative photographic record of sampled area taken; and (6) within each band, three cores of at least 42.5 cm² in area shall be randomly taken to a depth of 15 cm where possible, (the three cores may be taken from a boat) and the material removed sifted through at least a 1 millimeter mesh screen, and all organisms identified to as low a taxon as possible, enumerated, measured, and reproductive conditions assessed where feasible.