

an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B-607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260-7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS-211044 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention: Docket Number OPPTS-211044.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G-099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260-7093.

3. *Electronically.* You may submit your comments electronically by e-mail to: "oppt.ncic@epa.gov," or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS-211044. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Want To Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of

the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person identified under "FOR FURTHER INFORMATION CONTACT."

E. What Should I Consider as I Prepare My Comments for EPA?

We invite you to provide your views on the relief sought by the petitioners, and any data or information that you would like the Agency to consider in developing its response to the petition. You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What is a TSCA section 21 petition?

Section 21 of TSCA allows citizens to petition EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under TSCA section 4, 6, or 8 or an order under section 5(e) or 6(b)(2). A TSCA section 21 petition must set forth facts which the petitioner believes establish the need for the action requested. EPA is required to grant or deny the petition within 90 days of its receipt. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons for the denial in the **Federal Register**. Within 60 days of denial or no action, petitioners may commence a civil action in a U.S. district court to compel initiation of the requested rulemaking. When reviewing a petition for a new rule, as in this case, the court

must provide an opportunity for *de novo* review of the petition. After hearing the evidence, the court can order EPA to initiate the requested action.

B. What action is requested under this TSCA section 21 petition?

On December 27, 1999, EPA received a TSCA section 21 petition from five organizations. The organizations have petitioned EPA to initiate rulemaking proceedings with respect to all chemicals included on the HPV Challenge Program list as updated through the date of initiation of the requested proceedings for: The issuance of a TSCA section 8(a) PAIR rule and issuance of a Health and Safety Data Reporting rule under TSCA section 8(d). The petitioners further petition that "[s]uch rule should neither be limited to participants in the Challenge Program nor exclude substances or mixtures as to which a participant has enrolled in the Program." Under TSCA section 21, the Agency must respond to the petition by March 28, 2000.

Petitioners' request for rules under TSCA sections 8(a) and 8(d) is based in part upon assertions that rules requiring the submission of existing data provide a better implementation approach for the HPV Challenge Program and TSCA section 4 HPV test rule(s) than the approach currently utilized, namely, voluntary submission of existing data in connection with the HPV Challenge or as comments to the proposed HPV rule(s) under TSCA section 4. EPA has commenced a review of this petition. Comments on the petition may be submitted by any of the methods identified in Unit I.

List of Subjects

Environmental protection.

Dated: January 7, 2000.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6521-8]

Final NPDES General Permit for Discharges From Ready-Mixed Concrete Plants, Concrete Products Plants and Their Associated Facilities in Texas (TXG110000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final issuance of NPDES general permit.

SUMMARY: EPA Region 6 today issues a National Pollutant Discharge Elimination System (NPDES) general permit authorizing discharges of facility waste water and contact storm water from ready-mixed concrete plants, concrete products plants and their associated facilities in Texas. This permit covers facilities having Standard Industrial Classification (SIC) Codes 3273 (manufacture of Ready-Mixed Concrete), 3272 (manufacture of concrete products, except block and brick) and 3271 (manufacture of concrete block and brick). This permit does not authorize the discharge of domestic sewage.

The permit has limits on Oil and Grease, Total Suspended Solids and pH. There is also a requirement of no acute toxicity as determined by requiring greater than 50 % survival in 100 % effluent using a 24 hour acute test. In addition, the permit has limits on arsenic, barium, cadmium, chromium, copper, manganese, mercury, nickel, selenium, silver and zinc as contained in Texas Natural Resource Conservation Commission (TNRCC) Regulations for Hazardous Metals (30 TAC 319, Subchapter B). There is also the requirement to develop and implement a pollution prevention plan for the storm water discharges authorized by this permit.

DATES: The limits and monitoring requirements in this permit shall become effective on February 14, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Evelyn Rosborough, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7515. Copies of the complete response to comments may be obtained from Ms. Rosborough. The complete response to comments and final permit can also be found on the Internet at <http://www.epa.gov/earth1r6/6wq/6wq.htm>.

SUPPLEMENTARY INFORMATION: Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Operators of ready-mixed concrete plants, concrete products plants and their associated facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be

regulated. To determine whether your (facility, company, business, organization, *etc.*) is regulated by this action, you should carefully examine the applicability criteria in Part I, Section A.1 of this permit. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Pursuant to section 402 of the Clean Water Act (CWA), 33 U.S.C. section 1342, EPA proposed and solicited public comment on NPDES General Permit TXG110000 at 63 FR 40279 (July 28, 1998). The comment period closed on September 28, 1998. Region 6 received written comments from Texas Natural Resources Conservation Commission (TNRCC) and Texas Aggregates & Concrete Association.

EPA Region 6 has considered all comments received. In response to the comments, EPA agrees to reduce the monitoring frequency for the 24 hour acute toxicity requirement from twice per year to once per year, and to allow a facility with multiple storm water outfalls discharging substantially identical storm water effluents to collect and analyze an effluent sample for one of those outfalls and report that the data also applies to the other substantially identical outfalls. In addition, the time period for existing dischargers to submit Notices of Intent to be covered by this permit was extended to within 90 days of the permit's effective date. The permit was also updated to reflect that, since TNRCC has now assumed NPDES authority for these types of discharges, Notices of Intent to be covered by this permit and Discharge Monitoring Reports are to be sent to TNRCC instead of EPA. At the request of TNRCC, Discharge Monitoring Report submission requirements were changed from annually to quarterly.

Other Legal Requirements

A. State Certification

Under section 401(a)(1) of the Act, EPA may not issue an NPDES permit until the State in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and State law. The Region has received certification, dated August 27, 1998, from the Texas Natural Resources Conservation Commission for NPDES General Permit TXG110000.

B. Endangered Species Act

EPA has determined that issuance of this general permit is unlikely to adversely affect any threatened or endangered species or its critical

habitat. EPA sought written concurrence from the United States Fish and Wildlife Service on this determination. In a letter dated September 2, 1998, the United States Fish and Wildlife Service concurred with EPA's finding that issuance of this general permit is not likely to adversely affect any federally listed species, provided that two general concerns were addressed in the permit. The first concern was in regard to the 24-hour acute testing requirement. The Service was concerned that the permit language does not specify as to how test organisms, *daphnia pulex* and the fathead minnow, are used in testing. The Service stated that the permit should state that testing of the effluent requires both species and that failure with either species beyond the 50% survival in 100% effluent would constitute failure. The second concern was that the permit should include language that permittees located in counties overlying the San Antonio and Barton Springs portion of the Edwards Aquifer (Kinney, Travis, Williamson, Uvalde, Medina, Bexar, Blanco, Hays, and Comal Counties) must consult the Edwards Aquifer Rules (30 TAC Chapter 213) and its amendments. In response to the Service's concerns, a requirement has been added to the Part I.C of the final permit requiring compliance with 30 TAC 213 (Edwards Aquifer Rules). The requirements for 24-hour acute testing contained in Part I.C and I.F of the permit already address the Service's concern regarding the 24 hour acute testing requirement.

C. Coastal Coordination Act

Pursuant to Section 506.20 of 31 TAC of the Coastal Coordination Act, the Texas Coastal Coordination Council has reviewed the permit for consistency with the Texas Coastal Management Program. The Council has determined that the permit is consistent with the Texas Coastal Management Program goals and policies.

D. Historic Preservation Act

Facilities which adversely affect properties listed or eligible for listing in the National Register of Historical Places are not authorized to discharge under this permit.

E. Economic Impact (Executive Order 12866)

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely

to result in a rule that may have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. EPA has determined that this general permit is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to formal OMB review prior to proposal.

F. Paperwork Reduction Act

The information collection required by this permit has been approved by OMB under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, in submission made for the NPDES permit program and assigned OMB control numbers 2040-0086 (NPDES permit application) and 2040-0004 (discharge monitoring reports).

G. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104-4, generally requires Federal agencies to assess the effects of their "regulatory actions" on State, local, and tribal governments and the private sector. UMRA uses the term "regulatory actions" to refer to regulations. (See, e.g., UMRA section 201, "Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)" (emphasis added)). UMRA section 102 defines "regulation" by reference to section 658 of Title 2 of the U.S. Code, which in turn defines "regulation" and "rule" by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines "rule" as "any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the Administrative Procedure Act (APA)], or any other law * * *".

NPDES general permits are not "rules" under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement

under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide "an opportunity for a hearing." Thus, NPDES general permits are not "rules" for RFA or UMRA purposes.

EPA thinks it is unlikely that this permit issuance would contain a Federal requirement that might result in expenditures of \$100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that the permit issuance would not significantly nor uniquely affect small governments. For UMRA purposes, "small governments" is defined by reference to the definition of "small governmental jurisdiction" under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) "Small governmental jurisdiction" means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

The permit issuance also will not uniquely affect small governments because compliance with the proposed permit conditions affects small governments in the same manner as any other entities seeking coverage under the permit.

H. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that EPA prepare a regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. Compliance with the permit requirements will not result in a significant impact on dischargers, including small businesses, covered by this permit. EPA Region 6 therefore concludes that issuance of this permit will not have a significant impact on a substantial number of small entities.

Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*; the "Act"), this permit authorizes discharges to Waters of the United States of facility waste water and contact storm water from ready-mixed concrete plants, concrete products plants and their associated facilities in Texas. The discharges are authorized in accordance with effluent limitations and other conditions set forth in Parts I and II of this permit.

In order for discharges to be authorized by this permit, operators of facilities discharging waste waters from ready-mixed concrete plants, concrete products plants and their associated facilities must submit written notification to the Regional Administrator that they intend to be covered (See Part I.A.2). For existing discharges, the notification must be submitted no later than 90 days after the effective date of this permit. For new dischargers, the notification must be submitted at least 30 days prior to the beginning of a discharge. Unless otherwise notified in writing by the Regional Administrator after submission of the notification, operators requesting coverage are authorized to discharge under this general permit. Operators who fail to notify the Regional Administrator of intent to be covered are not authorized to discharge under this general permit.

Facilities which adversely affect properties listed or eligible for listing in the National Register of Historic Places are not authorized to discharge under this permit.

This permit shall become effective at midnight, Central Time on February 14, 2000.

This permit and the authorization to discharge shall expire at midnight, Central Time on February 14, 2005.

Signed this 23rd day of December, 1999.

William B. Hathaway,
Director, Water Quality Protection Division,
EPA Region 6.

Part I.

Section A. Permit Applicability and Coverage Conditions

1. Discharges Covered

This permit covers discharges of facility waste water and contact storm water from ready-mixed concrete plants, concrete products plants and their associated facilities in Texas. This permit covers facilities having Standard Industrial Classification (SIC) Codes 3273 (manufacture of Ready-Mixed Concrete), 3272 (manufacture of concrete products, except block and brick) and 3271 (manufacture of concrete block and brick). This permit does not authorize the discharge of domestic sewage.

Ready-mixed concrete plants are facilities, including temporary concrete batch plants, primarily engaged in mixing and delivering ready-mixed concrete as classified by SIC Code 3273.

Concrete products plants are facilities primarily engaged in manufacturing concrete products as classified by SIC Code 3272, and facilities primarily

engaged in manufacturing concrete building blocks and bricks from a combination of cement and aggregate as classified by SIC Code 3271.

Associated facilities are facilities associated with ready-mixed concrete plants or concrete products plants and establishments where maintenance and washing of ready-mix vehicles (both interior and exterior) or equipment occurs.

Contact storm water means storm water which comes in contact with any raw material, product, by-product, co-product, intermediate or waste material.

Domestic sewage means waterborne human or animal waste and waste from domestic activities, such as washing, bathing and food preparation.

Facility waste water means any waste water which is generated at ready-mixed concrete plants, concrete products plants or associated facilities authorized by this permit, but not including domestic sewage.

2. Notice of Intent (NOI) To Be Covered

Dischargers desiring coverage under this general NPDES permit must submit a Notice of Intent (NOI) which shall include the legal name and address of the operator, the location of the

discharge (including the street address, if applicable, and the county of the facility for which the notification is submitted), the name of the receiving water, and a description of the facility(s) (ready-mixed concrete and/or concrete products plant and associated facilities, whether contact storm water is discharged). This NOI must be submitted within 90 days of the effective date of this permit for existing discharges and, for new discharges, at least 30 days before beginning the discharge.

NOI's must be submitted on a form provided by TNRCC. The form may be obtained by telephoning Mr. Charles Eanes at (512) 239-4563, or by writing Mr. Eanes at the following address: Mr. Charles Eanes, MC-148, Texas Natural Resources Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

Upon receipt of the notification, TNRCC will notify the facility of its specific facility identification number that must be used on all correspondence with the Commission.

3. Termination of Operations

When all discharges associated with activities authorized by this permit are

eliminated, or when the operator of the discharge associated with activity at a facility changes, the operator of the facility must submit a Notice of Termination that is signed in accordance with Part II.D.11 of this permit. The Notice of Termination shall include the following information: legal name, mailing address and telephone number of the operator; the facility identification number assigned by the Agency; and the location of the discharge.

Section B. Individual Permits

1. Any operator authorized by this permit may request to be excluded from the coverage under this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Executive Director of TNRCC.

2. When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of the general permit to the permittee is automatically terminated on the effective date of the individual permit.

Section C. General Permit Limits

Parameter	Daily max limit	Sample type	Monitoring frequency
Flow	N/A	Estimate	1/month.
Oil and Grease	15 mg/l	Grab	1/month.
Total Suspended Solids	65 mg/l	Grab	1/month.
pH	6.0-9.0 Std. Units	Grab	1/month.

	Monthly average limit	Daily max limit	Single grab limit
Arsenic(1) .....	.1 mg/l	.2 mg/l	.3 mg/l
Barium(1)	1.0 mg/l	2.0 mg/l	4.0 mg/l
Cadmium(1) (Inland Waters) .....	.05 mg/l	.1 mg/l	.2 mg/l
Cadmium(1) (Tidal Waters) .....	.1 mg/l	.2 mg/l	.3 mg/l
Chromium(1) .....	.5 mg/l	1.0 mg/l	5.0 mg/l
Copper(1) .....	.5 mg/l	1.0 mg/l	2.0 mg/l
Lead(1) .....	.5 mg/l	1.0 mg/l	1.5 mg/l
Manganese(1)	1.0 mg/l	2.0 mg/l	3.0 mg/l
Mercury(1) .....	.005 mg/l	.005 mg/l	.01 mg/l
Nickel(1)	1.0 mg/l	2.0 mg/l	3.0 mg/l
Selenium(1) (Inland Waters) .....	.05 mg/l	.1 mg/l	.2 mg/l
Selenium(1) (Tidal Waters) .....	.1 mg/l	.2 mg/l	.3 mg/l
Silver(1) .....	.05 mg/l	.1 mg/l	.2 mg/l
Zinc(1)	1.0 mg/l	2.0 mg/l	6.0 mg/l

(1) Monitoring frequency shall be a minimum of once per year using grab samples. See Section I.D of this permit.

There shall be no acute toxicity as determined by requiring greater than 50% survival in 100% effluent using a 24 hour acute test. See Section I.F of this permit. Monitoring shall be a minimum of once per year using grab samples. See Section I.D of this permit.

Permittees are prohibited from causing or allowing any activity

pursuant to this permit which would be in violation of Title 30 Texas Administrative Code, Chapter 213 (Edwards Aquifer rules).

Section D. Monitoring at Substantially Identical Storm Water Outfalls

Note: The requirements of this section apply to storm water only outfalls. They

do not apply to outfalls containing facility waste water.

When a facility has two or more storm water outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonable believes discharge

substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40%), medium (40 to 65 %), or high (above 65%)) shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

Section E. Pollution Prevention Plan

A Pollution Prevention Plan shall be prepared and implemented for each facility covered by this permit which discharges contact storm water. The plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of contact storm water discharges from the facility. In addition, the plan shall describe and ensure the implementation of practices that are to be used to reduce the pollutants in contact storm water discharges at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan as a condition of this permit. The plan shall be signed in accordance with Part II of the permit (Signatory Requirements) and be retained onsite at the facility that generates the storm water discharge in accordance with Part II (Retention of Records) of the permit.

The Director, or authorized representative, may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this permit. Such notification shall identify those provisions of the permit that are not being met by the plan, and identify which provisions of the plan requires modifications in order to meet the minimum requirements of this part. Within 30 days of such notification, the permittee shall make the required changes to the plan and shall submit to the Director a written certification that the requested changes have been made.

The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, that has a significant effect on the potential for the discharge of pollutants to waters of the United States or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified in the contents of the plan, or in otherwise achieving the general objectives of controlling pollutants in the contact storm water discharges.

The plan shall include, at a minimum, the following items:

1. **Pollution Prevention Team.** Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

2. **Description of Potential Pollutant Sources.** Each plan shall provide a description of potential sources that may reasonably be expected to add significant amounts of pollutants to storm water discharges or that may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials that may potentially be significant pollutant sources. Each plan shall include, at a minimum:

- a. **Drainage.** (i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part c (Spills and Leaks), below, have occurred, and the locations of the following activities where such activities are exposed to precipitation: Fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas. Facilities shall also identify, on the site map, the location of any: Bag house or other dust control device; recycle/sedimentation pond, clarifier or other device used for

the treatment of process wastewater and the areas that drain to the treatment device. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

- (ii) For each area of the facility that generates contact storm water discharges with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants that are likely to be present in the storm water discharges. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

- b. **Inventory of Exposed Materials.** An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

- c. **Spills and Leaks.** A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

- d. **Sampling Data.** A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

- e. **Risk Identification and Summary of Potential Pollutant Sources.** A narrative description of the potential pollutant sources from the following activities:

Loading and unloading operations, outdoor storage activities, outdoor manufacturing or processing activities, significant dust or particulate generating processes, and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and, for each potential source, any pollutant or pollutant parameter (for example, Total Suspended Solids (TSS), etc.) of concern shall be identified.

3. Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

a. Good Housekeeping. Good housekeeping requires the maintenance of areas that may contribute pollutants to storm water discharges in a clean, orderly manner.

(i) Facilities shall prevent or minimize the discharge of spilled cement, aggregate (including sand or gravel), settled dust or other significant materials in storm water from paved portions of the site that are exposed to storm water. Measures used to minimize the presence of these materials may include regular sweeping, or other equivalent measures. The plan shall indicate the frequency of sweeping or other measures. The frequency shall be determined based upon consideration of the amount of industrial activity occurring in the area and frequency of precipitation, but shall not be less than once per week when cement or aggregate is being handled or otherwise processed in the area.

(ii) Facilities shall prevent the exposure of fine granular solids such as cement to storm water. Where practicable, these materials shall be stored in enclosed silos, hoppers or buildings, in covered areas, or under covering.

b. Preventive Maintenance. A preventive maintenance program shall involve routine inspection and maintenance of storm water management devices (for example, cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate

maintenance of such equipment and systems.

c. Spill Prevention and Response Procedures. Areas where potential spills that can contribute pollutants to storm water discharges can occur, and their accompanying drainage points, shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

d. Inspections. Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility specified in the plan. The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of once per month while the facility is in operation. The inspection shall take place while the facility is in operation and shall at a minimum include all of the following areas that are exposed to storm water at the site: Material handling areas, above ground storage tanks, hoppers or silos, dust collection/containment systems, truck wash down and equipment cleaning areas. Tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

e. Employee Training. Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping, truck wash out procedures, equipment wash down procedures and material management practices. The pollution prevention plan shall identify periodic dates for such training.

f. Record Keeping and Internal Reporting Procedures. A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

g. Sediment and Erosion Control. The plan shall identify areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

h. Management of Runoff. The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those that control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges (see Item 2 of this section—Description of Potential Pollutant Sources) shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices or other equivalent measures.

4. Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. Such evaluations shall provide:

a. Areas contributing to contact storm water discharges, including but not limited to: material handling areas, above ground storage tanks, hoppers or silos, dust collection/containment systems, truck wash down and equipment. Cleaning areas shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures, such as recycle ponds, identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

b. Based on the results of the evaluation, the description of potential

pollutant sources identified in the plan in accordance with Item 2 of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with Item 3 of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

c. A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with Item 4.b, above, shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with signatory requirements of the permit.

d. Where compliance evaluation schedules overlap with inspections required under Item 3.d, above, the compliance evaluation may be conducted in place of one such inspection.

Section F. Whole Effluent Toxicity Testing

24-Hour Acute Testing for Discharges into Fresh Receiving Waters

1. Scope and Methodology

a. The following test species shall be used:

Daphnia pulex and *pimephales promelas* (Fathead minnow) acute static nonrenewal 24-hour toxicity tests. Use "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms" (EPA/600/4-90/027F) or the latest update thereof. A minimum of 5 replicates with 8 organisms per replicate must be used in the control and in each effluent dilution of this test.

b. The permittee shall test the effluent for lethality in accordance with the provisions of this section. Such testing will determine if an effluent sample meets the requirement of greater than 50% survival of the appropriate test organisms in 100% effluent for a 24-hour period.

c. The permittee shall submit the results of these tests on the Discharge Monitoring Report.

d. In addition to an appropriate control (0% effluent), a 100% effluent concentration shall be used in the toxicity tests.

2. Required Toxicity Testing Conditions

a. Control/dilution water—Control and/or dilution water used in the test shall normally consist of a standard, synthetic, moderately hard, reconstituted water of similar pH and alkalinity to the closest downstream perennial water.

b. Control Survival—If more than 10% of the test organisms in any control die within 24 hours, that test including the control and the 100% effluent shall be repeated with all results from both tests reported as required in Item 3, below, of this section.

c. The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied. A repeat test shall be conducted within the required reporting period of any test determined to be invalid, in accordance with Item 2.b of this section.

d. Sample Collection and Preservation—Samples shall be collected at a point following the last treatment unit. One flow-weighted composite sample representative of normal operating flows will be collected from each outfall, and a discrete test will be run on each composite sample. Samples shall be chilled to 4 degrees Centigrade during collection, shipping, and/or storage. The toxicity tests must be initiated within 36 hours after collection of the sample. The composite sample must be collected such that the sample is representative of any periodic episode of chlorination, biocide usage, or other potentially toxic substance discharged on an intermittent basis.

3. Reporting

a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this Part in accordance with the Report Preparation section of EPA/600/4-90/027F for every valid or invalid toxicity test initiated, whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of Part II.C.3 of this permit. The permittee shall submit the information contained in any full report upon the specific request of the Agency.

b. The permittee shall report the following results of each toxicity test on

the DMR in accordance with Part II.D.4 of this permit:

For *pimephales promelas* (Parameter No. TIE6D) and for *daphnia pulex* (Parameter No. TIE3D) enter the following codes on the DMR:

"0" if mean survival at 24 hours is greater than 50% in 100% effluent; "1" if the mean survival at 24 hours is less than or equal to 50% in 100% effluent.

24-Hour Acute Testing for Discharges Into Marine Receiving Waters

1. Scope and Methodology

a. The following test species shall be used:

Mysidopsis bahia (Mysid shrimp) and *menidia beryllina* (Inland Silverside minnow) acute static nonrenewal 24-hour toxicity test. Use "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms" (EPA/600/4-90/027F) or the latest update thereof. A minimum of 5 replicates with 8 organisms per replicate must be used in the control and in each effluent dilution of this test.

b. The permittee shall test the effluent for lethality in accordance with the provisions of this section. Such testing will determine if an effluent sample meets the requirement of greater than 50% survival of the appropriate test organisms in 100% effluent for a 24-hour period.

c. The permittee shall submit the results of these tests on the Discharge Monitoring Report.

d. In addition to an appropriate control (0% effluent), a 100% effluent concentration shall be used in the toxicity tests.

2. Required Toxicity Testing Conditions

a. Control/dilution water—Control and/or dilution water used in the test shall normally consist of a standard, synthetic, reconstituted seawater.

b. Control Survival—If more than 10% of the test organisms in any control die within 24 hours, that test including the control and the 100% effluent shall be repeated with all results from both tests reported as required in Item 3, below, of this section.

c. Repeat Test—the permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied. A repeat test shall be conducted within the required reporting period of any test determined to be invalid, in accordance with Item 2.b of this section.

d. Sample Collection and Preservation—Samples shall be

collected at a point following the last treatment unit. One flow-weighted composite sample representative of normal operating flows will be collected from each outfall, and a discrete test will be run on each composite sample. Samples shall be chilled to 4 degrees Centigrade during collection, shipping, and/or storage. The toxicity tests must be initiated within 36 hours after collection of the sample. The composite sample must be collected such that the sample is representative of any periodic episode of chlorination, biocide usage, or other potentially toxic substance discharged on an intermittent basis.

3. Reporting

a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this Part in accordance with the Report Preparation section of EPA/600/4-90/027F for every valid or invalid toxicity test initiated, whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of Part II.C.3 of this permit. The permittee shall submit the information contained in any full report upon the specific request of the Agency.

b. The permittee shall report the following results of each toxicity test on the DMR in accordance with Part II.D.4 of this permit:

For menidia beryllina (Parameter No. TIE6B) and mysidopsis bahia (Parameter No. TIE3E), enter the following codes on the DMR:

“0” if mean survival at 24 hours is greater than 50% in 100% effluent;

“1” if the mean survival at 24 hours is less than or equal to 50% in 100% effluent.

Part II

Section A. General Conditions

1. Introduction

In accordance with the provisions of 40 CFR Part 122.41, *et. seq.*, this permit incorporates by reference ALL conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the “Act”) as well as ALL applicable regulations.

2. Duty To Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, for terminating coverage under this permit, or for requiring a permittee to apply for and obtain an individual NPDES permit.

3. Toxic Pollutants

a. Notwithstanding Part II.A.4, 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 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.

b. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

4. Permit Flexibility

This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR 122.62-64. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. Property Rights

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

6. 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.

7. Criminal and Civil Liability

Except as provided in permit conditions on “Bypassing” and “Upsets”, nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. 1001.

8. Oil and Hazardous Substance Liability

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

9. State Laws

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

10. Severability

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

B. Proper Operation and Maintenance

1. Need To Halt or Reduce Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators or retention of inadequately treated effluent.

2. Duty To Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. Proper Operation and Maintenance

a. 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 permittee as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will 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 backup 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 this permit.

b. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

4. Bypass of Treatment Facilities

a. 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 Parts II.B.4.b. and 4.c.

b. Notice

(1) 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.

(2) Unanticipated Bypass

The permittee shall, within 24 hours, submit notice of an unanticipated bypass as required in Part II.D.7.

c. Prohibition of Bypass

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

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

(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,

(c) The permittee submitted notices as required by Part II.B.4.b.

(2) The Director may allow an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed at Part II.B.4.c(1).

5. Upset Conditions

a. 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 Part II.B.5.b. 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.

b. Conditions Necessary for a Demonstration of Upset

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

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

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

(3) The permittee submitted notice of the upset as required by Part II.D.7; and,

(4) The permittee complied with any remedial measures required by Part II.B.2.

c. Burden of Proof

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

6. Removed Substances

Unless otherwise authorized, solids, sewage sludges, filter backwash, or other pollutants removed in the course of treatment or waste water control shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

C. Monitoring and Records

1. Inspection and Entry

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

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

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

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment),

practices or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. Representative Sampling

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

3. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 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.

4. Record Contents

Records of monitoring information shall include:

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

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

c. The date(s) and time(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

5. Monitoring Procedures

a. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.

b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurements and shall maintain appropriate records of such activities.

c. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.

D. Reporting Requirements

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:

- a. 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,
- b. 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 listed at part II.D.10.a.

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.

3. Transfers

Coverage under these permits is not transferable to any person except after notice to the Director.

4. Discharge Monitoring Reports and Other Reports

The discharger shall report all analytical results on a Discharge Monitoring Report (DMR) Form (EPA Form 3320-1) in accordance with the "General Instructions" provided on the form. Results of sampling activities shall be submitted to the TNRCC's Enforcement Division (MC-224) on a quarterly basis and should arrive by the 20th day in the months of April, July, October and January. The permittee shall submit the original DMR signed and certified as required by Part II.D.11 and all other reports required by Part II.D. to the TNRCC at the following address: Texas Natural Resources Conservation Commission, Attn: Water Quality Management Information Systems Team, MC-224, P.O. Box 13087, Austin, Texas 78711-3087.

5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report (DMR). Such increased

monitoring frequency shall also be indicated on the DMR.

6. Averaging of Measurements

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

7. Twenty-Four Hour Reporting

a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally to the EPA Region 6 24-hour voice mail box telephone number 214-665-6593 within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain the following information:

- (1) A description of the noncompliance and its cause;
 - (2) 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,
 - (3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.
- b. The following shall be included as information which must be reported within 24 hours:

- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
- (2) Any upset which exceeds any effluent limitation in the permit; and,
- (3) Violation of a maximum daily discharge limitation for any pollutants listed by the Director in Part II of the permit to be reported within 24 hours.

c. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

8. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Parts II.D.4 and D.7 and Part I.C at the time monitoring reports are submitted. The reports shall contain the information listed at Part II.D.7.

9. 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.

10. Changes in Discharges of Toxic Substances

The permittee shall notify the Director as soon as it knows or has reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (1) One hundred micrograms per liter (100 ug/L);
- (2) Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/L) for 2,4-dinitro-phenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
- (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the Director.

b. 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":

- (1) Five hundred micrograms per liter (500 ug/L);
- (2) One milligram per liter (1 mg/L) for antimony;
- (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the Director.

11. Signatory Requirements

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

a. all permit applications shall be signed as follows:

(1) by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(a) 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,

(b) For a Corporation—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.

b. All Reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described above;

(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, or 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 an individual occupying a named position; and,

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

c. Certification

Any person signing a document under this section shall make the following certification:

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

12. Availability of Reports

Except for applications, effluent data, permits, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

E. Penalties for Violations of Permit Conditions

1. Criminal

a. *Negligent Violations.* The Act provides that any person who

negligently violates permit conditions implementing Section 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 of violation, or by imprisonment for not more than 1 year, or both.

b. *Knowing Violations.* The Act provides that any person who knowingly 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 \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

c. *Knowing Endangerment.* The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.

d. *False Statements.* The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309.c.4 of the Clean Water Act)

2. Civil Penalties

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$27,500 per day for each violation.

3. Administrative Penalties

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

a. *Class I Penalty.* Not to exceed \$11,000 per violation nor shall the maximum amount exceed \$27,500.

b. *Class II Penalty.* Not to exceed \$11,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$137,500.

F. Definitions

All definitions contained in Section 502 of the Act shall apply to this permit and are incorporated herein by reference. Unless otherwise specified in this permit, additional definitions of words or phrases used in this permit are as follows:

1. *Act* means the Clean Water Act (33 U.S.C. 1251 et. seq.), as amended.

2. *Administrator* means the

Administrator of the U.S. Environmental Protection Agency.

3. *Applicable effluent standards and limitations* means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards or performance, toxic effluent standards and prohibitions, and pretreatment standards.

4. *Applicable water quality standards* means all water quality standards to which a discharge is subject under the Act.

5. *Associated facilities* means facilities, including temporary concrete batch plants, primarily engaged in mixing and delivering ready-mixed concrete as classified by SIC Code 3273.

6. *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

7. *Concrete products plants* means facilities primarily engaged in manufacturing concrete products as classified by SIC Code 3272, and facilities primarily engaged in manufacturing concrete building blocks and bricks from a combination of cement and aggregate as classified by SIC Code 3271.

8. *Contact storm water* means storm water which comes in contact with any raw material, product, by-product, co-product intermediate or waste material.

9. *Daily max discharge limitation* means the highest allowable "daily discharge" during the calendar month.

10. *Director* means the Executive Director of TNRCC or an authorized representative.

11. *Domestic sewage* means waterborne human or animal waste and waste from domestic activities, such as washing, bathing and food preparation.

12. *Environmental protection agency* means the U.S. Environmental Protection Agency.

13. *Facility* (as defined in 40 CFR 122.2) means any NPDES "point source" or any other facility or activity

that is subject to regulation under the NPDES program.

14. *Facility waste water* means any waste water which is generated at ready-mixed concrete plants, concrete products plants or associated facilities, but not including domestic sewage.

15. *Grab sample* means an individual sample collected in less than 15 minutes.

16. *National pollutant discharge elimination system* means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the Act.

17. *Ready-mixed concrete plants* means facilities, including temporary concrete batch plants, primarily engaged in mixing and delivering ready-mixed concrete as classified by SIC Code 3273.

18. *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.

19. *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.

20. The term "MGD" shall mean million gallons per day.

21. The term "mg/L" shall mean milligrams per liter or parts per million (ppm).

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BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[DA 99-2792]

Public Safety National Coordination Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document advises interested persons of a meeting of the

Public Safety National Coordination Committee ("NCC"), which will be held in San Francisco, California. The Federal Advisory Committee Act, Public Law 92-463, as amended, requires public notice of all meetings of the NCC. This notice advises interested persons of the sixth meeting of the Public Safety National Coordination Committee.

DATES: January 28, 2000 at 1:30 p.m.–5:00 p.m.

ADDRESSES: San Francisco City Hall—The Chambers (Room 250), 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer, Michael J. Wilhelm, (202) 418-0680, e-mail mwilhelm@fcc.gov. Press Contact, Meribeth McCarrick, Wireless Telecommunications Bureau, 202-418-0600, or e-mail mmccarri@fcc.gov.

SUPPLEMENTARY INFORMATION: Following is the complete text of the Public Notice: This Public Notice advises interested persons of the sixth meeting of the Public Safety National Coordination Committee ("NCC"), which will be held in San Francisco, California. The Federal Advisory Committee Act, Public Law 92-463, as amended, requires public notice of all meetings of the NCC.

Date: January 28, 2000.

Meeting Time: General Membership Meeting—1:30 p.m.–5:00 p.m.

Address: San Francisco City Hall—The Chambers (Room 250), 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

The NCC Subcommittees will meet from 8:00 a.m. to 12:00 noon, continuing their meetings from the previous day. The NCC General Membership Meeting will commence at 1:30 p.m. and continue until 5:00 p.m. The agenda for the NCC membership meeting is as follows:

1. Introduction and Welcoming Remarks
2. Administrative Matters
3. Remarks of Invited Speaker (TBA)
4. Report from the Interoperability Subcommittee
5. Report from the Technology Subcommittee
6. Report from the Implementation Subcommittee
7. Public Discussion
8. Other Business
9. Upcoming Meeting Dates and Locations
10. Closing Remarks

The FCC has established the Public Safety National Coordination Committee, pursuant to the provisions of the Federal Advisory Committee Act, to advise the Commission on a variety of issues relating to the use of the 24

MHz of spectrum in the 764–776/794–806 MHz frequency bands (collectively, the 700 MHz band) that has been allocated to public safety services. See The Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010 and Establishment of Rules and Requirements For Priority Access Service, WT Docket No. 96–86, First Report and Order and Third Notice of Proposed Rulemaking, FCC 98–191, 14 FCC Rcd 152 (1998), 63 FR 58645 (11–2–98).

The NCC has an open membership. Previous expressions of interest in membership have been received in response to several Public Notices inviting interested persons to become members and to participate in the NCC's processes. All persons who have previously identified themselves or have been designated as a representative of an organization are deemed members and are invited to attend. All other interested parties are hereby invited to attend and to participate in the NCC processes and its meetings and to become members of the Committee. This policy will ensure balanced participation. Members of the general public may attend the meeting. To attend the sixth meeting of the Public Safety National Coordination Committee, please RSVP to Joy Alford or Bert Weintraub of the Policy and Rules Branch of the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau of the FCC by calling (202) 418-0680, by faxing (202) 418-2643, or by E-mailing at jalford@fcc.gov or bweintra@fcc.gov. Please provide your name, the organization you represent, your phone number, fax number and e-mail address. This RSVP is for the purpose of determining the number of people who will attend this sixth meeting. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. Persons requesting accommodations for hearing disabilities should contact Joy Alford immediately at (202) 418-7233 (TTY). Persons requesting accommodations for other physical disabilities should contact Joy Alford immediately at (202) 418-0694 or via e-mail at jalford@fcc.gov. The public may submit written comments to the NCC's Designated Federal Officer before the meeting.

Additional information about the NCC and NCC-related matters can be found on the NCC website located at: <http://www.fcc.gov/wtb/publicsafety/ncc.html>.