UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

NPDES PERMIT NO. AS0000027

In compliance with the provisions of the Clean Water Act ("CWA") (Public Law 92-500, as amended, 33 U.S.C. 1251 et seq.), the following discharger is authorized to discharge from the identified facility at the outfall location(s) specified below, in accordance with the effluent limits, monitoring requirements, and other conditions set forth in this permit:

Discharger Name	COS Samoa Packing Company, Inc.
Discharger Address	P.O. Box 957
	Pago Pago, Tutuila
	American Samoa 96799
Facility Name	COS Samoa Packing Company, Inc.
Facility Address	Atu'u, Maoputasi
	American Samoa 96799
Facility Rating	Major

Outfall Number	General Type of Waste Discharged	Outfall Latitude	Outfall Longitude	Receiving Water
001	Industrial Wastewater	S 14°16.824'	W 170°40.133'	Pago Pago Harbor

This permit was issued on:	February 28, 2008.
This permit shall become effective on:	April 1, 2008.
This permit shall expire at midnight on:	March 31, 2013.
In accordance with 40 CFR 122.21(d), the discharger shall submit a new application for a permit at least 180 days before the expiration date of this permit, unless permission for a date no later than the permit expiration date has been granted by the Director.	

Signed this 28th day of February, 2008, for the Regional Administrator.

for Alexis Strauss, Director
Water Division

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PART I - EFFLUENT LIMITATIONS

A. During the period beginning on the effective date of this permit and ending on the expiration date of this permit, COS Samoa Packing Company, Inc. (hereinafter, the "permittee") is authorized to discharge industrial wastewater and storm water from its facility from Discharge Outfall Number 001 to Pago Pago Harbor in American Samoa. Such discharge shall be limited and monitored by the permittee as specified in Table 1. The permittee shall maintain compliance with all effluent limitations specified in Table 1 and requirements identified in this permit.

B. Except as authorized in Table 1 of this permit, the discharge shall not cause the following conditions in the receiving water:

1. The discharge shall be substantially free from materials attributable to sewage, industrial wastes, or other activities of man that will produce objectionable color, odor, or taste, either of itself or in combinations, or in the biota;

2. The discharge shall be substantially free from visible floating materials, grease, oil, scum, foam, and other floating material attributable to sewage, industrial wastes, or other activities of man;

3. The discharge shall be substantially free from materials attributable to sewage, industrial wastes, or other activities of man that will produce visible turbidity or settle to form objectionable deposits;

4. The discharge shall be substantially free from substances and conditions or combinations thereof attributable to sewage, industrial wastes, or other activities of man which may be toxic to humans, other animals, plants, and aquatic life or produce undesirable aquatic life;

5. The discharge shall not cause the temperature in the receiving water to deviate more than 1.5 degrees Fahrenheit from conditions which would occur naturally, fluctuate more than 1 degree Fahrenheit on an hourly basis, or exceed 85 degrees Fahrenheit due to the influence of other than natural causes;

6. The discharge shall not cause the concentration of toxic pollutants in the receiving water to exceed aquatic life criteria for marine waters or the human health criteria for consumption of organisms found in EPA 2002, or the more recent version, and section 24.0206 of ASWQS for arsenic and mercury, or outside the zones of mixing established for copper, zinc, mercury, and ammonia;

Table 1 - Proposed effluent limitations and monitoring, monitoring frequency, and sample type for each pollutant or parameter for Discharge Outfall No. 001 for the COS Samoa Packing Company, Inc. facility.

Parameter	Units	Permit Effluent Limitations		Monitoring Requirements	
		Average Monthly	Maximum Daily	Monitoring Frequency	Sample Type
Flow Rate	MGD	--	--	Continuous	Metered
pH	std. units	6.5[1]	8.6[2]	Continuous	Continuous
		The total time during which the pH values are outside the required range of pH shall not exceed 7 hours and 26 minutes in any calendar month; and no individual excursions from the range of pH values shall exceed 60 minutes.			
Temperature	°F	90	95	Continuous	Continuous
Biological Oxygen Demand	mg/l	--	--	Once/Week	24-hr Composite
Total Suspended Solids	lbs/day	2,970	7,470	Once/Week	24-hr Composite
Oil and Grease	lbs/day	756	1,890	Once/Week	Grab
Total Nitrogen	lbs/day	800	1,935	2x/Week[3]	24-hr Composite
Total Phosphorus	lbs/day	208	271	2x/Week	24-hr Composite
Total Ammonia (as N)	mg/l	83.36	167.26	Once/Week	24-hr Composite
	lbs/day	973.31	1,952.93	Once/Week	24-hr Composite
Mercury (total recoverable)	ug/l	1.80	4.72	Semi-annual	24-hr Composite
	lbs/day	0.02	0.06	Semi-annual	24-hr Composite
Copper (total recoverable)	ug/l	58.42	117.22	Semi-annual	24-hr Composite
	lbs/day	0.68	1.37	Semi-annual	24-hr Composite
Zinc (total recoverable)	ug/l	1,138	2,284	Semi-annual	24-hr Composite
	lbs/day	13.29	26.67	Semi-annual	24-hr Composite

[1]Instantaneous Minimum
[2]Instantaneous Maximum
[3]Monitoring frequency based on sampling 2x per week for total nitrogen and total phosphorus means 24-hour composite samples are collected twice on production days only during a 7-day period.

7. The discharge shall not cause the turbidity in the receiving water to exceed 0.75 Nephlometric Units at and beyond the zone of initial dilution;

8. The discharge shall not cause the light penetration depth to be less than 65.0 feet (not to exceed given value 50 percent of the time) at and beyond the zone of initial dilution; and

9. The discharge shall not cause the concentration of dissolved oxygen to be less than 70 percent of saturation or less than 5.0 mg/l at and beyond the zone of initial dilution. If the natural level of dissolved oxygen is less than 5.0 mg/l, the natural level shall become the standard.

C. The discharge shall not cause the following at the boundary of the zone of mixing for mercury:

1. The discharge shall not cause the water column concentration of mercury to exceed 0.05 ug/l.

D. The discharge shall not cause the following at the boundary of the zone of mixing:

1. The discharge shall not cause the total phosphorus concentration to exceed 30.0 ug/l as phosphorus;

2. The discharge shall not cause the total nitrogen concentration to exceed 200.0 ug/l as nitrogen; and

3. The discharge shall not cause the concentration of chlorophyll-*a* to exceed 1.0 ug/l.

PART II - MONITORING AND REPORTING REQUIREMENTS

A. Effluent Monitoring and Reporting

1. Effluent Sampling

a. Samples and measurements taken as required in this permit shall be representative of the volume and nature of the monitored discharge. All effluent samples shall be taken after in-plant return flows and the final treatment process and before mixing with the receiving water. All effluent samples shall be taken during normal operations on production days.

2. Effluent Analysis

a. Effluent monitoring and analyses must be conducted in accordance with EPA test procedures approved under Title 40, Code of Federal Regulations ("CFR"), Part 136, *Guidelines Establishing Test Procedures for the Analysis of Pollutants*

Under the Clean Water Act, as amended. For effluent analyses, the permittee shall utilize a Method Detection Limit ("MDL") or Minimum Level ("ML") that is lower than the effluent limitations described in Table 1 of this permit. If all published MDLs or MLs are higher than the effluent limitations, the permittee shall utilize the test method procedure with the lowest MDL or ML. The permittee shall ensure that the laboratory utilizes a standard calibration where the lowest standard point is equal to or less than the ML. Priority pollutant analysis for metals shall measure "total recoverable metal," except as provided under 40 CFR 122.45(c). Priority pollutant analysis for benzene, ethylbenzene, toluene and xylene shall employ the use of either EPA Methods 602 or 624. Effluent analysis for xylene shall measure "total xylene."

3. Effluent Quality Reporting

   a. For samples collected during the quarterly or semi-annual reporting period, the permittee shall report on the Discharge Monitoring Report ("DMR") the following for each pollutant or parameter:

      i. The maximum value, if the result is greater than or equal to the ML; or

      ii. NODI(Q), if result is greater than or equal to the laboratory's MDL but less than the ML; or

      iii. NODI(B), if result is less than the laboratory's MDL.

   b. For pollutants with effluent limitations expressed in both concentration and mass, the permittee shall report monitoring results on the DMRs in both concentration and mass. To convert concentration to mass, the permittee shall use the following equation:

$$\frac{\text{lbs of pollutants}}{\text{day}} = \text{flow (MGD)} \times \text{concentration (mg/l)} \times 8.34 \frac{\text{lbs/MG}}{\text{mg/l}}$$

   c. As an attachment to each DMR form submitted during the quarterly or semi-annually reporting period, the permittee shall report for all pollutants or parameters with monitoring requirements specified in Table 1 of this permit the following:

      i. The analytical method number or title, preparation and analytical test procedure utilized by the laboratory, published MDL or ML, the laboratory's MDL;

      ii. The standard deviation from the laboratory's MDL study; and

      iii. The number of replicate analyses (*n*) used to compute the laboratory's MDL.

d. In addition to information requirements specified under 40 CFR 122.41(j)(3), records of monitoring information shall include: the laboratory which performed the analyses and any comment, case narrative, or summary of results produced by the laboratory. The records should identify and discuss quality assurance ("QA") and quality control ("QC") analyses performed concurrently during sample analyses and whether project and 40 CFR 136 requirements were met. The summary of results must include information on initial and continuing calibration, surrogate analyses, blanks, duplicates, laboratory control samples, matrix spike and matrix spike duplicate results, and sample receipt condition, holding time, and preservation.

e. All monitoring results shall be submitted in such a format as to allow direct comparison with effluent limitations and requirements in this permit. Monitoring results must be reported on a monthly or semi-annual DMR form. Monthly DMR forms shall be submitted quarterly and by the 15th of the month following the previous quarterly reporting period. For example, the three DMR forms for the reporting period January through March shall be submitted by the 15th of April. Semi-annual DMR forms shall be submitted by the 15th of the month following the semi-annual reporting period, unless otherwise specified by EPA.

   Duplicate signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator of EPA and the Director of ASEPA at the following addresses:

   Regional Administrator
   EPA - Region IX
   Pacific Islands Office, CED-6
   75 Hawthorne Street
   San Francisco, California 94105

   Director
   ASEPA
   P.O. Box PPA
   Pago Pago, American Samoa 96799

4. Quality Assurance

a. The permittee shall develop a Quality Assurance ("QA") Manual for the field collection and laboratory analysis of samples. The purpose of the QA Manual is to assist in planning for the collection and analysis of samples and explaining data anomalies if they occur. The QA Manual shall be prepared and implemented **within 90 days from the effective date of this permit**. At a minimum, the QA Manual shall include the following:

i. Identification of project management and a description of the roles and responsibilities of the participants; purpose of sample collection; matrix to be sampled; the analytes or compounds being measured; applicable technical, regulatory, or program-specific action criteria; personnel qualification requirements for collecting samples;

ii. Description of sample collection procedures; equipment used; the type and number of samples to be collected including QA/QC samples; preservatives and holding times for the samples (see 40 CFR 136.3); and chain of custody procedures;

iii. Identification of the laboratory used to analyze the samples; provisions for any proficiency demonstration that will be required by the laboratory before or after contract award such as passing a performance evaluation sample; analytical method to be used; MDL and ML to be reported; required QC results to be reported (e.g., matrix spike recoveries, duplicate relative percent differences, blank contamination, laboratory control sample recoveries, surrogate spike recoveries, etc.) and acceptance criteria; and corrective actions to be taken in response to problems identified during QC checks; and

iv. Discussion of how the permittee will perform data review and reporting of results to EPA and ASEPA and how the permittee will resolve data quality issues and identify limits on the use of data.

b. Throughout all field collection and laboratory analyses of samples, the permittee shall use the QA/QC procedures documented in their QA Manual. If samples are tested by a contract laboratory, the permittee shall ensure that the laboratory has a QA Manual on file. A copy of the permittee's QA Manual shall be retained on the permittee's premises and available for review by EPA or ASEPA upon request. The permittee shall review its QA Manual annually and revise it, as appropriate.

B. Priority Toxic Pollutants Scan

1. In accordance with federal regulations, the permittee shall conduct a Priority Toxics Pollutants scan during the fourth or fifth year of the five-year permit term to ensure that the discharge does not contain toxic pollutants in concentrations that may cause a violation of water quality standards. The permittee shall perform all effluent sampling and analyses for the priority pollutants scan in accordance with the methods described in the most recent edition of 40 CFR 136, unless otherwise specified by EPA. 40 CFR 131.36 provides a complete list of Priority Toxic Pollutants.

C. Outfall Monitoring and Reporting

1. The permittee, in coordination with StarKist Samoa, Inc., shall conduct outfall monitoring to evaluate the condition of the Joint Cannery Outfall. During the permit period the outfall must be inspected along its entire length, from, and including, the discharge connection at the pump(s) for each of COS Samoa Packing Company Inc. and StarKist Samoa, Inc. facilities, to the junction of the COS Samoa Packing Company Inc. and StarKist Samoa, Inc. discharge lines, and from the junction of the lines to the diffuser cap at the termination of the outfall.

   The inspection shall include complete video recording of all submerged piping, anchors, fastening hardware, cathodic protection, diffuser ports, and diffuser end cap. The video recording shall include an audio portion that describes in detail the video captured. Where piping is located above the water surface still photographs shall be acceptable.

   All circumstances that may possibly threaten the integrity of the outfall, and which may impede its normal operation and function, in the present or future, such as deteriorated hardware and fasteners, anchoring, pipe alignment, or the presence of debris, shall be specifically highlighted in the inspection report. **The permittee shall submit results of the outfall monitoring to EPA and ASEP no later than 90 days after the monitoring event,** unless otherwise specified by EPA.

D. Twenty-four Hour Reporting of Noncompliance

1. In accordance with 40 CFR 122.41(l)(6), the permittee shall report any noncompliance which may endanger human health or the environment. An example of noncompliance is an exceedance of a monthly average effluent limitation. Any information shall be provided orally, within 24 hours from the time the permittee becomes aware of the circumstances, to EPA and ASEPA.

   The permittee shall notify EPA and ASEPA at the following telephone numbers:

   Pacific Islands Office, CED-6
   EPA - Region IX
   (415) 972-3769

   Director
   ASEPA
   (684) 633-2304

   A written submission shall also be provided within five 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 that the noncompliance is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

PART III - REOPENER PROVISIONS

A. In accordance with 40 CFR 122 and 124, this permit may be modified by EPA to include effluent limits, monitoring, or other conditions to implement new regulations, including EPA-approved water quality standards; or to address new information indicating the presence of effluent toxicity or the reasonable potential for the discharge to cause or contribute to exceedances of water quality standards.

B. In accordance with 40 CFR and Parts 122 and 124, this permit may be modified to include effluent limitations or permit conditions to address chronic toxicity in the effluent or receiving water body, as a result of the discharge; or implement new, revised, or newly interpreted water quality standards applicable to chronic toxicity.

PART IV - STANDARD CONDITIONS

A. The permittee shall comply with all Standard Conditions included as an attachment to this permit.

PART V - SPECIAL CONDITIONS

A. Best Management Practices and Pollution Prevention

1. Pollution Prevention Program

a. The permittee is required to develop and implement appropriate pollution prevention measures or Best Management Practices ("BMPs") designed to control site runoff, spillage or leaks, sludge or waste disposal, and drainage from fish processing areas that may contribute significant amounts of such pollutants to surface waters **within 90 days from the effective date of this permit** (section 304(e) of the CWA and 40 CFR 122.44(k)). BMPs shall include but are not limited to than those necessary to control total suspended solids and oil and grease. Through the implementation of BMPs described in a BMP Plan, the permittee shall prevent or minimize the generation and discharge of wastes and pollutants from the facility to waters of the United States. The BMP plan shall be located at the facility and be made available upon request by EPA and/or ASEPA. Table 2 provides a summary of deadlines and activities, such as the development and implementation of a BMP plan, required in Special Conditions in this permit.

2. Pollutant Minimization Plan

a. The permittee shall develop and implement a Pollutant Minimization Plan. The permittee shall submit a Pollutant Minimization Plan workplan to EPA and ASEPA **no later than one year after the effective date of the permit** on how it will assess the sources of pollutants in different waste streams. Based on results of implementing the workplan, the permittee shall develop a Pollutant Minimization Plan. **The Pollutant Minimization Plan shall be submitted by the end of the third year of the five-year permit cycle**, unless otherwise specified by EPA. For the purposes of the Pollutant Minimization Plan, pollutants include, but are not limited to, copper, zinc, and mercury. Copper, zinc, and mercury have been observed in the effluent at high concentrations due to routine cannery operations. Although mixing zones for these pollutants have been approved by American Samoa EQC, the permittee shall make every effort to identify the sources of these pollutants within the facility and develop a plan to minimize their entry into the facility's wastewater and subsequent discharge to the receiving water. The goal of the Pollutant Minimization Plan shall be to achieve as soon as practicable for the discharge to meet water quality standards copper, zinc, and mercury with a minimally sized mixing zone. **The permittee shall implement the Pollutant Minimization Plan in the fourth and fifth year of the five-year permit cycle.** Table 2 provides a summary of deadlines and activities, such as the development and implementation of a Pollutant Minimization Plan, required in Special Conditions in this permit.

B. Receiving Water Monitoring Program

1. Receiving Water Monitoring

a. The permittee shall conduct **semi-annual** receiving water monitoring that corresponds to tradewind and non-tradewind seasons. The permittee shall monitor at the following previously established receiving water monitoring locations pollutants or parameters at three depths, i.e., surface, mid-depth and bottom depth.

i. **Reference site**, Station 5, for monitoring of background concentrations for total phosphorus, total nitrogen, zinc, copper, mercury, and total ammonia;

ii. **End of the Pipe**, Station 14, for monitoring of zinc, copper, total mercury, total ammonia to evaluate mixing zones within the zone of initial dilution;

iii. **Zone of initial dilution**, Stations 8 and 8A, for monitoring of zinc, copper, total mercury, and total ammonia to evaluate their respective mixing zones that were authorized for this permit term; Stations 8 and 8A are located at the boundary of the zone of initial dilution;

iv. **Zone of mixing**, Station 16, for monitoring of total phosphorus, total nitrogen, and light penetration to evaluate the size of the mixing zone for nutrients that

was authorized for this permit term and to determine compliance with narrative WQBELs; Station 16 is located at the boundary of the zone of mixing;

v. **All stations** at the zone of initial dilution and zone of mixing for monitoring of visible floating materials, grease, oil, scum or foam; and

vi. **All stations** at the zone of initial dilution, zone of mixing, and reference site the measurement of vertical profiles of temperature, salinity, and dissolved oxygen, and light penetration at 65 feet to determine compliance with narrative WQBELs and/or ASWQS, and for future initial dilution and mixing zone re-analyses if determined necessary by EPA and ASEPA.

2. Receiving Water Monitoring Reporting

a. Semi-annual receiving water monitoring results shall be submitted to EPA and ASEPA prior to the subsequent semi-annual receiving water monitoring event, unless otherwise specified by EPA. For example, if surface water samples were collected during the non-tradewind season in March, and tradewind sampling is scheduled for October, results shall be submitted to EPA and ASEPA prior to the October sampling event.

b. Table 2 provides a summary of deadlines and activities, such as implementation of a Receiving Water Monitoring Program, required in Special Conditions in this permit.

C. Nutrient Loading and Assimilative Capacity Assessment

1. Nutrient Assessment

a. The permittee, in coordination with StarKist Samoa, Inc., shall conduct an assessment of nutrient levels in the combined cannery effluent following initial mixing with the receiving water, under critical conditions, and subsequent dilution (i.e., farfield dilution). The purpose of the assessment is to determine whether the existing mass-based effluent limitations for nutrients are indeed set at the upper bounds of acceptable performance or the waste load allocation.

b. The permittee, in coordination with StarKist Samoa, Inc., shall prepare and submit **no later than one year from the effective date of the permit, unless otherwise specified by EPA,** a Nutrient Loading and Assimilative Capacity Assessment workplan to EPA and ASEPA for review that describes the steps that will be taken to assess nutrients in the combined effluents discharges and the dilution required to meet water quality standards. At a minimum, the workplan (no more than five pages) shall include the following:

i. Description of the method(s) used to determine existing mass-based effluent limitations;
ii. Description of the water quality models to be used to assess nutrients in the discharge; and
iii. A list of the projected outputs (e.g., dilution factors) from the models.

2. Nutrient Assessment Reporting

a. The permittee, in coordination with StarKist Samoa, Inc., shall submit a final report on the nutrient assessment to EPA and ASEPA **no later then the end of the third year of the five year permit term, unless otherwise specified by EPA**. At a minimum, the final report shall include the following:

i. Dilution calculations;
ii. Waste load allocation estimates (in concentration);
iii. Summary of model inputs and outputs (e.g., ambient and effluent data, flow); and
iv. Evaluation of the existing size of the mixing zone for nutrients based on modeling results.

b. Table 2 provides a summary of deadlines and activities, such as implementation of a Nutrient Loading and Assimilative Capacity Assessment, required in Special Conditions in this permit.

D. Chronic Toxicity Special Study

1. Chronic Toxicity Testing and Range-Finding Tests

a. The permittee, in coordination with StarKist Samoa, Inc., shall conduct a special study to evaluate chronic toxicity levels of the combined cannery effluent following initial mixing with the receiving water, under critical conditions, and subsequent dilution.

b. The permittee, in coordination with StarKist Samoa, Inc., shall conduct **semi-annual** chronic toxicity testing using combined flow-weighted 24-hour composite effluent samples from its facility and the StarKist Samoa, Inc., facility. The purposes of the study are to determine the following:

i. Levels of chronic toxicity in the discharge;
ii. The appropriate seawater-to-effluent dilution ratio where the threshold for chronic toxicity is observed using a range finding testing procedures; and
iii. Effluent triggers or limits.

Table 2 - Summary of Schedule of Activities Pursuant to Special Conditions of this Permit.

Timeframe/Deadline	**Activity**
Upon Effective Date of Permit	Implement Receiving Water Monitoring Program
Implement within 90 days from Effective Date of Permit	Implement Pollution Prevention Program Submit Initial Investigation TRE Workplan (1-2 pages)
No Later than 180 Days from Effective Date of Permit	Submit Workplan for Chronic Toxicity Testing Special Study
No Later than One Year from Effective Date of Permit	Submit Workplan for Pollutant Minimization Plan Submit Workplan for Nutrient Loading and Assimilative Capacity Assessment
Years 1 - 3	Perform Semi-Annual Chronic Toxicity Bioassays using Range-Finding Tests
No Later than End of the Third Year from Effective Date of Permit	Submit Pollutant Minimization Plan Submit Final Report on Nutrient Loading and Assimilative Capacity Assessment
No Later than 90 days after Final Range-Finding Test	Final Report on Results of Semi-Annual Chronic Toxicity Bioassays using Range-Finding Tests (includes Chronic IWC value)
Years 4 - 5	Implement Pollutant Minimization Plan Perform Semi-Annual Chronic Toxicity Bioassays using Chronic IWC Based on Range-Finding Tests

c. The permittee, in coordination with StarKist Samoa, Inc., shall prepare and submit **no later than 180 days from the effective date of the permit** a Chronic Toxicity Special Study workplan to EPA and ASEPA for review and approval that describes the steps to assess chronic toxicity in the combined effluents discharge. **At a minimum**, the workplan (no more than five pages) shall include a description of the procedures to determine the range of test concentrations and chronic toxicity, and who will be conducting the toxicity tests.

Company, Inc. facility (i.e., downstream from the last treatment process and any in-plant return flows where a representative effluent sample can be obtained).

e. The permittee shall conduct a static non-renewal toxicity test with the purple sea urchin, *Strongylocentrotus purpuratus*, or sand dollar, *Dendraster excentricus* (Embryo-larval Development Test Method). Species and short-term test methods for estimating the chronic toxicity of NPDES effluents are found in the first edition of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA 1995).

f. **There <u>are no</u> chronic toxicity effluent limitations for the combined effluent. For years one through three of the five-year permit term**, the permittee, in coordination with StarKist Samoa, Inc., shall conduct **range-finding tests** to establish test solution concentrations, or the chronic toxicity in-stream waste concentration ("IWC") that includes the appropriate dilution factor, for definitive tests or routine chronic toxicity bioassays to be conducted in years four and five of the permit term. The range of concentrations just causing a chronic effect shall be determined in a range-finding test to provide information on the range of concentrations to be used in the routine chronic toxicity bioassays.

g. The permittee shall perform semi-annual range-finding tests on a series of at least five effluent dilutions and proper controls. At completion of the range-finding tests, the permittee, in coordination with StarKist Samoa, Inc., shall prepare and submit **no later than 90 days from the final semi-annual range-finding test** a final report to EPA and ASEPA for review that describes the results of the range-finding tests. At a minimum, the final report shall include the following:

   i. The levels of chronic toxicity in the discharge (e.g., the lowest observed effective concentration or LOEC);
   ii. The appropriate seawater-to-effluent dilution ratio where the threshold for chronic toxicity is observed using a range finding testing procedures;
   iii. NOEC and EC_{25} (or IC_{25}) data and all data used to calculate it (include all statistical methods and concentration-response curves);
   iv. The dilution series to be used in routine chronic toxicity bioassays in years four and five of the five-year permit term (the dilution series shall include the combined discharge IWC and two dilutions above and below this IWC); and
   v. Effluent triggers based on the calculated IWC to assess chronic toxicity of the combined effluents.

h. As part of the chronic toxicity special study, **in years four and five of the five-year permit term,** the permittee, in coordination with StarKist Samoa, Inc, shall conduct routine semi-annual chronic toxicity testing using the chronic toxicity IWC that was determined from the range-finding tests. The results of the range-finding tests shall be used to select at least five concentrations that include and

bracket the IWC. Tests using this series of concentrations should allow the NOEC and EC_{25} (or IC_{25}) values and their confidence limits to be estimated as precisely as possible.

i. Table 2 provides a summary of deadlines and activities, such as conducting a Chronic Toxicity Special Study, required in Special Conditions in this permit

2. Quality Assurance for Chronic Toxicity

a. Quality assurance measures, instructions, and other recommendations and requirements are found in the first edition of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA 1995).

b. Effluent dilution water and control water should be prepared and used as specified in the test methods manual *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA 1995). If the dilution water is different from test organism culture water, then a second control using culture water shall also be used. If the use of artificial sea salts is considered provisional in the test method, then artificial sea salts shall not be used to increase the salinity of the effluent sample prior to toxicity testing without written approval by the permitting authority.

c. If organisms are not cultured in-house, concurrent testing with a reference toxicant shall be conducted. Where organisms are cultured in-house, monthly reference toxicant testing is sufficient. Reference toxicant tests and effluent toxicity tests shall be conducted using the same test conditions (e.g., same test duration, etc.).

d. If either the reference toxicant or effluent toxicity tests do not meet all test acceptability criteria in the test methods manual, the permittee must re-sample and re-test within 14 days of receiving the test results from the laboratory.

e. Because this permit requires sublethal hypothesis testing endpoints from test methods in *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA 1995), with-in test variability must be reviewed for acceptability and variability criteria (upper percent MSD bound) must be applied, as directed under each test methods. Based on this review, only accepted effluent toxicity test results shall be reported on the DMR form.

f. When effluent monitoring frequencies for whole effluent toxicity and priority pollutants are concurrent, the permittee shall perform chemical analyses for priority pollutants on a split sample collected for whole effluent toxicity testing.

3. Reporting of Chronic Toxicity Special Study Results

   a. A full laboratory report for all toxicity testing shall be submitted as an attachment to the DMR for the semi-annual period in which the toxicity test was conducted and shall also include: the toxicity test results - in **NOEC; $TU_c = 100 \div NOEC$; EC_{25} (or IC_{25}); and $TU_c = 100 \div EC_{25}$ (or IC_{25})** - reported according to the test methods manual chapter on report preparation and test review; the dates of sample collection and initiation of each toxicity test; all results for effluent parameters monitored concurrently with the toxicity test(s); and progress reports on TRE/TIE investigations. NOEC is the highest concentration of toxicant which organisms are exposed in a short-term chronic test that causes no observable adverse effects on the test organisms (e.g., the highest concentration of toxicant in which the values for the observed responses are not statistically significantly different from the controls). The permit requires additional toxicity testing if a chronic toxicity monitoring trigger is exceeded.

   b. The permittee shall notify the permitting authority in writing within 14 days of exceedance of a chronic toxicity monitoring trigger. This notification shall describe actions the permittee has taken or will take to investigate, identify, and correct the causes of toxicity; the status of actions required by this permit; and schedule for actions not yet completed; or reason(s) that no action has been taken.

4. TRE Workplan for Chronic Toxicity

   a. **No later than 90 days after the effective date of the permit**, the permittee shall prepare and submit a copy of a TRE Workplan (1-2 pages) specific to chronic toxicity to EPA and ASEPA for review. This plan shall include steps the permittee intends to follow if toxicity is measured above chronic toxicity monitoring triggers and should include, at a minimum the following:

      i. A description of the investigation and evaluation techniques that would be used to identify potential causes and sources of chronic toxicity, effluent variability, and treatment system efficiency;

      ii. A description of methods for maximizing in-house treatment system efficiency, good housekeeping practices, and a list of all chemicals used in operations at the facility; and

      iii. If a Toxicity Identification Evaluation ("TIE") is necessary, an indication of who would conduct the TIE (i.e., an in-house expert or outside contractor).

5. Accelerated Toxicity Testing and TRE/TIE Process for Chronic Toxicity

   a. **If during range finding testing in years one through three, one test result is found to be greater than 256 TU_c (during the semi-annual reporting period)**

or a NOEC of 0.390 percent effluent (which is based on a maximum allowable dilution of 313:1 estimated at the ZID), the permittee is required to perform accelerated toxicity testing.

b. If during routine semi-annual chronic toxicity testing, a chronic toxicity monitoring trigger based on the IWC is exceeded and the **source of toxicity is known** (e.g., a temporary plant upset), then the permittee shall conduct **one additional toxicity test** using the same species and test method. This test shall begin within 14 days of receipt of test results exceeding a chronic toxicity monitoring trigger. If the additional toxicity test does not exceed a chronic toxicity monitoring trigger, then the permittee may return to their regular testing frequency.

c. If during routine semi-annual chronic toxicity testing, a chronic toxicity monitoring trigger is exceeded and the **source of toxicity is not known**, then the permittee shall conduct **six additional toxicity tests** using the same species and test method, approximately every two weeks, over a 12 week period. This testing shall begin within 14 days of receipt of test results exceeding the chronic toxicity monitoring trigger. If none of the additional toxicity tests exceed a chronic toxicity monitoring trigger then the permittee may return to their regular testing frequency.

d. If additional toxicity tests (as stated paragraphs 5a, 5b and 5c above) exceeds a chronic toxicity monitoring trigger, then, within 14 days of receipt of this test result, the permittee shall implements its TRE Workplan (as described in Part 4 of this section) using the same species and test method and, as guidance, EPA manual EPA manual *Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations* (EPA 1989).

e. The permittee may initiate a TIE as part of a TRE to identify the causes of chronic toxicity, using as guidance the following EPA manuals: *Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I* (EPA 1992); *Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA 1993a); *Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA 1993b); and *Marine Toxicity Identification Evaluation (TIE): Phase I Guidance Document* (EPA 1996).

PART VI - DEFINITIONS

24-hr Composite. A "composite" sample means a time-proportioned mixture of not less than eight discrete aliquots obtained at equal time intervals (e.g., 24-hour composite means a minimum of eight samples collected every three hours). The volume of each aliquot shall be directly proportional to the discharge flow rate at the time of sampling, but not less than 100 ml. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3, Table II. Where collection, preservation, and handling procedures are not outlined in 40 CFR 136.3, procedures outlined in the 18th edition of *Standard Methods for the Examination of Water and Wastewater* shall be used.

Average Monthly Effluent Limitation ("AML"). The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Best Management Practices ("BMPs"). Best Management Practices" or "BMPs" are schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural, and/or managerial practices to prevent or reduce the pollution of waters of the U.S. BMPs include treatment systems, operating procedures, and practices to control: plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs may further be characterized as operational, source control, erosion and sediment control, and treatment BMPs.

Chronic Toxicity. The degree to which a pollutant, discharge, or water sample causes a sublethal toxic response, such as an alteration in growth rate or reproduction.

Chronic Toxic Unit (TU_c). The reciprocal of the highest tested concentration of an effluent or test sample whose effect is not statistically different from the control determined in a chronic toxicity test (i.e., $TU_c = 100 \div NOEC$).

Daily Discharge. A "daily discharge" means the "discharge of a pollutant" measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

Discharge Monitoring Report ("DMR"). A NPDES form for the reporting of self-monitoring NDPES results by the permittee.

Grab Sample. A single individual sample collected at a particular time and place that represents the composition of the discharge only at that time and place. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3, Table II. Where collection, preservation, and handling procedures are not outlined in 40 CFR 136.3,

procedures outlined in the 18th edition of *Standard Methods for the Examination of Water and Wastewater* shall be used.

Maximum Daily Effluent Limitation ("MDL"). The highest allowable daily discharge of a pollutant or parameter, over a calendar day or 24-hr period. For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day.

Method Detection Limit ("MDL"). The minimum concentration of an analyte that can be detected with 99 percent confidence that the analyte concentration is greater than zero, as defined by a specific laboratory method in 40 CFR 136. The procedure for determination of a laboratory MDL is in 40 CFR 136, Appendix B.

Minimum Level ("ML"). The concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed in a specific analytical procedure, assuming that all the method-specific sample weights, volumes, and processing steps have been followed (as defined in EPA's draft *National Guidance for the Permitting, Monitoring, and Enforcement of Water Quality-Based Effluent Limitations Set Below Analytical Detection/Quantitative Levels*, March 22, 1994). If a published method-specific ML is not available, then an interim ML shall be calculated. The interim ML is equal to 3.18 times the published method-specific MDL rounded to the nearest multiple of 1, 2, 5, 10, 20, 50, etc. (When neither an ML nor MDL are available under 40 CFR 136, an interim ML should be calculated by multiplying the best estimate of detection by a factor of 3.18; when a range of detection is given, the lower end value of the range of detection should be used to calculate the

ML.) At this point in the calculation, a different procedure is used for metals, than non-metals:

- For metals, due to laboratory calibration practices, calculated MLs may be rounded to the nearest whole number; and

- For non-metals, because analytical instruments are generally calibrated using the ML as the lowest calibration standard, the calculated ML is then rounded to the nearest multiple of (1, 2, or 5) x 10^n, where n is zero or an integer. (For example, if an MDL is 2.5 ug/l, then the calculated ML is: 2.5 ug/l x 3.18 = 7.95 ug/l. The multiple of (1, 2, or 5) x 10^n nearest to 7.95 is 1 x 10^1 = 10 ug/l, so the calculated ML, rounded to the nearest whole number, is 10 ug/l.).

NODI(B). The concentration of the pollutant in a sample is not detected. NODI(B) is reported on a DMR when a sample result is less than the laboratory's MDL.

NODI(Q). The concentration of the pollutant in a sample is detected but not quantified. NODI(Q) is reported on a DMR when a sample result is greater than or equal to the laboratory's MDL, but less than the ML.

No Observed Effect Concentration ("NOEC"). The highest tested concentration of an effluent or test sample whose effect is not statistically different from the control.

Toxicity Identification Evaluation ("TIE"). A set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organisms toxicity tests.

Toxicity Reduction Evaluation ("TRE"). A study conducted in a step-wise process designed to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity. The first steps of the TRE consist of the collection of data relevant to the toxicity, including additional toxicity testing, and an evaluation of facility operations and maintenance practices, and best management practices. A Toxicity Identification Evaluation ("TIE") may be required as part of the TRE, if appropriate.

Whole Effluent Toxicity ("WET"). The aggregate toxic effect of an effluent measured directly with a toxicity test.

Zone of Initial Dilution ("ZID"). By definition within American Samoa water quality standards, it is the area of a plume where dilution is achieved due to the combined effects of momentum and buoyancy of the effluent discharged from an orifice. This is also often referred as the region of initial mixing surround or adjacent to the end of the outfall pipe or diffuser port. For the purposes of this permit, the ZID represents a seawater-to-effluent dilution ratio of 313:1 based on critical initial dilution.

Zone of Mixing ("ZOM"). A defined portion of a water body receiving water around a point source within which specific modifications of applicable water quality standards are approved by American Samoa Environmental Quality Council.

PART VII - REFERENCES

EPA. 1989. Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations. Fava, J. A., Lindsay, D., Clement, W. H., Clark, R., and DeGraeve, G. M. Chemicals and Chemical Product Branch, Risk Reduction Engineering Laboratory, EPA. EPA/600/2-88/070.

EPA. 1992. Toxicity Identification Evaluations: Characterization of Chronically Toxic Effluents, Phase I. Office of Research and Development, Environmental Research Laboratory, EPA. EPA/600/6-91/005F.

EPA. 1993a. Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity. Office of Research and Development, EPA. EPA/600/R-92/080.

EPA 1993b. Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity. Office of Research and Development, EPA. EPA/600/R-92/081.

EPA. 1995. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms. Chapman, G. A., Denton, D. L., and Lazorchak, J. M. National Exposure Research Laboratory, Office of Research and Development, EPA. EPA/600/R-95/136.

EPA. 1996. Marine Toxicity Identification Evaluation (TIE): Phase I Guidance Document. Burgess, R. M., Ho, K. T., Morrison, G. E., Chapman, G. and Denton, D. L. National Health and Environmental Effects Laboratory, Atlantic Ecology Division, EPA, Narragansett, RI. EPA/600/R-96/054.

EPA. 2002. National Recommended Water Quality Criteria. Office of Water, EPA. EPA/822/R-02/047.

PART VIII - ATTACHMENT

ATTACHMENT A

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

CWA STANDARDS AND PERMITS OFFICE (WTR-5)

STANDARD FEDERAL NPDES PERMIT CONDITIONS

Updated as of June 3, 2002

Reference: CFR 40 Parts 100 to 135, July 1, 2001

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1. DUTY TO REAPPLY [40 CFR 122.21 (d)]

The permittee shall submit a new application 180 days before the existing permit expires. 122.2(c)(2)

POTW's with currently effective NPDES permits shall submit with the next application the sludge information listed at 40 CFR 501.15(a)(2).

2. APPLICATIONS [40 CFR 122.22]

All permit applications shall be signed as follows:

(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, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(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 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).

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:

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

(2) The authorization specifies either an individual or 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 Director.

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.

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

(1) 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.

3 . DUTY TO COMPLY [40 CFR 122.41(a)]

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.

(1) The permittee 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 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.

(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 sections 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, 303, 306, 307, 308, 318, or 405 of the Act, or any permit condition of limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at the 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.

(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.

4. **NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE [40 CFR 122.41(c)]**

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.

5. **DUTY TO MITIGATE [40 CFR 122.41(d)]**

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.

6. **PROPER OPERATION AND MAINTENANCE [40 CFR 122.41(e)]**

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 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 the permit.

7. **PERMIT ACTIONS [40 CFR 122.41(f)]**

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.

8. **PROPERTY RIGHTS [40 CFR 122.41(g)]**

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

9. **DUTY TO PROVIDE INFORMATION [40 CFR 122.41(h)]**

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.

10. INSPECTION AND ENTRY [40 CFR 122.41(i)]

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:

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

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

(3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

11. MONITORING AND RECORDS [40 CFR 122.41(j)]

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

(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.

(3) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;
(ii) The individual(s) who performed the sampling or measurements;
(iii) The date(s) analyses were performed;
(iv) The individual(s) who performed the analyses;
(v) The analytical techniques or methods used; and
(vi) The results of such analyses.

(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.

(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.

12. **SIGNATORY REQUIREMENT [40 CFR 122.41(k)]**

(1) All applications, reports, or information submitted to the Director shall be signed and certified. [See 40 CFR 122.22]

(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.

13. **REPORT REQUIREMENTS [40 CFR 122.41(l)]**

(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:

(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 Sec. 122.29(b); or
(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 Sec. 122.42(a)(1).
(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;

(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. 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 Sec. 122.61; in some cases, modification or revocation and reissuance is mandatory.)

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

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

(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.

(6) Twenty-four hour reporting.

(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.
(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.
(a) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See Sec. 122.41(g).)
(b) Any upset which exceeds any effluent limitation in the permit.
(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 Sec. 122.44(g).)
(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.

(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.

(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.

14. **BYPASS [40 CFR 122.41(m)]**

(1) Definitions.

(i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities 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.

(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.

(3) Notice.

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (l)(6) of this section (24-hour notice).

(4) Prohibition of bypass.

(i) 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 under paragraph (m) (3) of this section.
(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.

15. **UPSET [40 CFR 12241(n)]**

(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.

(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.

(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:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;
(ii) The permitted facility was at the time being properly operated; and
(iii) The permittee submitted notice of the upset as required in paragraph (1)(6)(ii)(b) of this section (24 hour notice).
(iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

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

16. **EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS [40 CFR 122.42(a)]**

In addition to the reporting requirements under Sec. 122.41(1), all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director 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":

(i) One hundred micrograms per liter (100 μg/l);
(ii) Two hundred micrograms per liter (200 μg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 μg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Sec. 122.21(g) (7); or

(iv) The level established by the Director in accordance with Sec. 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":

(i) Five hundred micrograms per liter (500 μg/l);
(ii) One milligram per liter (1 mg/l) for antimony;
(iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Sec. 122.21(g)(7).
(iv) The level established by the Director in accordance with Sec. 122.44(f).

17. PUBLICLY OWNED TREATMENT WORKS [40 CFR 122.42(b)]

This section applies only to publicly owned treatment works (POTWs) as defined at 40 CFR 122.22.

All POTWs must provide adequate notice to the Director 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 CWA if it were directly discharging those pollutants; and

(2) 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.

(3) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

[The following condition has been established by Region IX to enforce applicable requirements of the Resource Conservation and Recovery Act] Publicly owned treatment works may not receive hazardous waste by truck, rail, or dedicated pipe except as provided under 40 CFR 270. Hazardous wastes are defined at 40 CFR 261.31 - 261.33. The Domestic Sewage Exclusion (40 CFR 261.4) applies only to wastes mixed with domestic sewage in a sewer leading to a publicly owned treatment works and not to mixtures of hazardous wastes and sewage or septage delivered to the treatment plant by truck.

Municipal separate storm sewer systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under Sec. 122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include:

(1) The status of implementing the components of the storm water management program that are established as permit conditions;

(2) Proposed changes to the storm water management programs that are established as permit condition. Such proposed changes shall be consistent with Sec. 122.26(d)(2)(iii) of this part; and

(3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under Sec. 122.26(d)(2)(iv) and (d)(2)(v) of this part;

(4) A summary of data, including monitoring data, that is accumulated throughout the reporting year;

(5) Annual expenditures and budget for year following each annual report;

(6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and

(7) Identification of water quality improvements or degradation.
Storm water discharges. The initial permits for discharges composed entirely of storm water issued pursuant to Sec. 122.26(e)(7) of this part shall require compliance with the conditions of the permit as expeditiously as practicable, but in no event later than three years after the date of issuance of the permit.

18. **REOPENER CLAUSE [40 CFR 122.44(c)]**

For any permit issued to a treatment works treating domestic sewage (including "sludge-only facilities"), the Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA. The Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

19. **PRIVATELY OWNED TREATMENT WORKS [40 CFR 122.44(m)]**

For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this part. Alternatively, the Director may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. The Director's decision to issue a permit with no conditions applicable to any user, to impose conditions on one or more users, to issue separate permits, or to require separate applications, and the basis for that decision, shall be stated in the fact sheet for the draft permit for the treatment works.

20. **TRANSFERS BY MODIFICATION [40 CFR 122.61(a)]**

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

Sec. 122.62 (b)(2)), or a minor modification made (under Sec.122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.

21. AUTOMATIC TRANSFERS [40 CFR 122.61(b)]

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

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

(2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

(3) The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this subparagraph may also be a minor modification under Sec. 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.

22. MINOR MODIFICATIONS OF PERMITS [40 CFR 122.63]

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 Sec. 122.62. Minor modifications may only:

(1) Correct typographical errors;

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

(3) 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

(4) 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.

(5) 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 Sec. 122.29.

(6) 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.

(7) [Reserved]

(8) 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.

23. TERMINATION OF PERMITS [40 CFR 122.64]

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

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

(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;

(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

(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).

24. AVAILABILITY OF REPORTS [Pursuant to Clean Water Act Section 308]

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

25. REMOVED SUBSTANCES [Pursuant to Clean Water Act Section 301]

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

26. SEVERABILITY [Pursuant to Clean Water Act Section 512]

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 remainder of the permit, shall not be affected thereby.

27. CIVIL AND CRIMINAL LIABILITY [Pursuant to Clean Water Act Section 309]

Except as provided in permit conditions on "Bypass" (Section 14) and "Upset" (Section 15), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

28. OIL AND HAZARDOUS SUBSTANCE LIABILITY [Pursuant to Clean Water Act Section 311]

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 Clean Water Act.

29. STATE OR TRIBAL LAW [Pursuant to Clean Water Act Section 510]

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