

9/10/90

File Act 015/032
Pending

DRAFT

**STATEMENT OF BASIS
PERMIT RENEWAL**

GENWAL COAL COMPANY

CRANDALL CANYON MINE

**UPDES No. UT0024368
MINOR INDUSTRIAL**

FACILITY CONTACT:

Randal J. Ralphs
Surface Foreman
P.O. Box 1201
195 North 100 West
Huntington, Utah 84528
Phone: (801) 687-9813

STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE:

The SIC code for this facility is 1222 (Bituminous Coal Underground Mining).

DESCRIPTION OF FACILITY AND BACKGROUND INFORMATION:

Genwal Coal Company owns and operates the Crandall Canyon underground coal mine. The company began mining operations in 1981, with an average annual output of approximately 250,000 tons. The mine was purchased in January 1989 by Nevada Electric Investment Corporation / Nevada Power. Current plans call for increasing production to 750,000 - 800,000 tons annually. All mine water is piped into a settlement pond which in turn discharges into Crandall Creek. A concrete retaining wall has recently been constructed to minimize surface runoff into the pond. The entire operation resides within the Manti-LaSal National Forest boundary, and is thus subject to antidegradation policy of Utah Administrative Code (UAC) R448-2-3. The mine is located approximately one and one half (1.5) miles south of Huntington Canyon (State Highway 31), up Crandall Canyon, Emery County. Outfall 001 is located at latitude 39° 27' 38" and longitude 111° 09' 59", discharging to Crandall Creek. Outfall 002 is located at latitude 39° 27' 38" and longitude 111° 09' 59", discharging to Crandall Creek. The mine has reported three (3) discharges in the last five (5) years, so the facility should be adequate for the five-year permit life.

DESCRIPTION OF DISCHARGE:

The facility has been reporting on a quarterly basis. A summary of the last 3 years submitted DMR's is on the next page.

Self-Monitoring Data

<u>Date</u>	<u>Flow</u> <u>MGD</u>	<u>TSS</u> <u>mg/L</u>	<u>TDS</u> <u>mg/L</u>	<u>Fe</u> <u>mg/L</u>	<u>Oil & Grease</u> <u>mg/L</u>	<u>pH</u>
Q3-87	No Discharge					
Q4-87	No Discharge					
Q1-88	No Discharge					
Q2-88	No Discharge					
Q3-88	No Discharge					
Q4-88	No Discharge					
Q1-89	---	8.0	670.0	0.02	1.0	8.0
Q2-89	No Discharge					
Q3-89	No Discharge					
Q4-89	No Discharge					
Q1-90	No Discharge					
Q2-90	---	9.0	240.0	0.04	<1.0	7.6
average	---	8.5	455.0	0.03	<1.0	7.6-8.0
permitted	---	25.0	700.0	2.0	10.0	6.5-9.0

State-Monitoring Data
(grab samples)

Because of the intermittent nature of the discharge, the State has been unable to collect samples when the facility was discharging.

USE CLASSIFICATION OF RECEIVING WATER:

Genwal Coal's Crandall Mine discharges into Crandall Creek a tributary of Huntington Creek (Class 1C, 3A and 4).

Class 1C -- protected for domestic purposes with prior treatment by treatment processes as required by the Utah Department of Health.

Class 3A -- protected for cold water species of game fish and other cold water aquatic life, including the necessary aquatic organisms in their food chain.

Class 4 -- protected for agricultural uses including irrigation of crops and stockwatering.

EFFLUENT LIMITS:

The 30-day and 7-day limitations on Total Suspended Solids and pH limits are based on current Utah Secondary Treatment Standards. The daily maximum limit for Total Suspended Solids is a Federal Requirement found in 40 CFR 434.45. The limit on Total Dissolved Solids has been established by the Colorado River Basin Salinity Control Forum. The Iron limit is based upon the numeric criteria of a Class 3A water. The Oil and Grease limits are based upon a State and EPA Regional policy. The permit limitations are:

Effluent Limitations

<u>Parameter</u>	<u>30-day Average</u>	<u>7-Day Average</u>	<u>Daily Maximum</u>
Total Suspended Solids	25 mg/L	35 mg/L	70.0 mg/L
Total Dissolved Solids	N.A.	N.A.	723.0 mg/L
Iron	N.A.	N.A.	1.0 mg/L
Oil and Grease	N.A.	N.A.	10.0 mg/L

The pH of the discharge shall not be less than 6.5 nor greater than 9.0 in any sample.

N.A. -- Not Applicable

40 CFR 434.63 entitles this facility to an alternate limits for Total Suspended Solids, and pH, for precipitation events. The alternative permit limitations are:

Effluent Limitations

<u>Parameter</u>	<u>30-day Average</u>	<u>7-Day Average</u>	<u>Daily Maximum</u>
Total Settleable Solids	N.A.	N.A.	0.5 mL/L

The pH of the discharge shall not be less than 6.0 nor greater than 9.0 in any sample.

N.A. -- Not Applicable

In order to invoke this alternative, the conditions of 40 CFR 434.63(2) must be met.

SELF-MONITORING REQUIREMENTS:

The following self-monitoring requirements are based on the Utah Monitoring, Recording, and Reporting Frequency Guidelines as revised November 1, 1989. The requirements are:

<u>Parameter</u>	<u>Frequency</u>	<u>Sample Type</u>	<u>Units</u>
Total Flow (a),(b)	Continuous	Estimated	MGD
Total Suspended Solids	Quarterly	Grab	mg/L
Total Dissolved Solids	Quarterly	Grab	mg/L
Iron	Quarterly	Grab	mg/L
Oil and Grease	Quarterly	Grab	mg/L
pH	Quarterly	Grab	S.U.

- (a) Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained.
- (b) If the rate of discharge is controlled, the rate and duration of discharge shall be reported.

PRETREATMENT REQUIREMENTS:

Any wastewater that Genwal Coal discharges to the sanitary sewer, either as a direct discharge or as a hauled waste, are subject to Federal, State and local pretreatment regulations. Pursuant to Section 307 of the Clean Water Act, the permittee shall comply with all applicable Federal General Pretreatment Regulations promulgated, found in 40 CFR 403, the State Pretreatment Requirements found in Utah Administrative Code (UAC) R448-8-8, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the waste.

BIOMONITORING REQUIREMENTS:

As part of a nationwide effort to control toxics, biomonitoring requirements are being included in permits for facilities where effluent toxicity is an existing or potential concern. Since Genwal does not meet either of these requirements, biomonitoring of the effluent will not be required. Authorization for requiring effluent biomonitoring is provided for in, Utah Administrative Code (UAC) R448-8-4.2 and R448-8-5.3.

SLUDGE DISPOSAL REQUIREMENTS:

The 1987 amendments to the Clean Water Act require EPA to establish toxic contaminate criteria for sludge use and disposal. These criteria are to be imposed through NPDES permits, or other permits, if appropriate, which includes requirements for the use and disposal of sludge that implements the regulations on toxic contaminate criteria. EPA proposed sludge regulations in the Federal Register February 6, 1989. Once these regulations are promulgated, it is anticipated that the State will proceed to adopt equivalent regulations. In lieu of this, the permit will contain a reopener to accommodate any new requirements that may result. In the interim, Genwal Coal's sludge is dewatered and sent to a landfill as the need dictates.

PERMIT DURATION:

It is recommended that the duration of the permit be five (5) years expiring on August 31, 1995.

Drafted by: State of Utah
 Paul C. Krauth
 Environmental Engineer
 September 10, 1990

7/10/95

Permit No.: UT0024368
Minor Industrial

DRAFT

STATE OF UTAH
DEPARTMENT OF HEALTH
BUREAU OF WATER POLLUTION CONTROL
P.O. BOX - 16690
SALT LAKE CITY, UTAH 84116-0690

AUTHORIZATION TO DISCHARGE UNDER THE
UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with provisions of the "Utah Water Pollution Control Act", Title 26, Chapter 11, Utah Code Annotated 1953, as amended, the "Act"

GENWAL COAL COMPANY

is authorized to discharge from it's Crandall Canyon mine located

approximately one and one half (1.5) miles south of Huntington Canyon (State Highway 31), up Crandall Canyon, Emery County, Utah, with the outfalls located at latitude 39° 27' 38'' and longitude 111° 09' 59''.

to

Crandall Creek

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on

This permit and the authorization to discharge shall expire at midnight,

August 31, 1995.

Signed this day of

Authorized Permitting Official
Executive Secretary
Water Pollution Control Committee

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I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Definitions.

1. The "30-day (and monthly) average", other than for fecal coliform bacteria and total coliform bacteria, is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for fecal coliform bacteria and total coliform bacteria. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
2. The "7-day (and weekly) average", other than for fecal coliform bacteria and total coliform bacteria, is the arithmetic average of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for fecal coliform bacteria and total coliform bacteria. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.
3. "Daily Maximum" ("Daily Max.") is the maximum value allowable in any single sample or instantaneous measurement.
4. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
5. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
6. "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.

7. "Bypass" means the diversion of waste streams from any portion of a treatment facility.
8. "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.
9. "Executive Secretary" means Executive Secretary of the Utah Water Pollution Control Committee.
10. "EPA" means the United States Environmental Protection Agency.
11. "Sludge" is any solid, semi-solid or liquid residue that contains materials removed during treatment. Sludge includes, but is not limited to, primary and secondary solids and sewage products.
12. The term "settleable solids" is that matter measured by the volumetric method specified below.

Fill an Imhoff cone to the one-liter mark with a thoroughly mixed sample. Allow to settle undisturbed for 45 minutes. Gently stir along the inside surface of the cone with a stirring rod. allow to settle undisturbed for 15 minutes longer. Record the volume of settled material in the cone as milliliters per liter. Where a separation of settleable and floating material occurs, do not include the floating material in the reading.

B. Narrative Standard.

It shall be unlawful, and a violation of this permit, for any person to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste, or conditions which produce undesirable aquatic life or which produces objectionable tastes in edible aquatic organisms; or concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, as determined by bioassay or other tests performed in accordance with standard procedures determined by the Water Pollution Control Committee.

C. Description of Discharge Points.

The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under an UPDES permit is a violation of the "Act" and could be subject the person(s) responsible for such discharge to penalties under the "Act". Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge could subject such a person(s) to criminal penalties as provided under the "Act".

<u>Outfall Serial Number</u>	<u>Description of Discharge</u>
001	A 6 inch discharge pipe on the north side of the settlement pond. Located at latitude 39° 27' 38'' and longitude 111° 09' 59''.
002	A 4 inch discharge pipe on the north side of the settlement pond. Located at latitude 39° 27' 38'' and longitude 111° 09' 59''.

D. Specific Limitations and Self-Monitoring Requirements.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

There shall be no discharge of sanitary wastes.

1.(i) Effluent Limitations for Outfalls 001 and 002.

Effective immediately and lasting through the life of this permit, the quality of effluent discharged by the facility shall, as a minimum, meet the limitations as set forth below:

<u>Effluent Limitations</u>			
<u>Parameter</u>	<u>30-day (a) Average</u>	<u>7-Day (a) Average</u>	<u>Daily (a) Maximum</u>
Total Suspended Solids	25 mg/L	35 mg/L	70.0 mg/L
Total Dissolved Solids	N.A.	N.A.	723.0 mg/L
Iron	N.A.	N.A.	1.0 mg/L
Oil and Grease	N.A.	N.A.	10.0 mg/L

The pH of the discharge shall not be less than 6.5 nor greater than 9.0 in any sample.

(ii) 40 CRF 434.63 entitles this facility to an alternate limits for Total Suspended Solids and pH, for precipitation events. The alternative permit limitations are:

<u>Effluent Limitations</u>			
<u>Parameter</u>	<u>30-day (a) Average</u>	<u>7-Day (a) Average</u>	<u>Daily (a) Maximum</u>
Total Settleable Solids (a)	N.A.	N.A.	0.5 ml/L

The pH of the discharge shall not be less than 6.0 nor greater than 9.0 in any sample.

In order to invoke this alternative, all conditions specified in Part II.C Alternative Limitation Conditions, must be met.

N.A. -- Not Applicable

(a) See Definitions, Part I.A., for definition of terms.

2. Self-Monitoring Requirements (Outfalls 001 and 002).

Effective immediately and lasting through the life of this permit:

As a minimum, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Form (EPA No. 3320-1) that no discharge or overflow occurred.

<u>Parameter</u>	<u>Frequency (a)</u>	<u>Sample Type (a)</u>	<u>Units</u>
Total Flow (b), (c)	Continuous	Instantaneous	MGD
Total Suspended Solids	Quarterly	Grab	mg/L
Total Dissolved Solids	Quarterly	Grab	mg/L
Iron	Quarterly	Grab	mg/L
Oil and Grease	Quarterly	Grab	mg/L
pH	Quarterly	Grab	S.U.

(a) See Definitions, Part I.A for definition of terms.

(b) Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained.

(c) If the rate of discharge is controlled, the rate and duration of discharge shall be reported.

II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under Part I shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to the use-disposal practice.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under Utah Administrative Code (UAC) R448-2-10, unless other test procedures have been specified in this permit.
- C. Alternate Limitation Conditions. The alternative limit to Total Suspended Solids listed in Part II.B.1.(ii) may be used under the following conditions.
1. Any overflow or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume).
 2. The treatment facility is designed, constructed, operated, and maintained to contain at a minimum the volume of water which would drain into the treatment facility during the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume).
 3. The treatment facility is designed, constructed, operated, and maintained to consistently achieve the effluent limitations set forth in Part I.B.1(i) during periods of no precipitation (or snowmelt).
 4. The operator shall have the burden of proof that the preceding conditions have been met in order to qualify for the alternate limitations in Part I.B.1(ii).
- D. Penalties for Tampering. The "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 per violation, or by imprisonment for not more than six months per violation, or by both.
- E. Reporting of Monitoring Results. Monitoring results obtained during the previous quarter shall be summarized for each year and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), post-marked no later than the 28th day of the month following the completed reporting period. The first report is due on April 28, 1991. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the requirements of Signatory Requirements, Part IV.G, and submitted to the Director, Utah Bureau of Water Pollution Control and to EPA at the following addresses:

original to: Utah Department of Health
Bureau of Water Pollution Control
288 North 1460 West
P.O. Box 16690
Salt Lake City, Utah 84116-0690

copy to: United States Environmental Protection Agency Region VIII
Denver Place
999 18th Street, Suite 500
Denver, Colorado 80202-2405
Attention: Water Management Division
Compliance Branch (8WM-C)

- F. 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.
- G. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under UAC R448-2-10 as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.
- H. Records Contents. Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements;
 2. The individual(s) who performed the sampling or measurements;
 3. The date(s) analyses were performed;
 4. The time(s) analyses were performed;
 5. The individual(s) who performed the analyses;
 6. The analytical techniques or methods used; and,
 7. The results of such analyses.
- I. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Executive Secretary at any time. Data collected on site, copies of Discharge Monitoring Reports, and a copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location.

J. Twenty-four Hour Notice of Noncompliance Reporting.

1. The permittee shall (orally) report any noncompliance which may seriously endanger health or environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of circumstances. The report shall be made to the Utah Bureau of Water Pollution Control, (801) 538-6146, or 24 hour answering service (801) 538-6333.
2. The following occurrences of noncompliance shall be reported by telephone (801) 538-6333 as soon as possible but no later than 24 hours from the time the permittee becomes aware of the circumstances:
 - a. Any noncompliance which may endanger health or the environment;
 - b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part III.G, Bypass of Treatment Facilities.);
 - c. Any upset which exceeds any effluent limitation in the permit (See Part III.H, Upset Conditions.); or,
 - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit.
3. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected; and,
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.
4. The Executive Secretary may waive the written report on a case-by- case basis if the oral report has been received within 24 hours by the Bureau of Water Pollution Control, (801) 538-6146.
5. Reports shall be submitted to the addresses in Part II.E, Reporting of Monitoring Results.

- K. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part II.E are submitted. The reports shall contain the information listed in Part II.J.3.
- L. Inspection and Entry. The permittee shall allow the Executive Secretary, or an authorized representative, upon the 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 be kept under the conditions of the 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 purpose of assuring permit compliance or as otherwise authorized by the "Act", any substances or parameters at any location.

III. COMPLIANCE RESPONSIBILITIES

- A. 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 permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Executive Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions. The "Act" provides that any person who violates a permit condition implementing provisions of the "Act" is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions of the "Act" is subject to a fine not exceeding \$25,000 per day of violation; Any person convicted under Section 26-11-16(2) a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided in permit conditions on Part III.G, Bypass of Treatment Facilities and Part III.H, Upset Conditions, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.
- C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. 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.
- E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. Removed Substances. Collected screening, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. Filter backwash shall not directly enter either the final effluent or waters of the state by any other direct route.

G. Bypass of Treatment Facilities.

1. 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 2 and 3 of this section. Return of removed substances, as described in Part III.F, to the discharge stream shall not be considered a bypass under the provisions of this paragraph.
2. Notice:
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.
 - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.I, Twenty- four Hour Reporting.
3. Prohibition of bypass.
 - a. Bypass is prohibited and the Executive Secretary may take enforcement action against a permittee for a bypass, unless:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
 - (3) The permittee submitted notices as required under paragraph 2 of this section.
 - b. The Executive Secretary may approve an anticipated bypass, after considering its adverse effects, if the Executive Secretary determines that it will meet the three conditions listed above in paragraph 3.a of this section.

H. Upset Conditions.

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph 2. of this section are met. Executive Secretary's administrative determination regarding a claim of upset cannot be judiciously challenged by the permittee until such time as an action is initiated for noncompliance.
2. 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:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under Part II.J, Twenty-four Hour Notice of Noncompliance Reporting; and,
 - d. The permittee complied with any remedial measures required under Part III.D, Duty to Mitigate.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

I. Pretreatment.

Any wastewater discharged to the sanitary sewer, either as a direct discharge or as a hauled waste, are subject to Federal, State and local pretreatment regulations. Pursuant to Section 307 of the Clean Water Act, the permittee shall comply with all applicable Federal General Pretreatment Regulations promulgated at 40 CFR Section 403, the State Pretreatment Requirements at UAC R448-8-8, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the waste.

IV. GENERAL REQUIREMENTS

- A. Planned Changes. The permittee shall give notice to the Executive Secretary as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing sludge facilities or their manner of operation or to current sludge management practices of storage and disposal, the permittee shall give notice to the Executive Secretary of any planned changes at least 30 days prior to their implementation.
- B. Anticipated Noncompliance. The permittee shall give advance notice to the Executive Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- C. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- D. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit.
- E. Duty to Provide Information. The permittee shall furnish to the Executive Secretary, within a reasonable time, any information which the Executive Secretary 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 Executive Secretary, upon request, copies of records required to be kept by this permit.
- F. Other Information. When 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 any report to the Executive Secretary, it shall promptly submit such facts or information.
- G. Signatory Requirements. All applications, reports or information submitted to the Executive Secretary shall be signed and certified.
1. All permit applications shall be signed by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by the Executive Secretary 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:
 - a. The authorization is made in writing by a person described above and submitted to the Executive Secretary, and,
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
3. Changes to authorization. If an authorization under paragraph IV.G.2 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 IV.G.2 must be submitted to the Executive Secretary prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. 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."

- H. Penalties for Falsification of Reports. The "Act" provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both.
- I. Availability of Reports. Except for data determined to be confidential under UAC R448-8-3.2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of Executive Secretary. As required by the "Act", permit applications, permits and effluent data shall not be considered confidential.

- J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the "Act".
- K. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- L. Severability. The provisions of this permit are severable, and if any provisions 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.
- M. Transfers. This permit may be automatically transferred to a new permittee if:
1. The current permittee notifies the Executive Secretary at least 20 days in advance of the proposed transfer date;
 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 Executive Secretary does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.
- N. 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 26-11-19 of the "Act"
- O. Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:
1. Water Quality Standards for the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
 2. A final wasteload allocation is developed and approved by the State and/or EPA for incorporation in this permit.
 3. A revision to the current Water Quality Management Plan is approved and adopted which calls for different effluent limitations than contained in this permit.