Appendix B
Standard Permit Conditions

Appendix B. Standard Permit Conditions.

Standard permit conditions in Appendix B are consistent with the general permit provisions required under 40 CFR 122.41.

B.1 Duty To Comply.

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Ohio Revised Code Chapter 6111 and is grounds for enforcement action; for permit coverage, revocation or for denial of a permit renewal application.

A. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards, even if the permit has not yet been modified to incorporate the requirement. Following establishment of such standards or prohibitions, the Director shall modify this permit and so notify the permittee.

B. Penalties for Violations of Permit Conditions: Ohio Revised Code Chapter 6111 provides for civil and administrative enforcement of permit violations.

1. Criminal.

1.1 Ohio Revised Code Chapter 6111 provides that any person who violates permit conditions is subject to a fine or imprisonment.

1.2. False Statement. Ohio Revised Code (ORC) 6111.07 provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under the Act, shall upon conviction be punished by a fine or by imprisonment for not more than six months, or both.

1.3. Where the permittee becomes aware that it failed to submit any relevant facts in a NOI or submitted incorrect information in a NOI or in any report to the Director, it shall promptly submit such corrected facts or information.

2. *Civil Penalties.* Ohio Revised Code Chapter 6111 provides that any person who violates a permit condition is subject to a civil penalty.

B.2 Duty to Reapply.

Continuation of the Expired General Permit. An expired general permit continues in force and effect until a new general permit is issued. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

B.3 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.

B.4 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.

B.5 Proper Operation and Maintenance.

You 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 you 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 you only when the operation is necessary to achieve compliance with the conditions of this permit.

B.6 Revocation of Permit Coverage.

A. After notice and opportunity for a hearing, permit coverage may be revoked by the Ohio EPA during its term for cause including, but not limited to, the following:

   a. Violation of any terms or conditions of this permit;
   b. Obtaining coverage under this permit by misrepresentation or failure to disclose fully all relevant facts;
   c. Change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or
   d. Obtaining coverage under an individual or alternative general permit is required (see Appendix B, Subsection B.15).

B. The filing of a request by the permittee for permit coverage revocation does not stay any permit condition. See Part 1.4 for requirements regarding NOT.

B.7 Property Rights.

The issuance of this permit does not convey any property rights in either real or personal property, 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.

B.8 Duty to Provide Information.

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying or revoking 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.

B.9 Inspection and Entry.

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

A. At reasonable times to enter upon the permittees premises where a regulated facility or activity is located or conducted, or where records shall be kept under the conditions of this permit;

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

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

D. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Ohio Revised Code Chapter 6111 or the Clean Water Act, any substances or parameters at any location.

B.10 Monitoring and Records.

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

B. You 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 the permit expires or the date the permittee's authorization is terminated. This period may be extended by request of Ohio EPA at any time.

C. Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements (time of sampling not required on DMR);

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

3. The date(s) analyses were performed

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

5. The analytical techniques or methods used; and

6. The results of such analyses.

D. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in the permit.

E. Availability of Reports. Except for data determined by the Ohio EPA to be entitled to confidential status, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the Ohio EPA Central Office. Both the Clean Water Act and Section 6111.05 Ohio Revised Code state that effluent data and receiving water quality data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Ohio Revised Code Section 6111.99.

B.11 Signatory Requirements.

A. All NOIs, NOTs, reports, certifications or information either submitted to the Director (and/or the operator of a MS4), or that this permit requires be maintained by the permittee, shall be signed as provided in the following paragraphs A through B. NOIs and NOTs shall be signed as follows:

1. For a corporation: By a responsible corporate officer. For the purpose of this subsection, 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 subsection, 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).

B. Your SWPPP, including changes to your SWPPP to document any corrective actions taken as required by Part 3.1, and all reports, shall be signed by a person described in Appendix B, Subsection 11.A above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described in Appendix B, Subsection 11.A;

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

3. The signed and dated written authorization is included in the SWPPP. A copy shall be submitted to Ohio EPA, if requested.

C. All other changes to your SWPPP, and other compliance documentation required under Part 5.4, shall be signed and dated by the person preparing the change or documentation.

D. Changes to Authorization. If an authorization under Appendix B, Subsection 11.B is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Subsection 11.B must be submitted

to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

E. Any person signing documents in accordance with Appendix B, Subsections 11.A or 11.B above shall include 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 gathered and evaluated the information contained therein. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information contained 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."

B.12 Reporting Requirements.

A. Planned changes. You shall give notice to Ohio EPA as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1).

B. Anticipated noncompliance. You shall give advance notice to Ohio EPA of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

C. Transfers of permit coverage. This permit can be transferred in accordance with Ohio Administrative Code (OAC) 3745-38-02(K).

D. Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

1. Pursuant to Part 7.1, all monitoring data collected pursuant to Part 6.2 and 6.3 shall be reported on the Ohio EPA 4500 Discharge Monitoring Report (DMR) using the electronic Discharge Monitoring Report (e-DMR) internet application. e-DMR allows permitted facilities to enter, sign and submit DMRs on the internet. It is accessed from the Ohio EPA eBusiness Center. The eBusiness Center is found at the following web page:

   https://ebiz.epa.ohio.gov/

   Alternatively, if you are unable to use e-DMR due to a demonstrated hardship, monitoring data may be submitted on paper DMR forms provided by Ohio EPA. Monitoring data shall be typed or hand-written on the forms. Please contact Ohio EPA, Division of Surface Water at (614) 644-2001 if you wish to receive paper DMR forms.

   The person signing and submitting the e-DMR will need to obtain an eBusiness Center account and Personal Identification Number (PIN). Additionally, Delegated Responsible Officials must

be delegated by the Responsible Official, either on-line using the eBusiness Center's delegation function, or on a paper delegation form provided by Ohio EPA. For more information on the PIN and delegation processes, please view the following web page:

http://www.epa.ohio.gov/dsw/edmr/edmrpin.aspx

2. If you monitor any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 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 e-DMR.

3. Calculations for all limitations which require averaging of measurements shall use an arithmetic mean. For averaging purposes, use a value of zero for any individual sample parameter, which is determined to be less than the method detection limit. For sample values that fall between the method detection level and the quantitation limit (i.e., a confirmed detection but below the level that can be reliably quantified), use a value halfway between zero and the quantitation limit.

E. 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.

F. Twenty-four hour reporting.

1. You shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time you become aware of the circumstances. A written submission shall also be provided within five days of the time you become 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.

2. The following shall be included as information which shall be reported within 24 hours under this paragraph.

a. Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR 122.41(m)(3)(ii))

b. Any upset which exceeds any effluent limitation in the permit

c. Violation of a maximum daily discharge limit for any numeric effluent limitation. (See 40 CFR 122.44(g).)

3. Ohio EPA may waive the written report on a case-by-case basis for reports under Appendix B, Subsection 12.F.2 if the oral report has been received within 24 hours.

G. Other noncompliance. You shall report all instances of noncompliance not reported under Appendix B, Subsections 12.D, 12.E, and 12.F, at the time monitoring reports are submitted. The reports shall contain the information listed in Appendix B, Subsection 12.F.

H. Other information. Where you become aware that you failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Permitting Authority, you shall promptly submit such facts or information.

B.13 Bypass.

A. Definitions.

1. Bypass means the intentional diversion of waste streams from any portion of a treatment facility See 40 CFR 122.41(m)(1)(i).

2. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. See 40 CFR 122.41(m)(1)(ii).

B. Bypass not exceeding limitations. You 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 Appendix B, Subsections 13.C and 13.D. See 40 CFR 122.41(m)(2).

C. Notice.

1. Anticipated bypass. If you know in advance of the need for a bypass, you shall submit prior notice, if possible at least ten days before the date of the bypass. See 40 CFR 122.41(m)(3)(i).

2. Unanticipated bypass. You shall submit notice of an unanticipated bypass as required in Appendix B, Subsection 12.F (24-hour notice). See 40 CFR 122.41(m)(3)(ii).

D. Prohibition of bypass. See 40 CFR 122.41(m)(4).

1. Bypass is prohibited, and Ohio EPA may take enforcement action against you 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. You submitted notices as required under Appendix B, Subsection 13.C.

2. Ohio EPA may approve an anticipated bypass, after considering its adverse effects, if Ohio EPA determines that it will meet the three conditions listed above in Appendix B, Subsection 13.D.1.

B.14 Upset.

A. Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond your reasonable control. 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. See 40 CFR 122.41(n)(1).

B. 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 Appendix B, Subsection 14.C 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. See 40 CFR 122.41(n)(2).

C. Conditions necessary for a demonstration of upset. See 40 CFR 122.41(n)(3). A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

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

2. The permitted facility was at the time being properly operated; and

3. You submitted notice of the upset as required in Appendix B, Subsection 12.F.2.b (24 hour notice).

4. You complied with any remedial measures required under Appendix B, Subsection 4.

D. Burden of proof. In any enforcement proceeding, you, as the one seeking to establish the occurrence of an upset, have the burden of proof. See 40 CFR 122.41(n)(4).

B.15 Requiring an individual permit or an alternative general permit.

A. The Director may require a permittee to apply for an/or obtain either an individual NPDES permit or coverage under an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. The Director may notify the operator in writing that an application for an individual permit is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the owner or operator to file the application, and a statement that on the effective date of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this permit shall be revoked. Individual permit applications shall be submitted to the appropriate Ohio EPA district office, Division of Surface Water. The Director may grant additional time to submit the application upon request of the permittee and good cause shown. If an owner or operator fails to submit in a timely manner an individual NPDES permit application as required by the Director, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the last day of the period specified for application submittal (see Appendix B, Subsection 16). Any discharge past this date is illegal and subject to enforcement.

B. Any operator authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. The operator shall submit an individual application (Form 1 and Form 2C, 2D, 2E, or 2F) with reasons supporting the request to the Director. Individual permit applications shall be submitted to the appropriate Ohio EPA District Office, Division of Surface Water. The request may be granted by the issuance of any individual permit or an alternative general permit if the reasons cited by the owner or operator area adequate to support the request (see Part 1.1).

C. When an individual NPDES permit is issued to an owner or operator otherwise subject to this permit, or the owner or operator is authorized for coverage under an alternative general permit, the applicability of this permit to the permittee is automatically revoked on the effective date of

the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be.

D. If an individual permit holder believes the discharge could be covered by this permit, the owner or operator must submit a NOI (see Part 1.3) for coverage under this permit and request the appropriate Ohio EPA District Office, Division of Surface Water, to either revoke the existing individual permit or approve No Permit Requirement (NPR) for the existing individual permit.

B.16 Environmental Laws

No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

B.17 Oil and Hazardous Substance Liability

With the exception of full compliance with the effluent limitations found in this permit, nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

B.18 Solids Disposal

Collected screenings, slurries, sludges, and other solids shall be disposed of in such a manner as to prevent entry of those wastes into waters of the state. For publically owned treatment works, these shall be disposed of in accordance with the approved Ohio EPA Sludge Management Plan.

B.19 Construction Affecting Navigable Waters

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

B.20 State Laws and Regulations

Nothing in this permit shall be construed to preclude the institution of any legal action nor relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

B.21 Severability

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

B.22 Applicable Federal Rules

All references to Parts and sections of 40 CFR in this permit mean the version of 40 CFR which is effective as of the effective date of this permit, with such Parts and sections hereby incorporated by reference as if fully written herein.

B.23 Penalties for Violations of Permit Conditions

A. ORC Section 6111.99 provides that persons who purposely violate this permit or purposely submit false information or records or fail to submit information or records pertaining to discharges of sewage, industrial wastes, or other wastes or to sludge management required as a condition of a permit or render inaccurate any monitoring device or other method required to be maintained by the director is guilty of a felony and shall be fined not more than twenty-five thousand dollars or imprisoned not more than four years, or both. Each day of violation is a separate offense.

B. ORC Section 6111.99 provides that persons who knowingly violate this permit or knowingly submit false information or records or fail to submit information or records pertaining to discharges of sewage, industrial wastes, or other wastes or to sludge management required as a condition of a permit or render inaccurate any monitoring device or other method required to be maintained by the director is guilty of a misdemeanor and shall be fined not more than ten thousand dollars or imprisoned not more than one year, or both. Each day of violation is a separate offense.

B.24 Pollution Prevention

It is suggested that, if applicable, the permittee evaluate potential prevention methods and install the latest pollution prevention technology if it is economically feasible. If pollution prevention methods are currently being used, it is suggested that they be re-evaluated; the latest pollution prevention technology should be installed if applicable, necessary, and economically feasible.

Ohio EPA strongly encourages pollution prevention as the preferred approach for waste management. The first priority of pollution prevention is to eliminate the generation of wastes and pollutants at the source (source reduction). For those wastes or pollutants that are generated, the second priority is to recycle or reuse them in an environmentally sound manner.

You can benefit economically, help preserve the environment, and improve your public image by implementing pollution prevention programs. For more information about pollution prevention, including fact sheets and the Ohio Pollution Prevention and Waste Minimization Planning Guidance Manual, please contact the Ohio EPA, Office of Pollution Prevention at (614) 644-3949.