

STATE OF UTAH
DIVISION OF WATER QUALITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
SALT LAKE CITY, UTAH

AUTHORIZATION TO DISCHARGE UNDER THE
UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM
(UPDES)

GENERAL PERMIT FOR DISCHARGE OF TREATED GROUND WATER

In compliance with provisions of the *Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "Act"), the facility identified in the Notice of Intent, upon approval of the Executive Secretary, is hereby authorized to discharge treated ground water from the specified clean-up site as identified in the Notice of Intent in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on April 1, 2010.

This permit and the authorization to discharge shall expire at midnight, March 31, 2015.

Signed this 29th day of March, 2010

Walter L. Baker, P.E.
Executive Secretary
Utah Water Quality Board

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GENERAL PERMIT FOR DISCHARGE OF TREATED GROUND WATER

In compliance with provisions of the *Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "Act"),

as identified in the application No. UTG7900 is authorized to discharge from outfall(s) to receiving waters named:

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

This permit coverage shall become effective on , 201_.

This permit and the authorization to discharge shall expire at midnight, March 31, 2015.

Signed this day of , 201_

Walter L. Baker, P.E.
Executive Secretary
Utah Water Quality Board

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I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Definitions.

1. The "30-day (and monthly) average" is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. 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" is the arithmetic average of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. 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. "Composite samples" shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the composite sample period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:
 - a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
 - b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
 - c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
 - d. Continuous collection of sample, with sample collection rate proportional to flow rate.
5. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
6. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
7. "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.
8. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

9. "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.
10. "Executive Secretary" means Executive Secretary of the Utah Water Quality Board.
11. "EPA" means the United States Environmental Protection Agency.
12. "One-time batch discharge" means a single discharging event from a temporary holding tank or system, which is not part of an on going treatment system designed for continuous operation.
13. "Act" means the "*Utah Water Quality Act*".
14. "Best Management Practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
15. "CWA" means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.
16. "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.
17. "Total Toxic Organics (TTO)" is defined as the sum of the concentrations of the specific toxic organic compounds found in the wastewater discharge at a concentration greater than 0.01 mg/L. (See Appendix A for a list of the priority toxic organics.)
18. "MTBE" means the organic compound *methyl-tertiary-butyl-ether*.
19. "BTEX" means the sum of benzene, ethylbenzene, toluene, and xylenes.

B. Coverage Under the General Permit.

1. This general UPDES permit shall apply to discharges of treated ground water that has been contaminated by operations located in the State of Utah.
2. In order to be considered eligible for coverage under the terms and conditions of this permit, the owner, operator, or authorized agent of a facility must submit a completed Notice of Intent (NOI) by certified mail or other acceptable delivery service to the following addresses:

Department of Environmental Quality
Division of Water Quality
P.O. Box 144870
Salt Lake City, Utah 84114-4870

and:

U.S. Environmental Protection Agency, Region VIII
Technical Enforcement Program (8ENF-T)
Office of Enforcement, Compliance Assistance & Environmental Justice
1595 Wynkoop Street
Denver, Colorado 80202-1129

The NOI application form is available from the Division of Water Quality. It requires the following information:

- a. Name, address, telephone number, and descriptive location of the facility. Include latitude and longitude of the facility;
- b. Name, title, and telephone number of individual in charge of operation of the facility;
- c. Name of potential receiving water(s);
- d. Description of clean up site, including a description of the source(s) of contamination and the extent of contamination;
- e. Description of the current or proposed treatment system, including discharge flow rate and a flow diagram;
- f. Analysis of the influent to and effluent from the treatment system for the following parameters:

Benzene	Toluene
Ethylbenzene	Xylenes
Naphthalene	Oil and Grease
Total Suspended Solids	Total Dissolved Solids
Total Lead	pH
Total Toxic Organics	MTBE

If effluent values are not yet available, submit estimated values for all parameters. Actual values must be submitted within thirty days after the treatment system is operational. An initial total toxic organic screening analysis should be performed for all the priority toxic organics likely to be present in concentrations greater than 0.01 mg/l.

- g. A list of any other environmental permits that the facility has or is attempting to obtain.
- h. A topographic map of the area extending to at least one mile beyond property boundaries. The map must show the outline of the facility, the location of each of its existing and proposed intake and discharge structures, each of its hazardous waste treatment, storage, or disposal facilities, and each well where it injects fluids underground. Include all springs, rivers and other surface water bodies in the map area.
- i. Signature of owner, operator, or authorized agent (see *Part IV.G. Signatory Requirements*) and the following certification statement:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information contained in the application, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

After receipt of a completed NOI the Executive Secretary may either deny coverage, request additional information, or authorize the permit by sending a certified letter of approval and a signed copy of the permit.

3. The owner or operator of a facility excluded from coverage by this general permit solely because that facility already has an individual UPDES permit may request that the individual permit be revoked and that the facility be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to that facility.
4. Any owner or operator covered by this general permit may request to be excluded from the coverage by applying for an individual UPDES permit. The limitations of an individual permit may be more or less restrictive than those of this general permit, depending on site-specific conditions. In addition, in accordance with *Utah Administrative Code ("UAC") R317-8-2.5*, the Executive Secretary may require any owner or operator covered under this permit to apply for and obtain an individual UPDES permit for reasons that include the following:
 - a. The discharge(s) is a significant contributor of pollution;
 - b. The discharger is not in compliance with the conditions of this general permit; or
 - c. Conditions or standards have changed so that the discharger no longer qualifies for a general permit.
5. When an individual UPDES permit is issued to an owner or operator otherwise covered under this general permit, the applicability of the general permit to that owner or operator is automatically terminated upon the effective date of the individual UPDES permit.
6. Any owner or operator covered by this permit shall notify the Executive Secretary when the remedial action at the clean-up site has been completed and coverage under this general permit is no longer necessary.
7. Any owner or operator currently covered by this general permit, that wishes to continue coverage under this general permit after the expiration date of their current coverage, must submit a NOI at least sixty (60) days prior to the expiration date of their current general permit coverage.

C. Description of Discharge Point(s).

The authorization to discharge provided under this permit is limited to those outfalls specifically designated as discharge locations. Discharges at any location not authorized under a UPDES permit are a violation of the *Act* and may be subject to penalties under the *Act*. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge may be subject to criminal penalties as provided under the *Act*.

D. Narrative Standard.

It shall be unlawful, and a violation of this permit, for the permittee 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, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures.

E. Specific Limitations and Self-monitoring Requirements.

1. One-time batch discharge: Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from Outfall 001, which is the outfall from the one-time batch or temporary wastewater treatment system. It is the permittee's responsibility to petition the Executive Secretary for a one-time batch discharge. The Executive Secretary may then approve, partially approve, or deny the request based on all available information. Such batch discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristics</u>	<u>Discharge Limitations a/</u>		<u>Monitoring Requirements b/</u>	
	Daily <u>Maximum</u>		<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow, GPM, total gallons	Report		1/batch	Measured
Benzene, mg/L	0.005		1/batch	Grab
BTEX, mg/L <u>c/</u>	0.1		1/batch	Grab
MTBE, mg/L	0.2		1/batch	Grab
Naphthalene, mg/L	0.7		1/batch	Grab
Oil & Grease, mg/L	10		1/batch	Grab
Total Lead, mg/L <u>d/</u>	1.5		1/batch	Grab
Total Toxic Organics, mg/L <u>e/</u>	2.0		1/batch	Grab
Total Suspended Solids, mg/L	70		1/batch	Grab

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units in any sample and shall be monitored by a grab sample.

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

There shall be no discharge of sanitary wastes or process water other than the treated ground water.

2. On going treatment system: Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from Outfall 001, which is the outfall from the on going wastewater treatment system. Such on going or continuous discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristics</u>	<u>Discharge Limitations a/</u>			<u>Monitoring Requirements b/</u>	
	<u>Average 30-Day</u>	<u>Daily 7-Day</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow, GPM	Report	N/A	Report	2/month	Measured
Benzene, mg/L	0.005	N/A	0.005	2/month	Grab
BTEX, mg/L <u>c/</u>	0.1	N/A	0.1	2/month	Grab
MTBE, mg/L	0.2	N/A	0.2	2/month	Grab
Naphthalene, mg/L	0.7	N/A	0.7	Monthly	Grab
Oil & Grease, mg/L	N/A	N/A	10	Monthly	Grab
Total Lead, mg/L <u>d/</u>	0.06	N/A	1.5	Monthly	Grab
Total Toxic Organics, mg/L <u>e/</u>	N/A	N/A	2.0	2/Year	Grab
Total Suspended Solids, mg/L	25	35	70	Monthly	Grab

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units in any sample and shall be monitored by a monthly grab sample.

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

There shall be no discharge of sanitary wastes or process water other than the treated ground water.

N/A – Not Applicable

GPM – gallons per minute

- a/ See Definitions, *Part I.A* for definition of terms.
 - b/ If the permittee can demonstrate that the concentration of a pollutant in the influent to the treatment system is lower than the effluent limitation for that parameter, the permittee may submit a written request to the Executive Secretary to have the monitoring requirements for that parameter reduced or eliminated. It is the permittee's responsibility to petition the Executive Secretary. The Executive Secretary may then approve, partially approve, or deny the request based on effluent data and other available information. If approval is given, the modification will take place without a public notice.
 - c/ BTEX shall be measured as the sum of benzene, ethylbenzene, toluene, and xylenes.
 - d/ Monitoring for lead is required when sample analyses of the initial influent to and effluent from the treatment system indicate a total lead concentration greater than 0.01 mg/L, or if the contamination results from leaded fuel. It is the permittee's responsibility to petition the Executive Secretary for the omission of total lead from the monitoring requirements. The Executive Secretary may then approve, partially approve, or deny the request based on effluent data and other available information. If approval is given, the modification will take place without a public notice.
 - e/ Only those toxic organics that were present in concentrations greater than 0.01 mg/L in the initial influent screening are required to be analyzed for in the total toxic organic (TTO) sample of the effluent. Organic chemicals detected in concentrations greater than 0.01 mg/L shall have discharge limitations established on a case-by-case basis. Total Petroleum Hydrocarbon (TPH) analyses may be substituted for the TTO analyses upon approval from the Executive Secretary. It is the permittee's responsibility to petition the Executive Secretary. The Executive Secretary may then approve, partially approve, or deny the request based on all available information. If approval is given, the modification will take place without a public notice.
3. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): at the outfall from the wastewater treatment system prior to mixing with any receiving waters.
 4. Samples shall be analyzed for the appropriate constituents by the methods listed in the Utah Department of Environmental Quality, Division of Environmental Remediation & Response, *Utah UST Rule R311-205-2(d)(1)*. Monitoring results are to be summarized on monthly Discharge Monitoring Reports and submitted as appropriate to the Utah Division of Water Quality.
 5. Additional monitoring shall be required for facilities that discharge into watersheds on the Utah state 303(d) list of impaired waters and/or within the Colorado River Basin. These facilities shall be required to monitor for the pollutant(s) that cause the impairment for these

waters. The Division of Water Quality will incorporate for monitoring purposes only, any additional sampling data for parameters of concern.

6. Best Management Practices:

For on-going treatment facilities, the permittee shall develop and submit, upon request by the Executive Secretary, a Best Management Practices (BMP) plan within one month of permit coverage. The plan shall be implemented within two months of permit coverage. Its purpose is to prevent the spread of contamination through runoff, infiltration and spillage during collection, transfer, or storage of waste water. Technologies designed to reduce runoff and infiltration includes dikes, diversion channels, flood walls, terraces, grading, capping and revegetation. Seepage basins and ditches can be used to discharge uncontaminated or treated water down and away from the site. Sedimentation basins can be used to control suspended solid particles in surface water discharges. The BMP plan should address the specific requirements described in the June 1981, *NPDES BMP Guidance Document* with emphasis on Risk Identification and Assessment.

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.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10*, unless other test procedures have been specified in this permit.
- C. 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.
- D. Reporting of Monitoring Results. Monitoring results obtained during the previous month shall be summarized for each month 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. 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 (see Part IV.G)*, and submitted to the Director, Division of Water Quality at the following address:
- original to: Department of Environmental Quality
 Division of Water Quality
 P.O. Box 144870
 Salt Lake City, Utah 84114-4870
- 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. Additional Monitoring by the Permittee. If the permittee monitors any parameter more frequently than required by this permit, using test procedures approved under *UAC R317-2-10* or as otherwise 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. Only those parameters required by the permit need to be reported.
- G. 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) and time(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.
- H. 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. A copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location.

I. 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 Division of Water Quality, (801) 538-6146, or 24-hour answering service (801) 536-4123.
2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4123 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;
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and/or,
 - 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 Division of Water Quality, (801) 538-6146.
5. Reports shall be submitted to the addresses in *Part II.D, Reporting of Monitoring Results.*

J. 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.D* are submitted. The reports shall contain the information listed in *Part II.I.3.*

K. 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:

PART II
Permit No. UTG790000

- 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 *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at *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. Sludge/digester supernatant and 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 ten (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.I, 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. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of *The Water Quality Act of 1987* for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

- J. Changes in Discharge of Toxic Substances. Notification shall be provided to the Executive Secretary as soon as the permittee knows of, or has reason to believe:
1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 ug/L);
 - b. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/L) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(7)* or (10); or,
 - d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.
 2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. Five hundred micrograms per liter (500 ug/L);
 - b. One milligram per liter (1 mg/L) for antimony;
 - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(9)*; or,
 - d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.
- K. Industrial Pretreatment. Any wastewaters 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 Water Quality Act of 1987*, the permittee shall comply with all applicable federal General Pretreatment Regulations promulgated at *40 CFR 403*, the State Pretreatment Requirements at *UAC R317-8-8*, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the wastewaters.

In addition, in accordance with *40 CFR 403.12(p)(1)*, the permittee must notify the POTW, the EPA Regional Waste Management Director, and the State hazardous waste authorities, in writing, if they discharge any substance into a POTW which if otherwise disposed of would be considered a hazardous waste under *40 CFR 261*. This notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).

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 60 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 R317-8-3.2*, 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 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.
- 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 *UCA 19-5-117*.
- O. Water Quality-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.
- P. Toxicity Limitation-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity (WET) testing, a WET limitation, a compliance date, additional or modified numerical limitations, or any other conditions related to the control of toxicants if toxicity is detected during the life of this permit.
- Q. Storm Water-Reopener Provision. At any time during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *UAC R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to "waters-of-State".