DOCKET NO. 2011-1490-MWD

Application by the	§	**BEFORE THE**
CITY OF DENISON	§	**TEXAS COMMISSION**
for TPDES Permit	§	**ON**
No. WQ0010079003	§	**ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (the TCEQ or Commission) files this Response to Hearing Request ("Response") on the application by the City of Denison (Applicant) for renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010079003. One hearing request was received from Mrs. James A. "Patsy" Clement.

A copy of the draft permit, a compliance history report prepared by the ED's staff, the ED's Response to Public Comment (RTC), a map of the facility, and the Fact Sheet have been filed with this Response as Exhibits A through E respectively. Copies were also provided to all parties.

II. Description of the Facility

The Applicant has applied for renewal of TPDES Permit No. WQ0010079003, that would authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 6,000,000 gallons per day (gpd).

The Paw Paw Wastewater Treatment Facility is an activated sludge process plant operated in the conventional mode. Treatment units include bar screens, grit chambers, primary clarifiers, aeration basins, final clarifiers, aerobic digesters, a belt filter press, sand drying beds, two shaving basins, and an ultraviolet (UV) system.

The facility is located east of the City of Denison, approximately 1,600 feet east and 2,200 feet north of the intersection of Center Street and Farm-to-Market Road 120 in Grayson County, Texas 75021. The treated effluent is discharged via pipeline to the Red River Below Lake Texoma in Segment No. 0202 of the Red River Basin. The designated uses for Segment No. 0202 are contact recreation,

public water supply and high aquatic life use. Segment No. 0202 is not currently listed on the State's inventory of impaired and threatened waters (the Clean Water Act §303(d) list). This is a renewal application for a public domestic wastewater treatment facility and should not contribute to the impairment of this segment.

In accordance with the recent amendments to 30 TAC Chapters 309 and 319 and to ensure disinfection, an effluent limitation for *E. coli* bacteria has been added to the draft permit. The effluent limitations in the draft permit will maintain and protect the existing instream uses. The effluent limitations in the draft permit, based on a 30-day average, are 20 mg/l five-day Biochemical Oxygen Demand (BOD_5), 20 mg/l Total Suspended Solids (TSS), 126 *E. coli* Colony Forming Units (CFU) or Most Probable Number (MPN) per 100 ml, and 2.0 mg/l minimum dissolved oxygen (DO). The Applicant will use an UV system for disinfection purposes.

III. Procedural Background

TCEQ received the renewal application on November 30, 2010 and declared it administratively complete on December 15, 2010. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on December 26, 2010 in the *Herald Democrat*. The Notice of Application and Preliminary Decision (NAPD) was published on May 1, 2011 in the *Herald Democrat*. The public comment period ended on May 31, 2011. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

IV. Evaluation Process for Hearing Requests

The regulations governing requests for contested case hearings are found at Title 30 of the Texas Administrative Code (TAC) Chapter 55. 30 TAC §§ 55.201(c) and (d) require that a request for a contested case hearing must comply with the following:

1) be in writing;
2) be timely filed;
3) request a contested case hearing;
4) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request;
5) provide any other information specified in the public notice of application; and
6) raise disputed issues.

In addition to requesting a contested case hearing, a person must be an

"affected person" as defined in 30 TAC § 55.203(a). The rule defines an affected person as "one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.

In making an "affected person" determination, 30 TAC § 55.203(c) lists factors to consider, including:

1) whether the interest claimed is one protected by the law under which the application will be considered;
2) distance restrictions or other limitations imposed by law on the affected interest;
3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
4) the likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
5) the likely impact of the regulated activity on use of the impacted natural resource by the person; and
6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

If the Commission determines that the hearing request is timely and that the requestor is an affected person, the Commission applies the following test from 30 TAC § 55.211(b) to the issues raised to determine if any of the issues should be referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing:

1) does the issue involve questions of fact, not questions strictly of law or policy;
2) was it raised during the public comment period;
3) was it withdrawn; and
4) is it relevant and material to the Commission's decision on the application.

V. Analysis of the Requests

1. Whether there is a right to a contested case hearing under Texas Water Code § 26.028(d) and 30 TAC § 55.201(i)(5)?

Because this is an application for renewal of a discharge permit, the Commission must determine whether there is a right to a contested case hearing. The request in

this case should be denied because under TWC § 26.028(d) and 30 TAC § 55.201(i)(5), there is no right to a contested case hearing for a permit renewal of this sort. 30 TAC § 55.201(i)(5) states that there is no right to a contested case hearing for applications that seek to renew or amend a permit under Texas Water Code, Chapter 26, if (1) the applicant is not applying to increase significantly the quantity of waste authorized to be discharged or change materially the pattern or place of discharge. (2) The activity to be authorized by the renewal or amended permit will maintain or improve the quality of waste authorized to be discharged. (3) Any required opportunity for public meeting has been given. (4) Consultation and response to all timely received and significant public comment has been given. (5) The applicant's compliance history for the previous five years raises no issues regarding the applicant's ability to comply with a material term of the permit.

The Applicant has satisfied all of the conditions outlined in 30 TAC § 55.201(i)(5); therefore, the ED recommends that Mrs. Clement's hearing request be denied. The Applicant only seeks to renew its permit without increasing significantly the quantity of waste authorized to be discharged, or changing materially the pattern or place of discharge. Similarly, this renewal will improve the quality of the treated effluent from this facility because the addition of the bacteria effluent limit in the draft permit makes the permit more stringent.

Further, no public meetings were requested in this case during the public comment period. The ED responded to all timely received, significant, relevant and material public comments. The comment period in this matter ended May 31, 2011. The ED filed a Response to Public Comments (RTC) on July 19, 2011.

Finally, the compliance history for the Applicant's wastewater treatment plant raises no issues concerning the Applicant's ability to comply with the material terms of the draft permit. The Applicant has a classification of "average," with a rating of 1.68, and a site rating of 0.38. Recent violations from November and December 2010 have all been promptly resolved.

The ED recommends that the Commission find that there is no right to a contested case hearing under 30 TAC § 55.201(i)(5).

EXECUTIVE DIRECTOR'S RECOMMENDATION

The ED recommends the following actions be taken by the Commission:

1. Find that there is no right to a contested case hearing under 30 TAC § 55.201(i)(5); and

2. Deny Mrs. Clement's hearing request.

Respectfully submitted,
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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Robert Martinez, Director
Environmental Law Division

By: _____

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ATTORNEY FOR
THE EXECUTIVE DIRECTOR

CERTIFICATE OF SERVICE

I certify that on December 29, 2011, the original and seven copies of the "Executive Director's Response to Hearing Request" for Permit No. WQ0010079003 were filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk; a complete copy with attachments and exhibits was either faxed, mailed, or both faxed and mailed to everyone on the attached mailing list.

Alicia Ramirez, Staff Attorney
Environmental Law Division
State Bar No. 24032665

LIST OF EXHIBITS

Application by the City of Denison for TPDES Permit No. WQ0010079003
TCEQ Docket No. 2011-1490-MWD

Exhibit A — Draft Permit No. WQ0010079003

Exhibit B — Compliance History

Exhibit C — Executive Director's Response to Public Comment

Exhibit D — Map of Facility

Exhibit E — Fact Sheet

MAILING LIST
CITY OF DENISON
DOCKET NO. 2011-1490-MWD; PERMIT NO. WQ0010079003

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TPDES PERMIT NO.
WQ0010079003
[For TCEQ office use only - EPA I.D. No. TX0047228]

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P.O. Box 13087
Austin, Texas 78711-3087

This is a renewal that replaces TPDES Permit No. WQ0010079003 issued October 24, 2006.

PERMIT TO DISCHARGE WASTES
under provisions of
Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

City of Denison

whose mailing address is

P.O. Box 347
Denison, Texas 75021

is authorized to treat and discharge wastes from the Paw Paw WWTP Wastewater Treatment Facility, SIC Code 4952

located east of the City of Denison, approximately 1,600 feet east and 2,200 feet north of the intersection of Center Street and Farm-to-Market Road 120 in Grayson County, Texas 75021

via pipeline to the Red River Below Lake Texoma in Segment No. 0202 of the Red River Basin

only according with effluent limitations, monitoring requirements and other conditions set forth in this permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This permit shall expire at midnight, **December 1, 2015**.

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the date of expiration the permittee is authorized to discharge subject to the following effluent limitations:

   The annual average flow of effluent shall not exceed 6.0 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 9028 gallons per minute (gpm).

Effluent Characteristic	Discharge Limitations				Min. Self-Monitoring Requirements	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Daily Max. Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Biochemical Oxygen Demand (5-day)	20 (1,001)	30	45	65	One/day	Composite
Total Suspended Solids	20 (1,001)	30	45	65	One/day	Composite
E. coli, CFU or MPN/100 ml	126	N/A	394	N/A	Daily	Grab

2. The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored five times per week by grab sample.

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

5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.

6. The effluent shall contain a minimum dissolved oxygen of 2.0 mg/l and shall be monitored once per day by grab sample.

7. The annual average flow and maximum 2-hour peak flow shall be reported monthly.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC § 305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code (TWC) §§ 5.103 and 5.105, and the Texas Health and Safety Code (THSC) §§ 361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. All definitions in TWC § 26.001 and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

   a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder and limited to major domestic wastewater discharge facilities with one million gallons per day or greater permitted flow.

   b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.

   c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.

   d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.

   e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.

   f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

2. Concentration Measurements

   a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.

      i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.

ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.

b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.

c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.

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

The daily discharge determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily discharge determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

e. Bacteria concentration (*E. coli* or Enterococci) - Colony Forming Units (CFU) or Most Probable Number (MPN) of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the nth root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substituted value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.

f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).

g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.

3. Sample Type

a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).

b. Grab sample - an individual sample collected in less than 15 minutes.

4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.

5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.

6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, a monthly effluent report shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge which is described by this permit whether or not a discharge is made for that month. Monitoring results must be reported on an approved self-report form that is signed and certified as required by Monitoring and Reporting Requirements No. 10.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Clean Water Act (CWA); TWC §§ 26, 27, and 28; and THSC § 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

2. Test Procedures

a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§ 319.11 - 319.12. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.

b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC § 25, Environmental Testing Laboratory Accreditation and Certification.

3. Records of Results

a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.

b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period

of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR § 264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.

c. Records of monitoring activities shall include the following:

i. date, time and place of sample or measurement;

ii. identity of individual who collected the sample or made the measurement.

iii. date and time of analysis;

iv. identity of the individual and laboratory who performed the analysis;

v. the technique or method of analysis; and

vi. the results of the analysis or measurement and quality assurance/quality control records.

The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that may be instituted against the permittee.

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

5. Calibration of Instruments

All automatic flow measuring or recording devices and all totalizing meters for measuring flows shall be accurately calibrated by a trained person at plant start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually unless authorized by the Executive Director for a longer period. Such person shall verify in writing that the device is operating properly and giving accurate results. Copies of the verification shall be retained at the facility site and/or shall be readily available for review by a TCEQ representative for a period of three years.

6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office and the Enforcement Division (MC 224).

7. Noncompliance Notification

a. In accordance with 30 TAC § 305.125(9) any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:

i. Unauthorized discharges as defined in Permit Condition 2(g).

ii. Any unanticipated bypass that exceeds any effluent limitation in the permit.

iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.

c. In addition to the above, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.

d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.

8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.

9. Changes in Discharges of Toxic Substances

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Regional Office, orally or by facsimile transmission within 24 hours, and both the Regional Office and the Enforcement Division (MC 224) in writing within five (5) working days, after becoming aware of or having reason to believe:

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

i. One hundred micrograms per liter (100 μg/L);

ii. Two hundred micrograms per liter (200 μg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 μg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;

iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or

iv. The level established by the TCEQ.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

i. Five hundred micrograms per liter (500 μg/L);

ii. One milligram per liter (1 mg/L) for antimony;

iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or

iv. The level established by the TCEQ.

10. Signatories to Reports

All reports and other information requested by the Executive Director shall be signed by the person and in the manner required by 30 TAC § 305.128 (relating to Signatories to Reports).

11. All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Executive Director of the following:

a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to CWA § 301 or § 306 if it were directly discharging those pollutants;

b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and

c. For the purpose of this paragraph, adequate notice shall include information on:

i. The quality and quantity of effluent introduced into the POTW; and

ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

PERMIT CONDITIONS

1. General

a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.

b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following: Violation of any terms or conditions of this permit;

i. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or

ii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

2. Compliance

a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.

b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.

c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.

e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.

f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and TWC§ 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.

h. In accordance with 30 TAC § 305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility which does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.

i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§ 402 (a)(3) or 402 (b)(8).

3. Inspections and Entry

a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC § 361.

b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC § 7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

4. Permit Amendment and/or Renewal

a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:

i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC § 305.534 (relating to New Sources and New Dischargers); or

ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9;

iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.

c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.

d. Prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.

e. In accordance with the TWC § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.

f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA § 307(a) for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under CWA § 307(a) for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Permit Transfer

a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.

b. A permit may be transferred only according to the provisions of 30 TAC § 305.64 (relating to Transfer of Permits) and 30 TAC § 50.133 (relating to Executive Director Action on Application or WQMP update).

6. Relationship to Hazardous Waste Activities

This permit does not authorize any activity of hazardous waste storage, processing, or disposal that requires a permit or other authorization pursuant to the Texas Health and Safety Code.

7. Relationship to Water Rights

Disposal of treated effluent by any means other than discharge directly to water in the state must be specifically authorized in this permit and may require a permit pursuant to TWC Chapter 11.

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

The application pursuant to which the permit has been issued is incorporated herein; provided, however, that in the event of a conflict between the provisions of this permit and the application, the provisions of the permit shall control.

11. Notice of Bankruptcy.

a. Each permittee shall notify the Executive Director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:

i. the permittee;

ii. an entity (as that term is defined in 11 USC, § 101(14)) controlling the permittee or listing the permit or permittee as property of the estate; or

iii. an affiliate (as that term is defined in 11 USC, § 101(2)) of the permittee.

b. This notification must indicate:

i. the name of the permittee and the permit number(s);

ii. the bankruptcy court in which the petition for bankruptcy was filed; and

iii. the date of filing of the petition.

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.

2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§ 319.21 - 319.29 concerning the discharge of certain hazardous metals.

3. Domestic wastewater treatment facilities shall comply with the following provisions:

   a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.

   b. The permittee shall submit a closure plan for review and approval to the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.

4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.

6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under TWC § 7.302(b)(6).

7. Documentation

   For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information required for TPDES permit applications, effluent data, including effluent data in permits, draft permits and permit applications, and other information specified as not

confidential in 30 TAC §§ 1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words confidential business information on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

8. Facilities that generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.

   a. Whenever flow measurements for any domestic sewage treatment facility reach 75% of the permitted daily average or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities. Whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a domestic wastewater treatment facility which reaches 75% of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.

      If in the judgment of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 149) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

   b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.

   c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and

related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.

9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.

10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.

11. Facilities that generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:

    a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.

    b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.

    c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Environmental Cleanup Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.

    d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.

    e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.

    f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC § 335 and must include the following, as it pertains to wastewater treatment and discharge:

        i. Volume of waste and date(s) generated from treatment process;
        ii. Volume of waste disposed of on-site or shipped off-site;

iii. Date(s) of disposal;
iv. Identity of hauler or transporter;
v. Location of disposal site; and
vi. Method of final disposal.

The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.

12. For industrial facilities to which the requirements of 30 TAC § 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with THSC § 361.

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SLUDGE PROVISIONS

The permittee is authorized to dispose of sludge only at a Texas Commission on Environmental Quality (TCEQ) authorized land application site or co-disposal landfill. **The disposal of sludge by land application on property owned, leased or under the direct control of the permittee is a violation of the permit unless the site is authorized with the TCEQ. This provision does not authorize Distribution and Marketing of sludge. This provision does not authorize land application of Class A Sludge. This provision does not authorize the permittee to land apply sludge on property owned, leased or under the direct control of the permittee.**

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE LAND APPLICATION

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC § 312 and all other applicable state and federal regulations in a manner that protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present in the sludge.

2. In all cases, if the person (permit holder) who prepares the sewage sludge supplies the sewage sludge to another person for land application use or to the owner or lease holder of the land, the permit holder shall provide necessary information to the parties who receive the sludge to assure compliance with these regulations.

3. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge disposal practice.

B. Testing Requirements

1. Sewage sludge shall be tested annually in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I Toxicity Characteristic Leaching Procedure (TCLP) or other method that receives the prior approval of the TCEQ for the contaminants listed in 40 CFR Part 261.24, Table 1. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal. Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division and the Regional Director (MC Region 4) within seven (7) days after failing the TCLP Test.

   The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to:

Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 4) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

2. Sewage sludge shall not be applied to the land if the concentration of the pollutants exceeds the pollutant concentration criteria in Table 1. The frequency of testing for pollutants in Table 1 is found in Section I.C.

TABLE 1

Pollutant	Ceiling Concentration (Milligrams per kilogram)*
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
PCBs	49
Selenium	100
Zinc	7500

* Dry weight basis

3. Pathogen Control

All sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following methods to ensure that the sludge meets either the Class A or Class B pathogen requirements.

a. Six alternatives are available to demonstrate compliance with Class A sewage sludge. The first 4 options require either the density of fecal coliform in the sewage sludge be less than 1000 Most Probable Number (MPN) per gram of total solids (dry weight basis), or the density of Salmonella sp. bacteria in the sewage sludge be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. Below are the additional requirements necessary to meet the definition of a Class A sludge.

Alternative 1 - The temperature of the sewage sludge that is used or disposed shall be maintained at or above a specific value for a period of time. See 30 TAC § 312.82(a)(2)(A) for specific information.

Alternative 2 - The pH of the sewage sludge that is used or disposed shall be raised to above 12 std. units and shall remain above 12 std. units for 72 hours.

The temperature of the sewage sludge shall be above 52° Celsius for 12 hours or longer during the period that the pH of the sewage sludge is above 12 std. units.

At the end of the 72-hour period during which the pH of the sewage sludge is above 12 std. units, the sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50%.

Alternative 3 - The sewage sludge shall be analyzed for enteric viruses prior to pathogen treatment. The limit for enteric viruses is less than one Plaque-forming Unit per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 30 TAC § 312.82(a)(2)(C)(i-iii) for specific information. The sewage sludge shall be analyzed for viable helminth ova prior to pathogen treatment. The limit for viable helminth ova is less than one per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 30 TAC § 312.82(a)(2)(C)(iv-vi) for specific information.

Alternative 4 - The density of enteric viruses in the sewage sludge shall be less than one Plaque-forming Unit per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. The density of viable helminth ova in the sewage sludge shall be less than one per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed.

Alternative 5 (PFRP) - Sewage sludge that is used or disposed of shall be treated in one of the processes to Further Reduce Pathogens (PFRP) described in 40 CFR Part 503, Appendix B. PFRP include composting, heat drying, heat treatment, and thermophilic aerobic digestion.

Alternative 6 (PFRP Equivalent) - Sewage sludge that is used or disposed of shall be treated in a process that has been approved by the U.S. Environmental Protection Agency as being equivalent to those in Alternative 5.

b. Three alternatives are available to demonstrate compliance with Class B criteria for sewage sludge.

Alternative 1

i. A minimum of seven random samples of the sewage sludge shall be collected within 48 hours of the time the sewage sludge is used or disposed of during each monitoring episode for the sewage sludge.

ii. The geometric mean of the density of fecal coliform in the samples collected shall be less than either 2,000,000 MPN per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

Alternative 2 - Sewage sludge that is used or disposed of shall be treated in one of the Processes to Significantly Reduce Pathogens (PSRP) described in 40 CFR Part 503, Appendix B, so long as all of the following requirements are met by the generator of the sewage sludge.

i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;

ii. An independent Texas Licensed Professional Engineer must make a certification to the generator of a sewage sludge that the wastewater treatment facility generating the sewage sludge is designed to achieve one of the PSRP at the permitted design loading of the facility. The certification need only be repeated if the design loading of the facility is increased. The certification shall include a statement indicating the design meets all the applicable standards specified in Appendix B of 40 CFR Part 503;

iii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;

iv. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review; and

v. If the sewage sludge is generated from a mixture of sources, resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the PSRP, and shall meet the certification, operation, and record keeping requirements of this paragraph.

Alternative 3 - Sewage sludge shall be treated in an equivalent process that has been approved by the U.S. Environmental Protection Agency, so long as all of the following requirements are met by the generator of the sewage sludge.

i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;

ii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;

iii. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review;

iv. The Executive Director will accept from the U.S. Environmental Protection Agency a finding of equivalency to the defined PSRP; and

v. If the sewage sludge is generated from a mixture of sources resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the Processes to Significantly Reduce Pathogens, and shall meet the certification, operation, and record keeping requirements of this paragraph.

In addition, the following site restrictions must be met if Class B sludge is land applied:

i. Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.

ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for 4 months or longer prior to incorporation into the soil.

iii. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of sewage sludge when the sewage sludge remains on the land surface for less than 4 months prior to incorporation into the soil.

iv. Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of sewage sludge.

v. Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.

vi. Turf grown on land where sewage sludge is applied shall not be harvested for 1 year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn.

vii. Public access to land with a high potential for public exposure shall be restricted for 1 year after application of sewage sludge.

viii. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.

ix. Land application of sludge shall be in accordance with the buffer zone requirements found in 30 TAC § 312.44.

4. Vector Attraction Reduction Requirements

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following Alternatives 1 through 10 for vector attraction reduction.

Alternative 1 - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38%.

Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30° and 37° Celsius. Volatile solids must be reduced by less than 17% to demonstrate compliance.

Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20° Celsius. Volatile solids must be reduced by less than 15% to demonstrate compliance.

Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20° Celsius.

Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40° Celsius and the average temperature of the sewage sludge shall be higher than 45° Celsius.

Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours at the time the sewage sludge is prepared for sale or given away in a bag or other container.

Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75% based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials at the time the sludge is used. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Alternative 9 -

i. Sewage sludge shall be injected below the surface of the land.

ii. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.

iii. When sewage sludge that is injected below the surface of the land

is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

Alternative 10- i. Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.

ii. When sewage sludge that is incorporated into the soil is Class A with respect to pathogens, the sewage sludge shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

C. Monitoring Requirements

Toxicity Characteristic Leaching Procedure (TCLP) Test	- annually
PCBs	- annually

All metal constituents and fecal coliform or Salmonella sp. bacteria shall be monitored at the appropriate frequency shown below, pursuant to 30 TAC § 312.46(a)(1):

Amount of sewage sludge (*) metric tons per 365-day period	Monitoring Frequency
0 to less than 290	Once/Year
290 to less than 1,500	Once/Quarter
1,500 to less than 15,000	Once/Two Months
15,000 or greater	Once/Month

(*) *The amount of bulk sewage sludge applied to the land (dry weight basis).*

Representative samples of sewage sludge shall be collected and analyzed in accordance with the methods referenced in 30 TAC § 312.7

SECTION II. REQUIREMENTS SPECIFIC TO BULK SEWAGE SLUDGE FOR APPLICATION TO THE LAND MEETING CLASS A or B PATHOGEN REDUCTION AND THE CUMULATIVE LOADING RATES IN TABLE 2, OR CLASS B PATHOGEN REDUCTION AND THE POLLUTANT CONCENTRATIONS IN TABLE 3

For those permittees meeting Class A or B pathogen reduction requirements and that meet the cumulative loading rates in Table 2 below, or the Class B pathogen reduction requirements and contain concentrations of pollutants below listed in Table 3, the following conditions apply:

A. Pollutant Limits

Table 2

Pollutant	Cumulative Pollutant Loading Rate (pounds per acre)*
Arsenic	36
Cadmium	35
Chromium	2677
Copper	1339
Lead	268
Mercury	15
Molybdenum	Report Only
Nickel	375
Selenium	89
Zinc	2500

Table 3

Pollutant	Monthly Average Concentration (milligrams per kilogram)*
Arsenic	41
Cadmium	39
Chromium	1200
Copper	1500
Lead	300
Mercury	17
Molybdenum	Report Only
Nickel	420
Selenium	36
Zinc	2800

*Dry weight basis

B. Pathogen Control

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, a reclamation site, shall be treated by either Class A or Class B pathogen reduction requirements as defined above in Section I.B.3.

Management Practices

1. Bulk sewage sludge shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge enters a wetland or other waters in the State.

2. Bulk sewage sludge not meeting Class A requirements shall be land applied in a manner which complies with the Management Requirements in accordance with 30 TAC § 312.44.

3. Bulk sewage sludge shall be applied at or below the agronomic rate of the cover crop.

4. An information sheet shall be provided to the person who receives bulk sewage sludge sold or given away. The information sheet shall contain the following information:

   a. The name and address of the person who prepared the sewage sludge that is sold or given away in a bag or other container for application to the land.

   b. A statement that application of the sewage sludge to the land is prohibited except in accordance with the instruction on the label or information sheet.

   c. The annual whole sludge application rate for the sewage sludge application rate for the sewage sludge that does not cause any of the cumulative pollutant loading rates in Table 2 above to be exceeded, unless the pollutant concentrations in Table 3 found in Section II above are met.

D. Notification Requirements

1. If bulk sewage sludge is applied to land in a State other than Texas, written notice shall be provided prior to the initial land application to the permitting authority for the State in which the bulk sewage sludge is proposed to be applied. The notice shall include:

   a. The location, by street address, and specific latitude and longitude, of each land application site.

   b. The approximate time period bulk sewage sludge will be applied to the site.

   c. The name, address, telephone number, and National Pollutant Discharge Elimination System permit number (if appropriate) for the person who will apply the bulk sewage sludge.

2. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge disposal practice.

E. Record keeping Requirements

The sludge documents will be retained at the facility site and/or shall be readily available for review by a TCEQ representative. The person who prepares bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative for a

period of five years. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply.

1. The concentration (mg/kg) in the sludge of each pollutant listed in Table 3 above and the applicable pollutant concentration criteria (mg/kg), or the applicable cumulative pollutant loading rate and the applicable cumulative pollutant loading rate limit (lbs/ac) listed in Table 2 above.

2. A description of how the pathogen reduction requirements are met (including site restrictions for Class B sludge, if applicable).

3. A description of how the vector attraction reduction requirements are met.

4. A description of how the management practices listed above in Section II.C are being met.

5. The following certification statement:

   "I certify, under penalty of law, that the applicable pathogen requirements in 30 TAC § 312.82(a) or (b) and the vector attraction reduction requirements in 30 TAC § 312.83(b) have been met for each site on which bulk sewage sludge is applied. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practices have been met. I am aware that there are significant penalties for false certification including fine and imprisonment."

6. The recommended agronomic loading rate from the references listed in Section II.C.3. above, as well as the actual agronomic loading rate shall be retained. The person who applies bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply:

   a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii), as applicable, and to the permittee's specific sludge treatment activities.

   b. The location, by street address, and specific latitude and longitude, of each site on which sludge is applied.

   c. The number of acres in each site on which bulk sludge is applied.

   d. The date and time sludge is applied to each site.

   e. The cumulative amount of each pollutant in pounds/acre listed in Table 2 applied to each site.

   f. The total amount of sludge applied to each site in dry tons.

The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 4) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30 of each year the following information:

1. Results of tests performed for pollutants found in either Table 2 or 3 as appropriate for the permittee's land application practices.
2. The frequency of monitoring listed in Section I.C. that applies to the permittee.
3. Toxicity Characteristic Leaching Procedure (TCLP) results.
4. Identity of hauler(s) and TCEQ transporter number.
5. PCB concentration in sludge in mg/kg.
6. Date(s) of disposal.
7. Owner of disposal site(s).
8. Texas Commission on Environmental Quality registration number, if applicable.
9. Amount of sludge disposal dry weight (lbs/acre) at each disposal site.
10. The concentration (mg/kg) in the sludge of each pollutant listed in Table 1 (defined as a monthly average) as well as the applicable pollutant concentration criteria (mg/kg) listed in Table 3 above, or the applicable pollutant loading rate limit (lbs/acre) listed in Table 2 above if it exceeds 90% of the limit.
11. Level of pathogen reduction achieved (Class A or Class B).
12. Alternative used as listed in Section I.B.3.(a. or b.). Alternatives describe how the pathogen reduction requirements are met. If Class B sludge, include information on how site restrictions were met.
13. Vector attraction reduction alternative used as listed in Section I.B.4.
14. Annual sludge production in dry tons/year.
15. Amount of sludge land applied in dry tons/year.
16. The certification statement listed in either 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii) as applicable to the permittee's sludge treatment activities, shall be attached to the annual reporting form.
17. When the amount of any pollutant applied to the land exceeds 90% of the cumulative pollutant loading rate for that pollutant, as described in Table 2, the permittee shall report the following information as an attachment to the annual reporting form.

a. The location, by street address, and specific latitude and longitude.

b. The number of acres in each site on which bulk sewage sludge is applied.

c. The date and time bulk sewage sludge is applied to each site.

d. The cumulative amount of each pollutant (i.e., pounds/acre) listed in Table 2 in the bulk sewage sludge applied to each site.

e. The amount of sewage sludge (i.e., dry tons) applied to each site.

The above records shall be maintained on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

SECTION III. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE DISPOSED IN A MUNICIPAL SOLID WASTE LANDFILL

A. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC § 330 and all other applicable state and federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present. The permittee shall ensure that the sewage sludge meets the requirements in 30 TAC § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.

B. If the permittee generates sewage sludge and supplies that sewage sludge to the owner or operator of a municipal solid waste landfill (MSWLF) for disposal, the permittee shall provide to the owner or operator of the MSWLF appropriate information needed to be in compliance with the provisions of this permit.

C. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge disposal practice.

D. Sewage sludge shall be tested annually in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I (Toxicity Characteristic Leaching Procedure) or other method, which receives the prior approval of the TCEQ for contaminants listed in Table 1 of 40 CFR § 261.24. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal.

   Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division and the Regional Director (MC Region 4) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

   The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 4) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

E. Sewage sludge shall be tested as needed, in accordance with the requirements of 30 TAC Chapter 330.

F. Record keeping Requirements

   The permittee shall develop the following information and shall retain the information for five years.

1. The description (including procedures followed and the results) of all liquid Paint Filter Tests performed.

2. The description (including procedures followed and results) of all TCLP tests performed.

The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

G. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 4) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year the following information:

1. Toxicity Characteristic Leaching Procedure (TCLP) results.

2. Annual sludge production in dry tons/year.

3. Amount of sludge disposed in a municipal solid waste landfill in dry tons/year.

4. Amount of sludge transported interstate in dry tons/year.

5. A certification that the sewage sludge meets the requirements of 30 TAC § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.

6. Identity of hauler(s) and transporter registration number.

7. Owner of disposal site(s).

8. Location of disposal site(s).

9. Date(s) of disposal.

The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

OTHER REQUIREMENTS

1. The permittee shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.

   This Category B facility must be operated by a chief operator or an operator holding a Category B license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week. Where shift operation of the wastewater treatment facility is necessary, each shift that does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.

2. The facility is not located in the Coastal Management Program boundary.

3. Chronic toxic criteria apply at the edge of the mixing zone. The mixing zone is defined as 300 feet downstream and 100 feet upstream from the point of discharge.

4. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 0202 of the Red River Basin and any subsequent updating of the water quality model for Segment No. 0202, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC §305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling protocol approved in the TCEQ Continuing Planning Process.

5. The permit issued June 25, 1993 provides the permittee a variance in accordance with 30 TAC Section 309.13 (e)(3). The permittee has submitted sufficient evidence of legal restrictions prohibiting residential structures within the part of the buffet zone no owned by the permittee according to 30 TAC Section 309.13 (e) (3). The permittee shall comply with the requirements of 30 TAC Section 309.13 (a) through (d).

6. In accordance with 30 TAC §319.9, a permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission in writing of its compliance and request a less frequent measurement schedule. To request a less frequent schedule, the permittee shall submit a written request to the TCEQ Wastewater Permitting Section (MC 148) for each phase that includes a different monitoring frequency. The request must contain all of the reported bacteria values (Daily Avg. and Daily Max/Single Grab) for the twelve consecutive months immediately prior to the request. If the Executive Director finds that a less frequent measurement schedule is protective of human health and the environment, the permittee will be given a less frequent measurement schedule. For this permit, daily will be reduced to 5/week. **A violation of any bacteria limit by a facility that has been granted a less frequent measurement schedule will require the permittee to return to the standard frequency schedule**, and the permittee may not apply for another reduction in measurement frequency for at least 24 months from the date of the last violation. The Executive Director may establish a more frequent measurement schedule if necessary to protect human health or the environment.

CONTRIBUTING INDUSTRIES AND PRETREATMENT REQUIREMENTS

1. The permittee shall operate an industrial pretreatment program in accordance with Sections 402(b)(8) and (b)(9) of the Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403) and the approved POTW pretreatment program submitted by the permittee. The pretreatment program was approved on **October 1, 1986**, and modified on **April 13, 1990, October 13, 1995,** and **October 24, 2006**.

   The legal authority and the POTW's pretreatment program are not in compliance with the current 40 CFR Part 403 regulations *[rev. Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798]* and the 30 TAC Chapter 315, as amended. In order to ensure that the permittee has a program to assure compliance with such pretreatment standards and requirements, the permittee shall submit a modification to their pretreatment program containing all required [*i.e.* more stringent] Streamlining Rule provisions to the Executive Director care of the Storm Water & Pretreatment Team (MC148) of the Water Quality Division within **twelve (12) months of the issued date of this permit**. This submission shall be signed and certified by the permittee *[according to 40 CFR §122.41(k)]*.

   The POTW pretreatment program is hereby incorporated by reference and shall be implemented in a manner consistent with the following requirements:

   a. industrial user (IU) information shall be kept current according to 40 CFR §§403.8(f)(2)(i) and (ii) and updated at a frequency set forth in the approved pretreatment program to reflect accurate characterization of all IUs;

   b. the frequency and nature of IU compliance monitoring activities by the permittee shall be consistent with the approved POTW pretreatment program and commensurate with the character, consistency, and volume of waste. The permittee is required to inspect and sample the effluent from each significant industrial user (SIU) at least once per year, except as specified in 40 CFR §403.8 (f)(2)(v). This is in addition to any industrial self-monitoring activities;

   c. the permittee shall enforce and obtain remedies for IU noncompliance with applicable pretreatment standards and requirements and the approved POTW pretreatment program;

   d. the permittee shall control through permit, order, or similar means, the contribution to the POTW by each IU to ensure compliance with applicable pretreatment standards and requirements and the approved POTW pretreatment program. In the case of SIUs (identified as significant under 40 CFR §403.3 (v)), this control shall be achieved through individual permits or general control mechanisms, in accordance with 40 CFR §403.8(f)(1)(iii).

      Both individual and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:

      (1) Statement of duration (in no case more than five years);
      (2) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

(3) Effluent limits, which may include enforceable best management practices (BMPs), based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and State and local law;

(4) Self-monitoring, sampling, reporting, notification and record keeping requirements, identification of the pollutants to be monitored (including, if applicable, the process for seeking a waiver for a pollutant neither present nor expected to be present in the IU's discharge in accordance with 40 CFR §403.12(e)(2), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR Part 403, categorical pretreatment standards, local limits, and State and local law;

(5) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond federal deadlines; and,

(6) Requirements to control slug discharges, if determined by the POTW to be necessary.

e. for those IUs who are covered by a general control mechanism, in order to implement 40 CFR §403.8(f)(1)(iii)(A)(2), a monitoring waiver for a pollutant neither present nor expected to be present in the IU's discharge is not effective in the general control mechanism until after the POTW has provided written notice to the SIU that such a waiver request has been granted in accordance with 40 CFR §403.12(e)(2).

f. the permittee shall evaluate, whether each SIU needs a plan or other action to control slug discharges, in accordance with 40 CFR §403.8(f)(2)(vi). If the POTW decides that a slug control plan is needed, the plan shall contain at least the minimum elements required in 40 CFR §403.8(f)(2)(vi);

g. the permittee shall provide adequate staff, equipment, and support capabilities to carry out all elements of the pretreatment program; and,

h. the approved program shall not be modified by the permittee without the prior approval of the Executive Director, according to 40 CFR §403.18.

2. The permittee is under a continuing duty to: establish and enforce specific local limits to implement the provisions of 40 CFR §403.5, develop and enforce local limits as necessary, and modify the approved pretreatment program as necessary to comply with federal, state and local law, as amended. The permittee may develop BMPs to implement paragraphs 40 CFR §§403.5(c)(1) and (c)(2). Such BMPs shall be considered local limits and pretreatment standards. The permittee is required to effectively enforce such limits and to modify their pretreatment program, including the Legal Authority, Enforcement Response Plan and/or Standard Operating Procedures, if required by the Executive Director to reflect changing conditions at the POTW. Substantial modifications will be approved in accordance with 40 CFR §403.18, and modifications will become effective upon approval by the Executive Director in accordance with 40 CFR §403.18.

The permittee shall submit to the TCEQ Storm Water & Pretreatment Team (MC 148) of the Water Quality Division, within **sixty (60) days of the issued date of this permit**, either:

(1) a written certification that a technical reassessment has been performed, and that the evaluation demonstrates that existing technically based local limits (TBLLs) attain the Texas Surface Water Quality Standards [30 TAC Chapter 307] in water in the state, are adequate to prevent pass through of pollutants, inhibition of or interference with the treatment facility, worker health and safety problems, and sludge contamination [Submit the Reassessment Form No. TCEQ-20221]; **or**

(2) a written notification that a technical redevelopment of the current TBLLs, draft legal authority which incorporates such revisions, and any additional modifications to the pretreatment program, as required by 40 CFR Part 403 *[rev. 10/14/05]*, applicable state and local law, including an Enforcement Response Plan and Standard Operating Procedures and all required [*i.e.* more stringent] Streamlining Rule provisions, will be submitted within **twelve (12) months of the issued date of this permit.** The POTW is required to evaluate any enforceable BMP loadings during the redevelopment of the current TBLLs. The technical redevelopment of the current TBLLs should be developed in accordance with EPA's *Local Limits Development Guidance*, July 2004, and EPA Region 6's Technically Based Local Limits Development Guidance, October 12, 1993. This submission shall be signed and certified by the permittee *[according to 40 CFR §122.41(k)]*.

If after review of the substantial modification submission, the Executive Director determines that the submission does not comply with applicable requirements, including 40 CFR §§403.8 and 403.9, the Executive Director will notify the permittee. According to 40 CFR §403.11(c), the notification will include suggested modifications to bring the substantial modification submission into compliance with applicable requirements, including 40 CFR §§403.8(b) and (f), and 40 CFR §403.9(b). In such a case, revised information will be necessary for the Executive Director to make a determination on whether to approve or deny the permittee's substantial modification submission.

Upon approval by the Executive Director of the substantial modification to this approved POTW pretreatment program, the requirement to develop and enforce specific prohibitions and/or limits to implement the prohibitions and limits set forth in 40 CFR §§403.5 (a)(1), (b), (c)(1) and (3), and (d) is a condition of this permit. The specific prohibitions set out in 40 CFR §403.5(b) shall be enforced by the permittee unless modified under this provision.

3. The permittee shall analyze the treatment facility influent and effluent for the presence of the toxic pollutants listed in the Texas Surface Water Quality Standards [30 TAC Chapter 307], and in 40 CFR Part 122 Appendix D Table II at least **once per year** and the toxic pollutants in Table III at least **once per three months**. If, based upon information available to the permittee, there is reason to suspect the presence of any toxic or hazardous pollutant listed in 40 CFR Part 122 Appendix D Table V, or any other pollutant, known or suspected to adversely affect treatment plant operation, receiving water quality, or solids disposal procedures, analysis for those pollutants shall be performed at least **once per three months** on both the influent and the effluent.

   The influent and effluent samples collected shall be composite samples consisting of at least 12 aliquots collected at approximately equal intervals over a representative 24 hour period and composited according to flow. Sampling and analytical procedures shall be in accordance with guidelines established in 40 CFR Part 136, as amended; as approved by the EPA through the application for alternate test procedures; or as suggested in Tables 8 and 9

of the *Procedures to Implement the Texas Surface Water Quality Standards*, January 2003, as amended and adopted by the TCEQ. The effluent samples shall be analyzed to the minimum analytical level (MAL). Where composite samples are inappropriate, due to sampling, holding time, or analytical constraints, at least four (4) grab samples, taken at equal intervals over a representative 24 hour period, shall be taken.

4. The permittee shall prepare annually a list of IUs which during the preceding twelve (12) months were in significant noncompliance (SNC) with applicable pretreatment requirements. For the purposes of this section of the permit, "Contributing Industries and Pretreatment Requirements", SNC shall be determined based upon the more stringent of either criteria established at 40 CFR §403.8(f)(2)(viii) *[rev. 10/14/05]* or criteria established in the approved POTW pretreatment program. This list is to be published annually during the month of **September** in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW.

   In addition, each **September** the permittee shall submit an updated pretreatment program annual status report, in accordance with 40 CFR §§403.12(i) and (m), to the TCEQ Storm Water & Pretreatment Team (MC148) of the Water Quality Division. The report shall contain the following information as well as the information on the tables in this section. The report summary shall be submitted on the Pretreatment Performance Summary (PPS) form [TCEQ-20218].

   a. An updated list of all regulated IUs as indicated in this section. For each listed IU, the following information shall be included:

      (1) Standard Industrial Classification (SIC) or North American Industry Classification System (NAICS) code *and* categorical determination.

      (2) If the pretreatment program has been modified and approved to incorporate reduced monitoring for any of the categorical IUs as provided by 40 CFR Part 403 [rev. 10/14/05], then the list must also identify:
      * categorical IUs subject to the conditions for reduced monitoring and reporting requirements under 40 CFR §§ 403.12(e)(1) and (3);
      * those IUs that are non-significant categorical industrial users (NSCIUs) under 40 CFR §403.3(v)(2); and
      * those IUs that are middle tier categorical industrial users (MTCIUs) under 40 CFR §403.12(e)(3).

      (3) Control mechanism status.
      * Indicate whether the IU has an effective individual or general control mechanism, and the date such control mechanism was last issued, reissued, or modified;
      * Indicate which IUs were added to the system, or newly identified, during the pretreatment year reporting period;
      * Include the type of general control mechanisms; and
      * Report all NSCIU annual evaluations performed, as applicable.

      (4) A summary of all compliance monitoring activities performed by the POTW during the pretreatment year reporting period. The following information shall be reported:
      * Total number of inspections performed; and

* Total number of sampling events conducted.

(5) Status of IU compliance with effluent limitations, reporting, and narrative standard (which may include enforceable BMPs, narrative limits, and/or operational standards) requirements. Compliance status shall be defined as follows:
* Compliant (C) - no violations during the pretreatment year reporting period;
* Non-compliant (NC) - one or more violations during the pretreatment year reporting period but does not meet the criteria for SNC; and
* Significant Noncompliance (SNC) - in accordance with requirements described above in this section.

(6) For noncompliant IUs indicate the nature of the violations, the type and number of actions taken (notice of violation, administrative order, criminal or civil suit, fines or penalties collected, etc.) and current compliance status. If any IU was on a schedule to attain compliance with effluent limits or narrative standards, indicate the date the schedule was issued, and the date compliance is to be attained.

b. A list of each IU whose authorization to discharge was terminated or revoked during the pretreatment year reporting period and the reason for termination.

c. A report on any interference, pass through, upset, or POTW permit violations known or suspected to be caused by IUs and response actions taken by the permittee.

d. The results of all influent and effluent analyses performed pursuant to Item 3 of this section.

e. An original newspaper public notice, or copy of the newspaper publication with official affidavit, of the list of IUs that meet the criteria of SNC, giving the name of the newspaper and date the list was published.

f. The daily average water quality based effluent concentrations (from the TCEQ's Texas Toxicity Modeling Program (TexTox)) necessary to attain the Texas Surface Water Quality Standards, 30 TAC Chapter 307, in water in the state.

g. The maximum allowable headworks loading (MAHL) in pounds per day (lb/day) of the approved TBLLs or for each pollutant of concern (POC) for which the permittee has calculated a MAHL. In addition, the influent loading as a percent of the MAHL, using the annual average flow of the wastewater treatment plant in million gallons per day (MGD) during the pretreatment year reporting period, for each pollutant that has an adopted TBLL or for each POC for which the permittee has calculated a MAHL. (See Endnotes No. 2 at the end of this section for the influent loading as a percent of the MAHL equation)

h. The permittee may submit the updated pretreatment program annual status report information in tabular form using the example table format provided. Please attach, on a separate sheet, explanations to document the various pretreatment activities, including IU permits that have expired, BMP violations, and any sampling events that were not conducted by the permittee as required.

i. A summary of changes to the POTW's pretreatment program that have not been previously reported to the Approval Authority.

5. The permittee shall provide adequate written notification to the Executive Director care of the Wastewater Permitting Section (MC 148) of the Water Quality Division, within 30 days of the permittee's knowledge of the following:

   a. Any new introduction of pollutants into the treatment works from an indirect discharger which would be subject to Sections 301 and 306 of the Clean Water Act if the indirect discharger was directly discharging those pollutants; and

   b. Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit.

   Adequate notice shall include information on the quality and quantity of effluent to be introduced into the treatment works, and any anticipated impact of the change on the quality or quantity of effluent to be discharged from the POTW.

Revised February 2008

TPDES Pretreatment Program Annual Report Form for Updated Industrial Users List

Reporting month/year: _____, _____ to _____, _____

TPDES Permit No.: _____ Permittee: _____
Treatment Plant: _____

PRETREATMENT PROGRAM STATUS REPORT UPDATED INDUSTRIAL USERS[1] LIST

Industrial User Name	SIC or NAICS Code	CIU[2]	CONTROL MECHANISM				New User[3] (Y or N)	Times Inspected by the CA	Times Sampled by the CA	COMPLIANCE STATUS During the Pretreatment Year Reporting Period[4] (C = Compliant, NC = Noncompliant, SNC= Significant Noncompliance)						
			Y/N or NR[5]	IND or GEN or NR	Last Action[6]	TBLLs or TBLLs only[7]				REPORTS				Certifi-cations	Effluent Limits	Narrative Standards
										BMR	90-Day	Semi-Annual	Self-Monitoring[8]	NSCIU		

1 Include all significant industrial users (SIUs), non-significant categorical industrial users (NSCIUs) as defined in 40 CFR §403.3(v)(2), and/or middle tier categorical industrial users (MTCIUs) as defined in 40 CFR §403.12(e)(3). Please do not include non-significant noncategorical IUs that are covered under best management practices (BMPs) or general control mechanisms.
2 Categorical determination (include 40 CFR citation and NSCIU or MTCIU status, if applicable).
3 Indicate whether the IU is a new user. If the answer is No or N, then indicate the expiration date of the last issued IU permit.
4 The term SNC applies to a broader range of violations, such as daily maximum, long-term average, instantaneous limits, and narrative standards (which may include enforceable BMPs, narrative limits and/or operational standards). Any other violation, or group of violations, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment Program now includes BMP violations (40 CFR §403.8(f)(2)(viii)(H)).
5 Code NR= None required (NSCIUs only); IND = individual control mechanism; GEN = general control mechanism. Include as a footnote (or on a separate page) the name of the general control mechanism used for similar groups of IUs, identify the similar types of operations and types of wastes that are the same for each general control mechanism. Any BMPs through general control mechanisms that are applied to nonsignificant IUs need to be reported separately, *e.g.* the sector type and BMP description.
6 Permit or NSCIU evaluations as applicable.
7 According to 40 CFR §403.12(i)(1), indicate whether the IU is subject to technically based local limits (TBLLs) that are more stringent than categorical pretreatment standards, *e.g.* where there is one end-of-pipe sampling point at a CIU, and you have determined that the TBLLs are more stringent than the categorical pretreatment standards for any pollutant at the end-of-pipe sampling point; **OR** the IU is subject only to local limits (TBLLs only), *e.g.* the IU is a non-categorical SIU subject only to TBLLs at the end-of-pipe sampling point.
8 For those IUs where a monitoring waiver has been granted, please add the code "W" (after either C, NC, or SNC codes) and indicate the pollutant(s) for which the waiver has been granted.

TPDES Pretreatment Program Annual Report Form for Industrial User Inventory Modifications

Reporting month/year: _____, _____ to _____, _____

TPDES Permit No.: _____ Permittee: _____
Treatment Plant: _____

INDUSTRIAL USER INVENTORY MODIFICATIONS					
FACILITY NAME, ADDRESS AND CONTACT PERSON	ADD, CHANGE, DELETE (Including categorical reclassification to NSCIU or MTCIU)	IF DELETION: Reason For Deletion	IF ADDITION OR SIGNIFICANT CHANGE:		
			PROCESS DESCRIPTION	POLLUTANTS (Including any sampling waiver given for each pollutant not present)	FLOW RATE [9] (In gallons per day) R = Regulated U = Unregulated T = Total

9 For NSCIUs, total flow must be given, if regulated flow is not determined.

TPDES Pretreatment Program Annual Report Form for Enforcement Actions Taken

Reporting month/year: _____, _____ to _____, _____

TPDES Permit No.: _____ Permittee: _____
Treatment Plant: _____

Overall SNC ___%
SNC [10] based on:
Effluent Violations____% Reporting Violations____% Narrative Standard Violations____%

Noncompliant Industrial Users - Enforcement Actions Taken															
Industrial User Name	Nature of Violation [11]				Number of Actions Taken					Penalties Collected (Do not Include Surcharge)	Compliance Schedule			Current Status Returned to Compliance: (Y or N)	Comments
	Effluent Limits	Reports	NSCIU Certifications	Narrative Standards	NOV	A.O.	Civil	Criminal	Other		Y or N	Date Issued	Date Due		

10 # %
__ __ Pretreatment Standards [WENDB-PSNC] (Local Limits/Categorical Standards)
__ __ Reporting Requirements [WENDB-PSNC]
__ __ Narrative Standards

11 Please specify a separate number for each type of violation, *e.g.* report, notification, and/or NSCIU certification.

TPDES Pretreatment Program Annual Report Form for Influent and Effluent Monitoring Results[1]

Reporting month/year: _____, _____ to _____, _____

TPDES Permit No.: _____ Permittee: _____
Treatment Plant: _____

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in µg/L (Actual Concentration or < MAL)				Average Influent % of the MAHL[2]	Daily Average Effluent Limit (µg/L)[3]	Effluent Measured in µg/L (Actual Concentration or < MAL)[4]			
		Date	Date	Date	Date			Date	Date	Date	Date
METALS, CYANIDE AND PHENOLS											
Antimony, Total											
Arsenic, Total											
Beryllium, Total											
Cadmium, Total											
Chromium, Total											
Chromium (Hex)											
Chromium (Tri)[5]											
Copper, Total											
Lead, Total											
Mercury, Total											
Nickel, Total											
Selenium, Total											
Silver, Total											
Thallium, Total											
Zinc, Total											
Cyanide, Available[6]											
Cyanide, Total											
Phenols, Total											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in $\mu g/L$ (Actual Concentration or < MAL)				Average Influent % of the MAHL[2]	Daily Average Effluent Limit ($\mu g/L$)[3]	Effluent Measured in $\mu g/L$ (Actual Concentration or < MAL)[4]			
		Date	Date	Date	Date			Date	Date	Date	Date
VOLATILE COMPOUNDS											
Acrolein											
Acrylonitrile											
Benzene											
Bromoform							See TTHM				
Carbon Tetrachloride											
Chlorobenzene											
Chloro-dibromomethane							See TTHM				
Chloroethane											
2-Chloroethylvinyl Ether											
Chloroform							See TTHM				
Dichloro-bromomethane							See TTHM				
1,1-Dichloroethane											
1,2-Dichloroethane											
1,1-Dichloroethylene											
1,2-Dichloropropane											
1,3-Dichloropropylene											
Ethyl benzene											
Methyl Bromide											
Methyl Chloride											
Methylene Chloride											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in μg/L (Actual Concentration or < MAL)				Average Influent % of the MAHL[2]	Daily Average Effluent Limit (μg/L)[3]	Effluent Measured in μg/L (Actual Concentration or < MAL)[4]			
		Date	Date	Date	Date			Date	Date	Date	Date
1,1,2,2-Tetra-chloroethane											
Tetrachloroethylene											
Toluene											
1,2-Trans-Dichloroethylene											
1,1,1-Trichloroethane											
1,1,2-Trichloroethane											
Trichloroethylene											
Vinyl Chloride											
ACID COMPOUNDS											
2-Chlorophenol											
2,4-Dichlorophenol											
2,4-Dimethylphenol											
4,6-Dinitro-o-Cresol											
2,4-Dinitrophenol											
2-Nitrophenol											
4-Nitrophenol											
P-Chloro-m-Cresol											
Pentachlorophenol											
2,4,6-Trichlorophenol											
BASE/NEUTRAL COMPOUNDS											
Acenaphthene											
Acenaphthylene											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in μg/L (Actual Concentration or < MAL)				Average Influent % of the MAHL[2]	Daily Average Effluent Limit (μg/L)[3]	Effluent Measured in μg/L (Actual Concentration or < MAL)[4]			
		Date	Date	Date	Date			Date	Date	Date	Date
Anthracene											
Benzidine											
Benzo(a)Anthracene											
Benzo(a)Pyrene											
3,4-Benzofluoranthene											
Benzo(ghi)Perylene											
Benzo(k)Fluoranthene											
Bis(2-Chloroethoxy) Methane											
Bis(2-Chloroethyl) Ether											
Bis(2-Chloroisopropyl) Ether											
Bis(2-Ethylhexyl) Phthalate											
4-Bromophenyl Phenyl Ether											
Butylbenzyl Phthalate											
2-Chloronaphthalene											
4-Chlorophenyl Phenyl Ether											
Chrysene											
Dibenzo(a,h) Anthracene											
1,2-Dichlorobenzene											
1,3-Dichlorobenzene											
1,4-Dichlorobenzene											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in $\mu g/L$ (Actual Concentration or < MAL)				Average Influent % of the MAHL[2]	Daily Average Effluent Limit ($\mu g/L$)[3]	Effluent Measured in $\mu g/L$ (Actual Concentration or < MAL)[4]			
		Date	Date	Date	Date			Date	Date	Date	Date
3,3-Dichlorobenzidine											
Diethyl Phthalate											
Dimethyl Phthalate											
Di-n-Butyl Phthalate											
2,4-Dinitrotoluene											
2,6-Dinitrotoluene											
Di-n-Octyl Phthalate											
1,2-Diphenyl hydrazine											
Fluoranthene											
Fluorene											
Hexachlorobenzene											
Hexachlorobutadiene											
Hexachloro-cyclopentadiene											
Hexachloroethane											
Indeno(1,2,3-d)pyrene											
Isophorone											
Naphthalene											
Nitrobenzene											
N-Nitrosodimethylamine											
N-Nitrosodi-n-Propylamine											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in $\mu g/L$ (Actual Concentration or < MAL)				Average Influent % of the MAHL[2]	Daily Average Effluent Limit ($\mu g/L$)[3]	Effluent Measured in $\mu g/L$ (Actual Concentration or < MAL)[4]			
		Date	Date	Date	Date			Date	Date	Date	Date
N-Nitrosodiphenylamine											
Phenanthrene											
Pyrene											
1,2,4-Trichlorobenzene											
PESTICIDES											
Aldrin											
Alpha-hexachlorocyclohexane (BHC)											
beta-BHC											
gamma-BHC (Lindane)											
delta-BHC											
Chlordane											
4,4-DDT											
4,4-DDE											
4,4-DDD											
Dieldrin											
alpha-Endosulfan											
beta-Endosulfan											
Endosulfan Sulfate											
Endrin											
Endrin Aldehyde											
Heptachlor											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in μg/L (Actual Concentration or < MAL)				Average Influent % of the MAHL[2]	Daily Average Effluent Limit (μg/L)[3]	Effluent Measured in μg/L (Actual Concentration or < MAL)[4]			
		Date	Date	Date	Date			Date	Date	Date	Date
Heptachlor Epoxide											
Polychlorinated biphenols (PCBs) – The sum of PCB concentrations not to exceed daily average value											
PCB-1242							See PCBs				
PCB-1254							See PCBs				
PCB-1221							See PCBs				
PCB-1232							See PCBs				
PCB-1248							See PCBs				
PCB-1260							See PCBs				
PCB-1016							See PCBs				
Toxaphene											
ADDITIONAL TOXIC POLLUTANTS REGULATED UNDER 30 TAC CHAPTER 307											
Aluminum											
Barium											
Bis(chloromethyl) ether[7]											
Carbaryl											
Chloropyrifos											
Cresols											
2,4-D											
Danitol[8]											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in μg/L (Actual Concentration or < MAL)				Average Influent % of the MAHL[2]	Daily Average Effluent Limit (μg/L)[3]	Effluent Measured in μg/L (Actual Concentration or < MAL)[4]			
		Date	Date	Date	Date			Date	Date	Date	Date
Demeton											
Diazinon											
Dicofol											
Dioxin/Furans [9]											
Diuron											
Fluoride											
Guthion											
Hexachlorophene											
Malathion											
Methoxychlor											
Methyl Ethyl Ketone											
Mirex											
Nitrate-Nitrogen											
N-Nitrosodiethylamine											
N-Nitro-di-n-Butylamine											
Parathion											
Pentachlorobenzene											
Pyridine											
1,2-Dibromoethane											
1,2,4,5-Tetrachlorobenzene											
2,4,5-TP (Silvex)											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in µg/L (Actual Concentration or < MAL)				Average Influent % of the MAHL[2]	Daily Average Effluent Limit (µg/L)[3]	Effluent Measured in µg/L (Actual Concentration or < MAL)[4]			
		Date	Date	Date	Date			Date	Date	Date	Date
Tributyltin[9]											
2,4,5-Trichlorophenol											
TTHM (Total Trihalomethanes)											

Footnotes:

1. It is advised that the permittee collect the influent and effluent samples considering flow detention time through each wastewater treatment plant (WWTP).
2. The MAHL of the approved TBLLs or for each pollutant of concern (POC) for which the permittee has calculated a MAHL. Only complete the column labeled, "Average Influent % of the MAHL", as a percentage, for pollutants that have approved TBLLs or for each POC for which the permittee has calculated a MAHL (U.S. Environmental Protection Agency Local Limits Development Guidance, July 2004, EPA933-R-04-002A).

   The % of the MAHL is to be calculated using the following formulas:

   Equation A: $L_{INF} = (C_{POLL} \times Q_{WWTP} \times 8.34) / 1000$
   Equation B: $L_{\%} = (L_{INF} / MAHL) \times 100$

   Where:
   L_{INF} = Current Average (Avg) influent loading in lb/day
   C_{POLL} = Avg concentration in µg/L of all influent samples collected during the pretreatment year.
   Q_{WWTP} = Annual average flow of the WWTP in MGD, defined as the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months (or during the pretreatment year), and as described in the Definitions and Standard Permit Conditions section.
   $L_{\%}$ = % of the MAHL
   MAHL = Calculated MAHL in lb/day
   8.34 = Unit conversion factor

3. Daily average effluent limit (metal values are for total metals) as derived by the Texas Toxicity Modeling Program (TexTox). Effluent limits as calculated are designed to be protective of the Texas Surface Water Quality Standards. The permittee shall determine and indicate which effluent limit is the most stringent between the 30 TAC Chapter 319 (Hazardous Metal Rule), TexTox values, or any applicable TPDES permit limit in Effluent Limitations and Monitoring Requirements Section. Shaded blocks need not be filled in unless the permittee has received a permit requirement/limit for the particular parameter.
4. Minimum analytical levels (MALs) and analytical methods as suggested in Tables 8 and 9 of the Procedures to Implement the Texas Surface Water Quality Standards (January 2003), as amended and adopted by the TCEQ Commission. Pollutants that are not detectable above the MAL need to be reported as less than (<) the MAL numeric value.
5. Report result by subtracting Hexavalent Chromium from Total Chromium.
6. Either the method for Amenable to Chlorination or Weak-Acid Dissociable is authorized.
7. Hydrolyzes in water. Will not require permittee to analyze at this time.
8. EPA procedure not approved. Will not require permittee to analyze at this time.
9. Analyses are not required at this time for these pollutants unless there is reason to believe that these pollutants may be present.

BIOMONITORING REQUIREMENTS

48-HOUR ACUTE BIOMONITORING REQUIREMENTS: FRESHWATER

The provisions of this Section apply to Outfall 001 for whole effluent toxicity testing (biomonitoring).

1. Scope, Frequency and Methodology

a. The permittee shall test the effluent for toxicity in accordance with the provisions below. Such testing will determine if an appropriately dilute effluent sample adversely affects the survival of the test organisms.

b. The permittee shall conduct the following toxicity tests utilizing the test organisms, procedures, and quality assurance requirements specified in this section of the permit and in accordance with "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or the most recent update thereof:

1) Acute static renewal 48-hour definitive toxicity test using the water flea (*Daphnia pulex* or *Ceriodaphnia dubia*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution. This test shall be conducted once per quarter.

2) Acute static renewal 48-hour definitive toxicity test using the fathead minnow (*Pimephales promelas*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution. This test shall be conducted once per quarter.

The permittee must perform and submit a valid test for each test species during the required reporting period for that species. A minimum of five replicates with eight organisms per replicate shall be used in the control and each dilution. A repeat test shall include the control and all effluent dilutions and use the appropriate number of organisms and replicates, as specified above. An invalid test is herein defined as any test failing to satisfy the test acceptability criteria, procedures, and quality assurance requirements specified in the test methods and permit.

c. The permittee shall use five effluent dilution concentrations and a control in each toxicity test. These additional effluent concentrations are 9%, 12%, 16%, 21%, and 28% effluent. The critical dilution, defined as 21% effluent, is the effluent concentration representative of the proportion of effluent in the receiving water during critical low flow or critical mixing conditions.

d. This permit may be amended to require a Whole Effluent Toxicity (WET) limit, a Chemical-Specific (CS) limit, a Best Management Practice (BMP), additional toxicity testing, and/or other appropriate actions to address toxicity. The permittee may be required to conduct additional biomonitoring tests and/or a Toxicity Reduction Evaluation (TRE) if biomonitoring data indicate multiple numbers of unconfirmed toxicity events.

e. Testing Frequency Reduction

1) If none of the first four consecutive quarterly tests demonstrates significant lethal

effects, the permittee may submit this information in writing and, upon approval, reduce the testing frequency to once per six months for the invertebrate test species and once per year for the vertebrate test species.

2) If one or more of the first four consecutive quarterly tests demonstrates significant lethal effects, the permittee shall continue quarterly testing for that species until the permit is reissued. If a testing frequency reduction had been previously granted and a subsequent test demonstrates significant lethal effects, the permittee will resume a quarterly testing frequency for that species until the permit is reissued.

2. Required Toxicity Testing Conditions

a. Test Acceptance - The permittee shall repeat any toxicity test, including the control and all effluent dilutions, which fails to meet any of the following criteria:

1) a control mean survival of 90% or greater;

2) a Coefficient of Variation percent (CV%) of 40 or less for both the control and critical dilution. However, if significant lethality is demonstrated, a CV% greater than 40 shall not invalidate the test. The CV% requirement does not apply when significant lethality occurs.

b. Statistical Interpretation

1) For the water flea and fathead minnow tests, the statistical analyses used to determine if there is a significant difference between the control and an effluent dilution shall be in accordance with "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or the most recent update thereof.

2) The permittee is responsible for reviewing test concentration-response relationships to ensure that calculated test-results are interpreted and reported correctly. The EPA manual, "Method Guidance and Recommendation for Whole Effluent Toxicity (WET) Testing (40 CFR Part 136)" (EPA 821-B-00-004), provides guidance on determining the validity of test results.

3) If significant lethality is demonstrated (that is, there is a statistically significant difference in survival at the critical dilution when compared to the control), the conditions of test acceptability are met, and the survival of the test organisms are equal to or greater than 90% in the critical dilution and all dilutions below that, then the permittee shall report a survival No Observed Effect Concentration (NOEC) of not less than the critical dilution for the reporting requirements.

4) The NOEC is defined as the greatest effluent dilution at which no significant lethality is demonstrated. The Lowest Observed Effect Concentration (LOEC) is defined as the lowest effluent dilution at which significant lethality is demonstrated. Significant lethality is herein defined as a statistically significant difference at the 95% confidence level between the survival of the test organism(s) in a specified effluent dilution compared to the survival of the test organism(s) in the control (0% effluent).

5) The use of NOECs and LOECs assumes either a monotonic (continuous)

concentration-response relationship or a threshold model of the concentration-response relationship. For any test result that demonstrates a non-monotonic (non-continuous) response, the NOEC should be determined based on the guidance manual referenced in Item 2 above.

6) Pursuant to the responsibility assigned to the permittee in Part 2.b.2), test results that demonstrate a non-monotonic (non-continuous) concentration-response relationship may be submitted, prior to the due date, for technical review. The above-referenced guidance manual will be used when making a determination of test acceptability.

7) Staff will review test results for consistency with rules, procedures, and permit requirements.

c. Dilution Water

1) Dilution water used in the toxicity tests shall be the receiving water collected at a point upstream of the discharge as close as possible to the discharge point, but unaffected by the discharge. Where the toxicity tests are conducted on effluent discharges to receiving waters that are classified as intermittent streams, or where the toxicity tests are conducted on effluent discharges where no receiving water is available due to zero flow conditions, the permittee shall; (a) substitute a synthetic dilution water that has a pH, hardness, and alkalinity similar to that of the closest downstream perennial water unaffected by the discharge, or (b) utilize the closest downstream perennial water unaffected by the discharge.

2) Where the receiving water proves unsatisfactory as a result of preexisting instream toxicity (i.e. fails to fulfill the test acceptance criteria of item 2.a.), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:

a) a synthetic lab water control was performed (in addition to the receiving water control) which fulfilled the test acceptance requirements of item 2.a;

b) the test indicating receiving water toxicity was carried out to completion;

c) the permittee submitted all test results indicating receiving water toxicity with the reports and information required in Part 3 of this Section.

The synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or a natural water in the drainage basin that is unaffected by the discharge, provided the magnitude of these parameters will not cause toxicity in a synthetic dilution water control that has been formulated to match the pH, hardness, and alkalinity naturally found in the receiving water. Upon approval, the permittee may substitute other appropriate dilution water with chemical and physical characteristics similar to that of the receiving water.

d. Samples and Composites

1) The permittee shall collect a minimum of two composite samples from Outfall 001. The second composite sample will be used for the renewal of the dilution concentrations for each toxicity test.

2) The permittee shall collect the composite samples such that the samples are representative of any periodic episode of chlorination, biocide usage, or other potentially toxic substance discharged on an intermittent basis.

3) The permittee shall initiate the toxicity tests within 36 hours after collection of the last portion of the first composite sample. The holding time for the subsequent composite sample shall not exceed 72 hours. Samples shall be maintained at a temperature of 0-6 degrees Centigrade during collection, shipping, and storage.

4) If Outfall 001 ceases discharging during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum numbers of effluent portions, and the sample holding time, are waived during that sampling period. However, the permittee must have collected an effluent composite sample volume sufficient to complete the required toxicity tests with renewal of the effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report.

5) The effluent samples shall not be dechlorinated after sample collection.

3. Reporting

All reports, tables, plans, summaries, and related correspondence required in any Part of this Section shall be submitted to the attention of the Standards Implementation Team (MC 150) of the Water Quality Division. All DMRs, including DMRs with biomonitoring data, should be sent to the Enforcement Division (MC 224).

a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this permit in accordance with the Report Preparation Section of "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or the most recent update thereof, for every valid and invalid toxicity test initiated whether carried to completion or not. The full reports shall be retained for 3 years at the plant site and shall be available for inspection by TCEQ personnel.

b. The permittee shall routinely report the results of each biomonitoring test on the Table 1 forms provided with this permit. All Table 1 reports must include the information specified in the Table 1 form attached to this permit.

1) Annual biomonitoring test results are due on or before January 20th for biomonitoring conducted during the previous 12 month period.

2) Semiannual biomonitoring test results are due on or before July 20th and January 20th for biomonitoring conducted during the previous 6 month period.

3) Quarterly biomonitoring test results are due on or before April 20th, July 20th, October 20th, and January 20th, for biomonitoring conducted during the previous calendar quarter.

4) Monthly biomonitoring test results are due on or before the 20th day of the month following sampling.

c. Enter the following codes on the DMR for the appropriate parameters for valid tests only:

1) For the water flea, Parameter TEM3D, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

2) For the water flea, Parameter TOM3D, report the NOEC for survival.

3) For the water flea, Parameter TXM3D, report the LOEC for survival.

4) For the fathead minnow, Parameter TEM6C, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

5) For the fathead minnow, Parameter TOM6C, report the NOEC for survival.

6) For the fathead minnow, Parameter TXM6C, report the LOEC for survival.

d. Enter the following codes on the DMR for retests only:

1) For retest number 1, Parameter 22415, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

2) For retest number 2, Parameter 22416, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

4. Persistent Toxicity

The requirements of this Part apply only when a toxicity test demonstrates significant lethality. Significant lethality is defined as a statistically significant difference, at the 95% confidence level, between the survival of the test organism at the critical dilution when compared to the survival of the test organism in the control.

a. The permittee shall conduct a total of 2 additional tests (retests) for any species that demonstrates significant lethality. The two retests shall be conducted monthly during the next two consecutive months. The permittee shall not substitute either of the two retests in lieu of routine toxicity testing. All reports shall be submitted within 20 days of test completion. Test completion is defined as the last day of the test. The retests shall also be reported on the DMRs as specified in Part 3.d.

b. If one or both of the two retests specified in item 4.a. demonstrates significant lethality, the permittee shall initiate the TRE requirements as specified in Part 5.

c. The provisions of item 4.a. are suspended upon completion of the two retests and submittal of the TRE Action Plan and Schedule defined in Part 5 of this Section.

5. Toxicity Reduction Evaluation

a. Within 45 days of the retest that demonstrates significant lethality, the permittee shall submit

a General Outline for initiating a Toxicity Reduction Evaluation (TRE). The outline shall include, but not be limited to, a description of project personnel, a schedule for obtaining consultants (if needed), a discussion of influent and/or effluent data available for review, a sampling and analytical schedule, and a proposed TRE initiation date.

b. Within 90 days of the retest that demonstrates significant lethality, the permittee shall submit a TRE Action Plan and Schedule for conducting a TRE. The plan shall specify the approach and methodology to be used in performing the TRE. A TRE is a step-wise investigation combining toxicity testing with physical and chemical analysis to determine actions necessary to eliminate or reduce effluent toxicity to a level not effecting significant lethality at the critical dilution. The TRE Action Plan shall lead to the successful elimination of significant lethality for both test species defined in item 1.b. As a minimum, the TRE Action Plan shall include the following:

1) Specific Activities - The TRE Action Plan shall specify the approach the permittee intends to utilize in conducting the TRE, including toxicity characterizations, identifications, confirmations, source evaluations, treatability studies, and/or alternative approaches. When conducting characterization analyses, the permittee shall perform multiple characterizations and follow the procedures specified in the document entitled, "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA/600/6-91/003), or alternate procedures. The permittee shall perform multiple identifications and follow the methods specified in the documents entitled, "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081). All characterization, identification, and confirmation tests shall be conducted in an orderly and logical progression;

2) Sampling Plan - The TRE Action Plan should describe sampling locations, methods, holding times, chain of custody, and preservation techniques. The effluent sample volume collected for all tests shall be adequate to perform the toxicity characterization/ identification/ confirmation procedures, and chemical-specific analyses when the toxicity tests show significant lethality. Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical-specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity;

3) Quality Assurance Plan - The TRE Action Plan should address record keeping and data evaluation, calibration and standardization, baseline tests, system blanks, controls, duplicates, spikes, toxicity persistence in the samples, randomization, reference toxicant control charts, as well as mechanisms to detect artifactual toxicity; and

4) Project Organization - The TRE Action Plan should describe the project staff, project manager, consulting engineering services (where applicable), consulting analytical and toxicological services, etc.

c. Within 30 days of submittal of the TRE Action Plan and Schedule, the permittee shall implement the TRE with due diligence.

d. The permittee shall submit quarterly TRE Activities Reports concerning the progress of the

TRE. The quarterly reports are due on or before April 20th, July 20th, October 20th, and January 20th. The report shall detail information regarding the TRE activities including:

1) results and interpretation of any chemical specific analyses for the identified and/or suspected pollutant(s) performed during the quarter;

2) results and interpretation of any characterization, identification, and confirmation tests performed during the quarter;

3) any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;

4) results of any studies/evaluations concerning the treatability of the facility's effluent toxicity;

5) any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant lethality at the critical dilution; and

6) any changes to the initial TRE Plan and Schedule that are believed necessary as a result of the TRE findings.

Copies of the TRE Activities Report shall also be submitted to the U.S. EPA Region 6 office.

e. During the TRE, the permittee shall perform, at a minimum, quarterly testing using the more sensitive species; testing for the less sensitive species shall continue at the frequency specified in Part 1.b.

f. If the effluent ceases to effect significant lethality (herein as defined below) the permittee may end the TRE. A "cessation of lethality" is defined as no significant lethality for a period of 12 consecutive months with at least monthly testing. At the end of the 12 months, the permittee shall submit a statement of intent to cease the TRE and may then resume the testing frequency specified in Part 1.b. The permittee may only apply the "cessation of lethality" provision once.

This provision accommodates situations where operational errors and upsets, spills, or sampling errors triggered the TRE, in contrast to a situation where a single toxicant or group of toxicants cause lethality. This provision does not apply as a result of corrective actions taken by the permittee. "Corrective actions" are herein defined as proactive efforts which eliminate or reduce effluent toxicity. These include, but are not limited to, source reduction or elimination, improved housekeeping, changes in chemical usage, and modifications of influent streams and/or effluent treatment.

The permittee may only apply this cessation of lethality provision once. If the effluent again demonstrates significant lethality to the same species, the permit will be amended to add a WET limit with a compliance period, if appropriate. However, prior to the effective date of the WET limit, the permittee may apply for a permit amendment removing and replacing the WET limit with an alternate toxicity control measure by identifying and confirming the toxicant and/or an appropriate control measure.

g. The permittee shall complete the TRE and submit a Final Report on the TRE Activities no later than 28 months from the last test day of the retest that confirmed significant lethal effects at the critical dilution. The permittee may petition the Executive Director (in writing) for an extension of the 28-month limit. However, to warrant an extension the permittee must have demonstrated due diligence in their pursuit of the TIE/TRE and must prove that circumstances beyond their control stalled the TIE/TRE. The report shall provide information pertaining to the specific control mechanism(s) selected that will, when implemented, result in reduction of effluent toxicity to no significant lethality at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism(s). A copy of the TRE Final Report shall also be submitted to the U.S. EPA Region 6 office.

h. Based upon the results of the TRE and proposed corrective actions, this permit may be amended to modify the biomonitoring requirements, where necessary, to require a compliance schedule for implementation of corrective actions, to specify a WET limit, to specify a BMP, and/or to specify CS limits.

TABLE 1 (SHEET 1 OF 2)

WATER FLEA SURVIVAL

		Date Time		Date Time
Dates and Times Composites Collected	No. 1	FROM: _____	TO: _____	
	No. 2	FROM: _____	TO: _____	

Test initiated: _____am/pm _____date

Dilution water used: _____ Receiving water _____ Synthetic Dilution water

PERCENT SURVIVAL

Time	Rep	Percent effluent (%)					
		0%	9%	12%	16%	21%	28%
24h	A						
	B						
	C						
	D						
	E						
48h	A						
	B						
	C						
	D						
	E						
Mean at test end							
CV%*							

*Coefficient of Variation = Standard Deviation x 100/mean
Dunnett's Procedure or Steel's Many-One Rank Test as appropriate:

Is the mean survival at 48 hours significantly less (p = 0.05) than the control survival?

CRITICAL DILUTION (21%): _____ YES _____ NO

Enter percent effluent corresponding to the NOEC below:

1) NOEC survival = _____% effluent
2) LOEC survival = _____% effluent

TABLE 1 (SHEET 2 OF 2)

FATHEAD MINNOW SURVIVAL

		Date Time		Date Time
Dates and Times Composites Collected	No. 1	FROM: _____	TO: _____	
	No. 2	FROM: _____	TO: _____	

Test initiated: _____am/pm _____date

Dilution water used: _____ Receiving water _____ Synthetic Dilution water

PERCENT SURVIVAL

Time	Rep	Percent effluent (%)					
		0%	9%	12%	16%	21%	28%
24h	A						
	B						
	C						
	D						
	E						
48h	A						
	B						
	C						
	D						
	E						
Mean at test end							
CV%*							

* Coefficient of Variation = standard deviation x 100/mean

Dunnett's Procedure or Steel's Many-One Rank Test as appropriate:

Is the mean survival at 48 hours significantly less (p = 0.05) than the control survival?

CRITICAL DILUTION (21%): _____ YES _____ NO

Enter percent effluent corresponding to the NOEC below:

1) NOEC survival = _____% effluent
2) LOEC survival = _____% effluent

24-HOUR ACUTE BIOMONITORING REQUIREMENTS: FRESHWATER

The provisions of this section apply to Outfall 001 for whole effluent toxicity testing (biomonitoring)

1. Scope, Frequency and Methodology

a. The permittee shall test the effluent for lethality in accordance with the provisions in this Section. Such testing will determine compliance with the Surface Water Quality Standard, 307.6(e)(2)(B), of greater than 50% survival of the appropriate test organisms in 100% effluent for a 24-hour period.

b. The toxicity tests specified shall be conducted once per six months. The permittee shall conduct the following toxicity tests utilizing the test organisms, procedures, and quality assurance requirements specified in this section of the permit and in accordance with "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or the most recent update thereof:

1) Acute 24-hour static toxicity test using the water flea (*Daphnia pulex* or *Ceriodaphnia dubia*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution.

2) Acute 24-hour static toxicity test using the fathead minnow (*Pimephales promelas*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution.

A valid test result must be submitted for each reporting period. The permittee must report, then repeat, an invalid test during the same reporting period. The repeat test shall include the control and the 100% effluent dilution and use the appropriate number of organisms and replicates, as specified above. An invalid test is herein defined as any test failing to satisfy the test acceptability criteria, procedures, and quality assurance requirements specified in the test methods and permit.

c. In addition to an appropriate control, a 100% effluent concentration shall be used in the toxicity tests. The control and/or dilution water shall consist of a standard, synthetic, moderately hard, reconstituted water.

d. This permit may be amended to require a Whole Effluent Toxicity (WET) limit, a Best Management Practice (BMP), Chemical-Specific (CS) limits, additional toxicity testing, and/or other appropriate actions to address toxicity. The permittee may be required to conduct additional biomonitoring tests and/or a Toxicity Reduction Evaluation (TRE) if biomonitoring data indicate multiple numbers of unconfirmed toxicity events.

2. Required Toxicity Testing Conditions

a. Test Acceptance - The permittee shall repeat any toxicity test, including the control, if the control fails to meet a mean survival equal to or greater than 90%.

b. Dilution Water - In accordance with item 1.c., the control and/or dilution water shall consist of a standard, synthetic, moderately hard, reconstituted water.

c. Samples and Composites

1) The permittee shall collect one composite sample from Outfall 001.

2) The permittee shall collect the composite samples such that the samples are representative of any periodic episode of chlorination, biocide usage, or other potentially toxic substance discharged on an intermittent basis.

3) The permittee shall initiate the toxicity tests within 36 hours after collection of the last portion of the composite sample. Samples shall be maintained at a temperature of 0-6 degrees Centigrade during collection, shipping, and storage.

4) If Outfall 001 ceases discharging during the collection of the effluent composite sample, the requirements for the minimum number of effluent portions are waived. However, the permittee must have collected a composite sample volume sufficient for completion of the required test. The abbreviated sample collection, duration, and methodology must be documented in the full report required in Part 3 of this Section.

5) The effluent samples may be dechlorinated after sample collection.

3. Reporting

All reports, tables, plans, summaries, and related correspondence required in any Part of this Section shall be submitted to the attention of the Standards Implementation Team (MC 150) of the Water Quality Division. All DMRs, including DMRs with biomonitoring data, should be sent to the Enforcement Division (MC 224).

a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this permit in accordance with the Report Preparation Section of "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or the most recent update thereof, for every valid and invalid toxicity test initiated. All full reports shall be retained for 3 years at the plant site and shall be available for inspection by TCEQ personnel.

b. A full report must be submitted with the first valid biomonitoring test results for each test species and with the first test results any time the permittee subsequently employs a different test laboratory. Full reports need not be submitted for subsequent testing unless specifically requested. The permittee shall routinely report the results of each biomonitoring test on the Table 2 forms provided with this permit. All Table 2 reports must include the information specified in the Table 2 form attached to this permit.

1) Semiannual biomonitoring test results are due on or before January 20th and July 20th for biomonitoring conducted during the previous 6 month period.

2) Quarterly biomonitoring test results are due on or before January 20th, April 20th, July 20th, and October 20th, for biomonitoring conducted during the previous calendar quarter.

c. Enter the following codes on the DMR for the appropriate parameters for valid tests only:

1) For the water flea, Parameter TIE3D, enter a "0" if the mean survival at 24-hours is

greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter a "1."

2) For the fathead minnow, Parameter TIE6C, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter a "1."

d. Enter the following codes on the DMR for retests only:

1) For retest number 1, Parameter 22415, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter a "1."

2) For retest number 2, Parameter 22416, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter a "1."

4. Persistent Mortality

The requirements of this Part apply when a toxicity test demonstrates significant lethality, here defined as a mean mortality of 50% or greater to organisms exposed to the 100% effluent concentration after 24-hours.

a. The permittee shall conduct 2 additional tests (retests) for each species that demonstrates significant lethality. The two retests shall be conducted once per week for 2 weeks. Five effluent dilution concentrations in addition to an appropriate control shall be used in the retests. These additional effluent concentrations are 6%, 13%, 25%, 50% and 100% effluent. The first retest shall be conducted within 15 days of the laboratory determination of significant lethality. All test results shall be submitted within 20 days of test completion of the second retest. Test completion is defined as the 24th hour. The retests shall also be reported on the DMRs as specified in Part 3.d.

b. If one or both of the two retests specified in item 4.a. demonstrates significant lethality, the permittee shall initiate the TRE requirements as specified in Part 5 of this Section.

5. Toxicity Reduction Evaluation

a. Within 45 days of the retest that demonstrates significant lethality, the permittee shall submit a General Outline for initiating a Toxicity Reduction Evaluation (TRE). The outline shall include, but not be limited to, a description of project personnel, a schedule for obtaining consultants (if needed), a discussion of influent and/or effluent data available for review, a sampling and analytical schedule, and a proposed TRE initiation date.

b. Within 90 days of the retest that demonstrates significant lethality, the permittee shall submit a TRE Action Plan and Schedule for conducting a TRE. The plan shall specify the approach and methodology to be used in performing the TRE. A TRE is a step-wise investigation combining toxicity testing with physical and chemical analysis to determine actions necessary to eliminate or reduce effluent toxicity to a level not effecting significant lethality at the critical dilution. The TRE Action Plan shall lead to the successful elimination of significant lethality for both test species defined in item 1.b. As a minimum, the TRE Action Plan shall include the following:

1) Specific Activities - The TRE Action Plan shall specify the approach the permittee intends to utilize in conducting the TRE, including toxicity characterizations, identifications, confirmations, source evaluations, treatability studies, and/or alternative approaches. When conducting characterization analyses, the permittee shall perform multiple characterizations and follow the procedures specified in the document entitled, "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA/600/6-91/003), or alternate procedures. The permittee shall perform multiple identifications and follow the methods specified in the documents entitled, "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081). All characterization, identification, and confirmation tests shall be conducted in an orderly and logical progression;

2) Sampling Plan - The TRE Action Plan should describe sampling locations, methods, holding times, chain of custody, and preservation techniques. The effluent sample volume collected for all tests shall be adequate to perform the toxicity characterization/ identification/ confirmation procedures, and chemical-specific analyses when the toxicity tests show significant lethality. Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical-specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity;

3) Quality Assurance Plan - The TRE Action Plan should address record keeping and data evaluation, calibration and standardization, baseline tests, system blanks, controls, duplicates, spikes, toxicity persistence in the samples, randomization, reference toxicant control charts, as well as mechanisms to detect artifactual toxicity; and

4) Project Organization - The TRE Action Plan should describe the project staff, project manager, consulting engineering services (where applicable), consulting analytical and toxicological services, etc.

c. Within 30 days of submittal of the TRE Action Plan and Schedule, the permittee shall implement the TRE with due diligence.

d. The permittee shall submit quarterly TRE Activities Reports concerning the progress of the TRE. The quarterly TRE Activities Reports are due on or before April 20th, July 20th, October 20th, and January 20th. The report shall detail information regarding the TRE activities including:

1) results and interpretation of any chemical-specific analyses for the identified and/or suspected pollutant(s) performed during the quarter;

2) results and interpretation of any characterization, identification, and confirmation tests performed during the quarter;

3) any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;

4) results of any studies/evaluations concerning the treatability of the facility's effluent toxicity;

5) any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to eliminate significant lethality; and

6) any changes to the initial TRE Plan and Schedule that are believed necessary as a result of the TRE findings.

Copies of the TRE Activities Report shall also be submitted to the U.S. EPA Region 6 office.

e. During the TRE, the permittee shall perform, at a minimum, quarterly testing using the more sensitive species; testing for the less sensitive species shall continue at the frequency specified in Part 1.b.

f. If the effluent ceases to effect significant lethality (herein as defined below) the permittee may end the TRE. A "cessation of lethality" is defined as no significant lethality for a period of 12 consecutive weeks with at least weekly testing. At the end of the 12 weeks, the permittee shall submit a statement of intent to cease the TRE and may then resume the testing frequency specified in Part 1.b. The permittee may only apply the "cessation of lethality" provision once.

This provision accommodates situations where operational errors and upsets, spills, or sampling errors triggered the TRE, in contrast to a situation where a single toxicant or group of toxicants cause lethality. This provision does not apply as a result of corrective actions taken by the permittee. "Corrective actions" are herein defined as proactive efforts which eliminate or reduce effluent toxicity. These include, but are not limited to, source reduction or elimination, improved housekeeping, changes in chemical usage, and modifications of influent streams and/or effluent treatment.

The permittee may only apply this cessation of lethality provision once. If the effluent again demonstrates significant lethality to the same species, the permit will be amended to add a WET limit with a compliance period, if appropriate. However, prior to the effective date of the WET limit, the permittee may apply for a permit amendment removing and replacing the WET limit with an alternate toxicity control measure by identifying and confirming the toxicant and/or an appropriate control measure.

g. The permittee shall complete the TRE and submit a Final Report on the TRE Activities no later than 18 months from the last test day of the retest that demonstrates significant lethality. The permittee may petition the Executive Director (in writing) for an extension of the 18-month limit. However, to warrant an extension the permittee must have demonstrated due diligence in their pursuit of the TIE/TRE and must prove that circumstances beyond their control stalled the TIE/TRE. The report shall specify the control mechanism(s) that will, when implemented, reduce effluent toxicity as specified in item 5.g. The report will also specify a corrective action schedule for implementing the selected control mechanism(s). A copy of the TRE Final Report shall also be submitted to the U.S. EPA Region 6 office.

h. Within 3 years of the last day of the test confirming toxicity, the permittee shall comply with 307.6.(e)(2)(B), which requires greater than 50% survival of the test organism in 100%

effluent at the end of 24-hours. The permittee may petition the Executive Director (in writing) for an extension of the 3-year limit. However, to warrant an extension the permittee must have demonstrated due diligence in their pursuit of the TIE/TRE and must prove that circumstances beyond their control stalled the TIE/TRE.

The requirement to comply with 307.6.(e)(2)(B) may be exempted upon proof that toxicity is caused by an excess, imbalance, or deficiency of dissolved salts. This exemption excludes instances where individually toxic components (e.g. metals) form a salt compound. Following the exemption, the permit may be amended to include an ion-adjustment protocol, alternate species testing, or single species testing.

i. Based upon the results of the TRE and proposed corrective actions; this permit may be amended to modify the biomonitoring requirements where necessary, to require a compliance schedule for implementation of corrective actions, to specify a WET limit, to specify a BMP, and/or to specify a CS limit.

TABLE 2 (SHEET 1 OF 2)

WATER FLEA SURVIVAL

GENERAL INFORMATION

	Time (am/pm)	Date
Composite Sample Collected		
Test Initiated		

PERCENT SURVIVAL

Time	Rep	Percent effluent (%)					
		0%	6%	13%	25%	50%	100%
24h	A						
	B						
	C						
	D						
	E						
	MEAN						

Enter percent effluent corresponding to the LC50 below:

24 hour LC50 = _____% effluent

TABLE 2 (SHEET 2 OF 2)

FATHEAD MINNOW SURVIVAL

GENERAL INFORMATION

	Time (am/pm)	Date
Composite Sample Collected		
Test Initiated		

PERCENT SURVIVAL

Time	Rep	Percent effluent (%)					
		0%	6%	13%	25%	50%	100%
24h	A						
	B						
	C						
	D						
	E						
	MEAN						

Enter percent effluent corresponding to the LC50 below:

24 hour LC50 = _____% effluent

Compliance History

Customer/Respondent/Owner-Operator:	CN600457428 City of Denison	Classification: AVERAGE	Rating: 1.68
Regulated Entity:	RN102992567 PAW PAW PLANT	Classification: AVERAGE	Site Rating: 0.38

ID Number(s):

PRETREATMENT	EPA ID	TX004722800
PRETREATMENT	PERMIT	WQ0010079003
WASTEWATER	PERMIT	WQ0010079003
WASTEWATER	EPA ID	TX0047228
WASTEWATER LICENSING	LICENSE	WQ0010079003

Location: LOCATED E OF DENISON AND APPROX 2200 FT N AND 1600 FT E OF THE INTX OF CENTER ST AND FM 120

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: December 21, 2011

Agency Decision Requiring Compliance History: Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

Compliance Period: November 05, 2006 to December 21, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Karen Smith Phone:

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/31/2006	(467127)
2	02/21/2006	(472493)
3	03/16/2006	(472494)
4	11/18/2005	(472496)
5	12/20/2005	(472497)
6	06/22/2006	(480330)
7	04/20/2006	(500857)
8	05/22/2006	(500858)
9	06/16/2006	(500859)
10	05/22/2006	(500860)
11	05/22/2006	(500861)
12	11/30/2006	(515779)
13	08/18/2006	(523006)

14	10/06/2006	(531010)
15	09/18/2006	(547826)
16	10/16/2006	(547827)
17	11/20/2006	(547828)
18	12/15/2006	(547829)
19	04/12/2007	(556695)
20	06/01/2007	(562639)
21	02/16/2007	(580643)
22	03/20/2007	(580644)
23	03/20/2007	(580645)
24	05/15/2007	(580646)
25	06/18/2007	(580647)
26	03/20/2007	(580648)
27	08/14/2007	(603134)
28	02/11/2008	(617506)
29	09/19/2007	(621593)
30	10/16/2007	(621594)
31	11/14/2007	(621595)
32	09/19/2007	(621596)
33	05/05/2008	(640988)
34	02/19/2008	(673541)
35	03/20/2008	(673542)
36	12/17/2007	(673543)
37	06/08/2008	(682411)
38	04/08/2008	(691808)
39	05/15/2008	(691809)
40	06/16/2008	(691810)
41	04/08/2008	(691811)
42	04/08/2008	(691812)
43	08/15/2008	(712778)
44	09/17/2008	(712779)
45	02/26/2009	(724236)
46	10/16/2008	(728977)
47	11/18/2008	(728978)
48	03/16/2009	(737898)
49	02/17/2009	(752123)
50	03/20/2009	(752124)
51	01/06/2009	(752125)
52	04/15/2009	(769861)
53	04/15/2009	(769862)
54	04/15/2009	(769863)
55	02/18/2010	(809084)
56	05/19/2009	(809085)
57	06/18/2009	(809086)
58	08/17/2009	(809087)
59	09/17/2009	(809088)
60	10/19/2009	(809089)
61	11/23/2009	(809090)

62 12/17/2009 (809091)
63 03/17/2010 (832475)
64 04/15/2010 (832476)
65 05/20/2010 (832477)
66 06/14/2010 (846764)
67 07/12/2010 (861289)
68 08/18/2010 (867440)
69 12/09/2010 (871843)
70 12/01/2010 (872533)
71 09/16/2010 (874462)
72 12/21/2010 (877402)
73 10/28/2010 (882043)
74 12/15/2010 (888510)
75 01/11/2011 (890906)
76 12/17/2010 (896851)
77 01/18/2011 (902809)
78 03/29/2011 (907760)
79 02/17/2011 (909650)
80 03/17/2011 (916871)
81 03/17/2011 (926601)
82 05/18/2011 (938585)
83 06/16/2011 (945957)
84 07/14/2011 (953212)
85 09/30/2011 (958200)
86 08/15/2011 (959853)
87 09/19/2011 (965894)
88 10/17/2011 (971936)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/06/2006 (531010) CN600457428
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 11/27/2006 (515779) CN600457428
Self Report? NO Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failure to prevent any discharge which has reasonable likelihood of adversely affecting human health or the environment.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to properly operate and maintain treatment units.

Date: 05/05/2008 (640988) CN600457428
Self Report? NO Classification: Minor
Citation: 40 CFR Chapter 403, SubChapter N, PT 403 403.12(g)(2)
Description: Failure to require resampling within 30 days of becoming aware of an effluent limit violation.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 315, SubChapter A 315.1
Description: Failure to incorporate the "Act of God" clause into the local ordinance and pretreatment program. Texas Administrative Code, Chapter 315.1, did not adopt the provisions of 40 CFR 403.16, the affirmative defense clause.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)

Description: Failure to adhere to the ERP by issuing an NOV by the 15 day limit. Ruiz self-monitoring event of September 27, 2007, was in violation of the oil & grease limit. Ruiz notified the City of the violation on October 5, 2007. The City issued a Notice of Violation on October 30, 2007, 10 days later than required by the ERP which states that the initial enforcement response with occur within 15 days of violation detection.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.12(g)(2)

Description: Failure to conduct resampling within 30 days of identifying an effluent violation. City sampling conducted at Ruiz Food Products on November 15, 16, 19, 20, and 28, 2007 showed oil and grease violations. There was no SIU self-monitoring or City sampling event within 30 days of becoming aware of the violation.

Date: 11/30/2010 (872633) CN600457428

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.3(a)
30 TAC Chapter 317 317.3(e)(4)(C)

Description: Failure to secure the lift station wet well.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.3(e)(5)

Description: Failure to provide telemetry for the Ray Yard lift station.

Date: 12/10/2010 (871843) CN600457428

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(vii)

Description: Failure to collect oil and grease samples such that data is defensible in court. During the site visit to Champion Cooler's South Plant, it was noted that oil and grease samples are being collected from a cleanout using a pump and tubing and not being caught directly into the sampling container.

Date: 12/21/2010 (877402) CN600457428

Self Report? NO Classification: Moderate

Citation: TWC Chapter 26 26.121
WQ0010079-003 PERMIT

Description: Failure to submit a permit renewal application within six months of permit expiration.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TPDES PERMIT NO. WQ0010079003

APPLICATION BY	§	BEFORE THE
	§	
CITY OF	§	TEXAS COMMISSION ON
	§	
DENISON	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the application by City of Denison (Applicant) for renewal of a Texas Pollutant Discharge Elimination System (TPDES) permit, No. WQ0010079003, and the ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk received a timely filed comment letter from Mrs. James A. Clement.

This Response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.texas.gov.

BACKGROUND

Description of Facility

The Applicant has applied for a renewal of TPDES Permit No. WQ0010079003, that would authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 6,000,000 gallons per day (gpd).

The Paw Paw Wastewater Treatment Facility is an activated sludge process plant operated in the conventional mode. Treatment units include bar screens, grit chambers,

primary clarifiers, aeration basins, final clarifiers, aerobic digesters, a belt filter press, sand drying beds, two shaving basins, and an ultraviolet (UV) system.

The facility is located east of the City of Denison, approximately 1,600 feet east and 2,200 feet north of the intersection of Center Street and Farm-to-Market Road 120 in Grayson County, Texas 75021. The treated effluent is discharged via pipeline to the Red River Below Lake Texoma in Segment No. 0202 of the Red River Basin. The designated uses for Segment No. 0202 are contact recreation, public water supply and high aquatic life use. Segment No. 0202 is not currently listed on the State's inventory of impaired and threatened waters (the Clean Water Act §303(d) list). This is a renewal application for a public domestic wastewater treatment facility and should not contribute to the impairment of this segment.

In accordance with the recent amendments to 30 TAC Chapters 309 and 319 and to ensure disinfection, an effluent limitation for E. coli bacteria has been added to the draft permit. The effluent limitations in the draft permit will maintain and protect the existing instream uses. The effluent limitations in the draft permit, based on a 30-day average, are 20 mg/l five-day Biochemical Oxygen Demand (BOD5), 20 mg/l Total Suspended Solids (TSS), 126 E. coli Colony Forming Units (CFU) or Most Probable Number (MPN) per 100 ml, and 2.0 mg/l minimum dissolved oxygen (DO). The Applicant will use an UV system for disinfection purposes.

Procedural Background

TCEQ received the renewal application on November 30, 2010 and declared it administratively complete on December 15, 2010. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on December 26, 2010 in the *Herald Democrat*. The Notice of Application and Preliminary Decision (NAPD) was published on May 1, 2011 in the *Herald Democrat*. The public comment period ended on May 31, 2011. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

Access to Rules, Laws and Records

The following websites may be useful:

- Secretary of State website for all administrative rules: www.sos.state.tx.us
- TCEQ rules in 30 Texas Administrative Code: www.sos.state.tx.us/tac/ (select "TAC Viewer" on the right, then "Title 30 Environmental Quality")
- Texas statutes: http://www.statutes.legis.state.tx.us/
- TCEQ website: http://www.tceq.state.tx.us/rules/index.html (to download rules in Microsoft Word or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Rules and Rulemaking," then "Download TCEQ Rules")
- Federal rules in Title 40 of the Code of Federal Regulations: http://www.epa.gov/lawsregs/search/40cfr.html
- Federal environmental laws: http://www.epa.gov/lawsregs/

Commission records for this facility are available for viewing and copying at TCEQ's main office in Austin, 12100 Park 35 Circle, Building E, Room 103 (Central Records, for existing or past permits), or Building F, 1st Floor (Office of the Chief Clerk, for the current application until final action is taken). The application for this facility has been available for viewing and copying at Denison City Hall, 500 West Chestnut, Denison, Texas since publication of the NORI. The permit application, draft permit, statement of basis/technical summary, and ED's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

COMMENTS AND RESPONSES

COMMENT 1:

Mrs. James A. Clement commented that she believes that the Red River is losing its banks because nutrient rich effluent is causing trees to grow in the River. She believes

the trees are redirecting the River's path. Mrs. Clement suggested that the discharge should be directed downstream and away from the bank of the Red River.

RESPONSE 1:

Texas Water Code, § 26.121, authorizes discharges into water in the state, provided the discharger obtains a permit from the Commission. The TCEQ evaluates applications for wastewater treatment plants, based on the Texas Water Code, TCEQ rules, the Federal Clean Water Act, applicable U.S. Environmental Protection Agency rules, and the information provided in the application. The ED has determined that the draft permit for the Paw Paw Wastewater Treatment Facility is protective of the environment, water quality, and human health, and that it meets TCEQ rules and requirements.

Further, the quality of the Applicant's WWTP effluent was reviewed during the application process for this permit. Nutrient limits were not recommended because: 1.) numeric nutrient criteria and the nutrient screening process for rivers and streams are in the development phase and are not yet final, 2.) the discharge is relatively small compared to the size of the receiving water body, and 3.) nutrient levels were below average for the treated effluent discharged from the WWTP.

Finally, maps submitted with the Applicant's application indicate a pre-existing island near the confluence of Paw Paw Creek and Red River. The Applicant's outfall appears to be downstream of this island. This island near the Applicant's outfall is most likely part of a natural alluvial fan caused by the tributary, Paw Paw Creek, entering the Red River at this same point. Alluvial fans are deposits of sediment, often but not always fan-shaped, that naturally occur where streams change gradient or flow into other streams. The decrease in stream slope causes the stream to lose energy and deposit much of its sediment load. This natural deposition of sediment is the most likely cause of the island and associated trees

If anyone observes any potential permit violations or potential violations of TCEQ rules, those potential violations may be reported to TCEQ by calling toll-free 1-888-777-

3186, or by calling the Dallas/Fort Worth Regional Office at 817-588-5800. Citizen complaints may also be filed on-line at: http://www.tceq.state.tx.us/compliance/complaints/index.html. If the Applicant fails to comply with any requirement of the permit, it may be subject to enforcement action.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

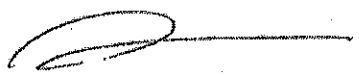
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division



Alicia Ramirez, Staff Attorney
Environmental Law Division
State Bar No. 24032665
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-0600
REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

City of Denison
Map Requested by TCEQ Office of Legal Services for Commissioners' Agenda

The facility is located in Grayson County. The red square in the first inset map represents the approximate location of the facility. The second inset map represents the location of Grayson County in the state of Texas; Grayson County is shaded in red.

Protecting Texas by Reducing and Preventing Pollution

TCEQ

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087

August 25, 2011

0 0.25 0.5 1 1.5 2 Miles

Projection: Texas Statewide Mapping System (TSMS)
Scale 1:94,000

Legend
- Facility
- Requestor's Property
- City Outline
- Discharge Route

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The vector data are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a one-half meter photograph from the 2008 Texas Orthoimagery Project.

This map depicts the following:
(1) The approximate location of the facility. This is labeled "Facility".
(2) The approximate location of the requestor.
(3) The discharge route. This is labeled "Discharge Route."
(4) The one mile radius. This is labeled "1 Mile Radius".

N

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

M McDonough CRF-356117

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

For proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010079003, TX0047228 to discharge to waters in the State.

Issuing Office:	Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087
Applicant:	City of Denison P.O. Box 347 Denison, Texas 75021
Prepared By:	Donald J. Camp, P.E. Municipal Permits Team Wastewater Permitting Section (MC 148) Water Quality Division (512) 239-4681
Date:	February 14, 2011
Permit Action:	Renewal

1. EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The proposed permit includes an expiration date of **December 1, 2015** according to 30 TAC § 305.71, Basin Permitting.

2. APPLICANT ACTIVITY

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of the existing permit that authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 6.0 million gallons per day in the Final phase. The existing wastewater treatment facility serves the City of Denison, Texas.

3. FACILITY AND DISCHARGE LOCATION

The plant site is located east of the City of Denison, approximately 1,600 feet east and 2,200 feet north of the intersection of Center Street and Farm-to-Market Road 120 in Grayson County, Texas 75021. The treated effluent is discharged via pipeline to the Red River Below Lake Texoma in Segment No. 0202 of the Red River Basin. The designated uses for Segment No. 0202 are high aquatic life use, public water supply, and contact recreation.

4. TREATMENT PROCESS DESCRIPTION AND SEWAGE SLUDGE DISPOSAL

The Paw Paw Wastewater Treatment Facility is an activated sludge process plant operated in the conventional mode. Treatment units include bar screens, grit chambers, primary clarifiers, aeration basins, final clarifiers, aerobic digesters, a belt filter press, sand drying beds, two shaving basins, and UV disinfection. The facility is in operation.

Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ permitted landfills, Greater Texoma Utility Authority, Permit No. 648 or Texoma Area Solid Waste Authority, Permit No. 2290, in Grayson County. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

5. INDUSTRIAL WASTE CONTRIBUTION

The draft permit includes pretreatment requirements that are appropriate for a facility of this size and complexity. The facility receives industrial wastewater.

6. SUMMARY OF SELF-REPORTED EFFLUENT ANALYSES

The following is a summary of the applicant's Monthly Effluent Report data for the period November 2008 through November 2010 . The average of Daily Avg value is computed by averaging of all 30-day average values for the reporting period for each parameter.

Parameter	Average of Daily Avg
Flow, MGD	2.35
BOD_5, mg/l	3.59
TSS, mg/l	7.53

7. PROPOSED PERMIT CONDITIONS AND MONITORING REQUIREMENTS

The proposed effluent limitations and monitoring requirements for those parameters that are limited in the draft permit are as follows:

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The annual average flow of effluent shall not exceed 6.0 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 9028 gallons per minute (gpm).

Parameter	30-Day Average		7-Day Average	Daily Maximum
	mg/1	lbs/day	mg/1	mg/1
BOD_5	20	1,001	30	45
TSS	20	1,001	30	45
DO (minimum)	2.0	N/A	N/A	N/A
E. coli, CFU or MPN/100 ml	126	N/A	N/A	394

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored five times per week by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with

prior approval of the Executive Director.

Parameter	Monitoring Requirement
Flow, MGD	Continuous
BOD_5	One/day
TSS	One/day
DO	One/day
E. coli	Daily

B. SEWAGE SLUDGE REQUIREMENTS

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ permitted landfills, Greater Texoma Utility Authority, Permit No. 648 or Texoma Area Solid Waste Authority, Permit No. 2290, in Grayson County. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

C. PRETREATMENT REQUIREMENTS

Permit requirements for pretreatment are based on TPDES regulations contained in 30 TAC Chapter 315 which references 40 CFR Part 403, "General Pretreatment Regulations for Existing and New Sources of Pollution" *[rev. Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798]*. The permit includes specific requirements that establish responsibilities of local government, industry, and the public to implement the standards to control pollutants which pass through or interfere with treatment processes in publicly owned treatment works or which may contaminate the sewage sludge. This permit has appropriate pretreatment language for a facility of this size and complexity.

The permittee has a pretreatment program which was approved on **October 1, 1986,** and modified on **April 13, 1990, October 13, 1995,** and **October 24, 2006**. The permittee is required, under the conditions of the approved pretreatment program, to prepare annually a list of Industrial Users which during the preceding twelve months were in significant noncompliance with applicable pretreatment requirements for those facilities covered under the program which receive industrial wastewaters. This list is to be published annually during the month of **September** in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW.

The permittee is under a continuing duty to: establish and enforce specific local limits, to implement the provisions of 40 CFR §403.5, to develop and enforce local limits as necessary, and to modify the approved POTW pretreatment program as necessary to comply with federal, state, and local law, as amended. The permittee is required to effectively enforce such limits and to modify their pretreatment program, including the Legal Authority, Enforcement Response Plan and/or Standard Operating Procedures, if required by the Executive Director to reflect changing

conditions at the POTW.

The permittee shall submit to the TCEQ Storm Water & Pretreatment Team (MC 148) of the Water Quality Division, within **sixty (60) days of the issued date of this permit**, either: (1) a **WRITTEN CERTIFICATION** that a technical reassessment has been performed and that the evaluation demonstrates that the existing technically based local limits (TBLLs) attain the Texas Surface Water Quality Standards [30 TAC Chapter 307] in water in the state, are adequate to prevent pass through of pollutants, inhibition of or interference with the treatment facility, worker health and safety problems, and sludge contamination [Submit the Reassessment Form No. TCEQ-20221], **OR** (2) a **WRITTEN NOTIFICATION** that a technical redevelopment of the current TBLLs, a draft legal authority, which incorporates such revisions, and any additional modifications to the Pretreatment Program, as required by 40 CFR Part 403 *[rev. 10/14/05]* and applicable state and local law, including an Enforcement Response Plan and Standard Operating Procedures, will be submitted within **twelve (12) months of the issued date of this permit**.

The legal authority and the POTW's pretreatment program are not in compliance with current 40 CFR Part 403 regulations *[rev. Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798]* and 30 TAC Chapter 315, as amended. In order to ensure that the permittee has a program to assure compliance with such pretreatment standards and requirements, the permittee shall submit a modification to their pretreatment program containing all required [*i.e.* more stringent] Streamlining Rule provisions to the Executive Director care of the Storm Water & Pretreatment Team (MC148) of the Water Quality Division within **twelve (12) months of the issued date of this permit**. This submission shall be signed and certified by the permittee *[according to 40 CFR §122.41(k)]*.

All of the changes related to the Streamlining Rule may be treated as nonsubstantial if the changes to a POTW's legal authority to incorporate the changes directly reflect the federal requirements. The current regulations provide that modifications that relax a POTW's legal authorities are substantial modifications "except for modifications that directly reflect a revision to [40 CFR] Part 403 or to 40 CFR Chapter I, subchapter N, and are reported pursuant to paragraph (d) of this section." 40 CFR §403.18(b)(1). The EPA further "excludes from the definition of 'substantial modification' those changes in POTW legal authority that result in less prescriptive programs, but which directly reflect a revision to the Federal Pretreatment Regulations (for example, if the federal regulations are streamlined). 40 CFR §403.18(b)(1). Such modifications would have already undergone public notice and comment when promulgated by EPA. As long as the POTW's local ordinance is revised to directly reflect the new federal requirements, further public notice would be unnecessary." *Federal Register / Vol. 62 / July 17, 1997 / pages 38406, 38409.*

The Approval Authority, however, may treat such modifications as substantial when appropriate. 40 CFR §403.18(b)(7) authorizes the Approval Authority to designate modifications as substantial if the Approval Authority concludes that the modification could have a significant effect on POTW operation, could result in an increase in POTW pollutant loadings, or could result in less stringent requirements being imposed on Industrial Users. *Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60187.*

Substantial modifications will be approved in accordance with 40 CFR §403.18, and the modification will become effective upon approval by the Executive Director in accordance with 40 CFR §403.18.

D. WHOLE EFFLUENT TOXICITY (BIOMONITORING) REQUIREMENTS

(1) The draft permit includes 48-hour acute freshwater biomonitoring requirements as follows. The permit requires five dilutions in addition to the control (0% effluent) to be used in the toxicity tests. These additional effluent concentrations shall be 9%, 12%, 16%, 21%, and 28%. The low-flow effluent concentration (critical dilution) is defined as 21% effluent.

(a) Acute static renewal 48-hour definitive toxicity tests using the water flea (*Ceriodaphnia dubia)* and *(Daphnia pulex)* The frequency of the testing is once per quarter at least the first year of testing, after which the permittee may apply for a testing frequency reduction.

(b) Acute static renewal 48-hour definitive toxicity test using the fathead minnow (*Pimephales promelas*). The frequency of the testing is once per quarter at least the first year of testing, after which the permittee may apply for a testing frequency reduction.

(2) The draft permit includes the following minimum 24-hour acute freshwater biomonitoring requirements at a frequency of once per quarter:

(a) Acute 24-hour static toxicity test using the water flea (*Ceriodaphnia dubia*).

(b) Acute 24-hour static toxicity test using the fathead minnow (*Pimephales promelas*).

E. SUMMARY OF CHANGES FROM APPLICATION

The applicant requested a renewal of the existing permit with no changes. However, the draft permit includes effluent limits and/or monitoring requirements for *E. coli*. See the next section for additional changes based on the existing permit.

F. SUMMARY OF CHANGES FROM EXISTING PERMIT

Effluent limitations and monitoring requirements in the draft permit remain the same as the existing permit requirements, except as noted below.

E. coli bacteria limits are added to the draft permit in accordance with the recent amendments to 30 TAC Chapters 309 and 319.

The Standard Permit Conditions, Sludge Provisions, Other Requirements, and Biomonitoring sections of the draft permit have been updated. The pretreatment program language has been updated from the current permit and the pretreatment program requirements will continue until permit expiration. Please see specific details in the Pretreatment Requirements Section of the fact sheet.

The existing permit authorizes an annual average flow of 6.0 MGD. The permittee is currently operating in the Final phase.

The effluent limitations in the existing permit, based on a 30-day average, are 20 mg/l BOD_5, 20 mg/l TSS, 200 Fecal Coliform Bacteria Colonies per 100 ml, and 2.0 mg/l minimum dissolved oxygen (DO). The permittee shall utilize an ultraviolet light (UV) system for disinfection purposes.

8. DRAFT PERMIT RATIONALE

A. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

Regulations promulgated in Title 40 of the Code of Federal Regulations (CFR) require technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, and/or on best professional judgment (BPJ) in the absence of guidelines.

Effluent limitations for maximum and minimum pH are in accordance with 40 CFR Part 133.102(c) and 30 TAC § 309.1(b).

B. WATER QUALITY SUMMARY AND COASTAL MANAGEMENT PLAN

(1) WATER QUALITY SUMMARY

The treated effluent is discharged via pipeline to the Red River Below Lake Texoma in Segment No. 0202 of the Red River Basin. The designated uses for Segment No. 0202 are high aquatic life use, public water supply, and contact recreation. The effluent limitations in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES, September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of

the USFWS biological opinion.Though the piping plover, Charadrius melodus Ord, can occur in Grayson County, the discharge is not to a watershed of high priority per Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

Segment No. 0202 is not currently listed on the State's inventory of impaired and threatened waters (the CWA §303(d) list)(2008).

The effluent limitations and/or conditions in the draft permit comply with the Texas Surface Water Quality Standards, 30 TAC §§ 307.1 - 307.10, effective August 17, 2000.

(2) CONVENTIONAL PARAMETERS

Effluent limitations for the conventional effluent parameters (i.e., Biochemical Oxygen Demand or Carbonaceous Biochemical Oxygen Demand, Ammonia Nitrogen, etc.) are based on stream standards and waste load allocations for water quality limited streams as established in the Texas Water Quality Standards and the water quality management plan.

The effluent limitations in the draft permit have been reviewed for consistency with the State of Texas Water Quality Management Plan (WQMP). The proposed effluent limitations are contained in the approved WQMP. A Waste Load Evaluation has been completed for the segment.

The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Domestic Wastewater Effluent Limitations.

(3) COASTAL MANAGEMENT PLAN

The facility is not located in the Coastal Management Program boundary.

C. WATER QUALITY-BASED EFFLUENT LIMITATIONS/CONDITIONS

(1) GENERAL COMMENTS

The Texas Surface Water Quality Standards (30 TAC Chapter 307) state that "surface waters will not be toxic to man, or to terrestrial or aquatic life." The methodology outlined in the "Procedures to Implement the Texas Surface Water Quality Standards, January 2003" is designed to ensure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water

quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation that threatens human health.

(2) AQUATIC LIFE CRITERIA

(a) SCREENING

Water quality-based effluent limitations are calculated from freshwater aquatic life criteria found in Table 1 of the Texas Surface Water Quality Standards (30 TAC Chapter 307).

Acute freshwater criteria are applied at the edge of the zone of initial dilution (ZID) and chronic freshwater criteria are applied at the edge of the aquatic life mixing zone. The ZID for this discharge is defined as 20 feet upstream and 60 feet downstream from the point where the discharge enters Red River Below Lake Texoma. The aquatic life mixing zone for this discharge is defined as 100 feet upstream and 300 feet downstream from the point where the discharge enters Red River Below Lake Texoma.

TCEQ uses the mass balance equation to estimate dilutions at the edges of the ZID and aquatic life mixing zone during critical conditions. The estimated dilution at the edge of the aquatic life mixing zone is calculated using the final permitted flow of 6.0 MGD and the 7-day, 2-year (7Q2) flow of 143 cfs for Red River Below Lake Texoma. The estimated dilution at the edge of the ZID is calculated using the final permitted flow of 6.0 MGD and 25% of the 7Q2 flow. The following critical effluent percentages are being used:

Acute Effluent %:	20.61%	Chronic Effluent %:	6.10%

Wasteload allocations (WLAs) are calculated using the above estimated effluent percentages, criteria outlined in the Texas Surface Water Quality Standards, and partitioning coefficients for metals (when appropriate and designated in the implementation procedures). The WLA is the end-of-pipe effluent concentration that can be discharged, when after mixing in the receiving stream, instream numerical criteria will not be exceeded. From the WLA, a long term average (LTA) is calculated using a log normal probability distribution, a given coefficient of variation (0.6), and a 90th percentile confidence level. The LTA is the long term average effluent concentration for which the WLA will never be exceeded using a selected percentile confidence level. The lower of the two LTAs (acute and chronic) is used to calculate a daily average and daily maximum effluent limitation for the protection of aquatic life using the same statistical considerations with the 99th percentile confidence level and a standard number of monthly effluent samples collected (12). Assumptions used in deriving the effluent limitations include segment values for hardness, chlorides, pH and Total Suspended Solids (TSS) according to the segment-specific values contained in the TCEQ guidance document, "Procedures to Implement the Texas Surface Water Quality Standards,

January 2003." The segment values are 160 mg/l $CaCO_3$ for hardness, 180 mg/l Chlorides, 7.1 standard units for pH, and 24 mg/l for TSS. For additional details on the calculation of water quality-based effluent limitations, refer to the TCEQ guidance document.

TCEQ practice for determining significant potential is to compare the reported analytical data against percentages of the calculated daily average water quality-based effluent limitation. Permit limitations are required when analytical data reported in the application exceeds 85% of the calculated daily average water quality-based effluent limitation. Monitoring and reporting is required when analytical data reported in the application exceeds 70% of the calculated daily average water quality-based effluent limitation.

(b) PERMIT ACTION

Analytical data reported in the application was screened against calculated water quality-based effluent limitations for the protection of aquatic life. Reported analytical data does not exceed 70% of the calculated daily average water quality-based effluent limitation for aquatic life protection.

(3) AQUATIC ORGANISM BIOACCUMULATION CRITERIA

(a) SCREENING

Water quality-based effluent limitations for the protection of human health are calculated using criteria for the consumption of freshwater fish tissue and drinking water found in Table 3 of the Texas Surface Water Quality Standards (30 TAC Chapter 307). Water quality-based effluent limitations for the protection of human health are calculated using criteria for the consumption of freshwater fish tissue and drinking water found in Table 3 of the Texas Surface Water Quality Standards (30 TAC Chapter 307). Freshwater fish tissue bioaccumulation and drinking water criteria are applied at the edge of the human health mixing zone. The human health mixing zone for this discharge is identical to the aquatic life mixing zone. TCEQ uses the mass balance equation to estimate dilution at the edge of the human health mixing zone during average flow conditions. The estimated dilution at the edge of the human health mixing zone is calculated using the final permitted flow of 6.0 MGD and the harmonic mean flow of 479 cfs for the Red River. The following critical effluent percentage is being used:

Human Health Effluent %: 1.9%

Water quality-based effluent limitations for human health protection against the consumption of fish tissue and drinking water are calculated using the same procedure as outlined for calculation of water quality-based effluent limitations for aquatic life protection. A 99th percentile confidence level in the long term average calculation is used with only one long term average value being calculated.

Significant potential is again determined by comparing reported analytical data against 70% and 85% of the calculated daily average water quality-based effluent limitation.

(b) PERMIT ACTION

Reported analytical data does not exceed 70% of the calculated daily average water quality-based effluent limitation for human health protection.

(4) DRINKING WATER SUPPLY PROTECTION

(a) SCREENING

Water Quality Segment No. 0202, which receives the discharge from this facility, is designated as a public water supply. The screening procedure used to calculate water quality-based effluent limitations and determine the need for effluent limitations or monitoring requirements is identical to the procedure outlined in the aquatic organism bioaccumulation section of this fact sheet. Criteria used in the calculation of water quality-based effluent limitations for the protection of a drinking water supply are outlined in Table 3 (Water and Fish) of the Texas Surface Water Quality Standards (30 TAC Chapter 307). These criteria are developed from either drinking water maximum contaminant level (MCL) criteria outlined in 30 TAC Chapter 290 or from the combined human health effects of exposure to consumption of fish tissue and ingestion of drinking water.

(b) PERMIT ACTION

Criteria in the "Water and Fish" section of Table 3 do not distinguish if the criteria is based on a drinking water standard or the combined effects of ingestion of drinking water and fish tissue. Effluent limitations or monitoring requirements to protect the drinking water supply (and other human health effects) were previously calculated and outlined in the aquatic organism bioaccumulation criteria section of this fact sheet.

(5) WHOLE EFFLUENT TOXICITY (BIOMONITORING) CRITERIA

(a) SCREENING

TCEQ has determined that there may be pollutants present in the effluent that may have the potential to cause toxic conditions in the receiving stream. Whole effluent biomonitoring is the most direct measure of potential toxicity that incorporates the effects of synergism of effluent components and receiving stream water quality characteristics. Biomonitoring of the effluent is, therefore, required as a condition of this permit to assess potential toxicity.

The existing permit includes 7-day chronic freshwater biomonitoring requirements. A summary of the biomonitoring testing for the facility

indicates that the facility was performing 48-hour acute testing and 1 test has been performed in the last 5 years, with no failures for *D. pulex*, and the facility was performing 7-day chronic testing and 17 tests have been performed in the last 5 years, with 0 failure for *C. dubia*, and 12 tests have been performed in the last 5 years, with 0 failure for *P. promelas*. Therefore, a determination of no reasonable potential was made.

(b) PERMIT ACTION

The test species are appropriate to measure the toxicity of the effluent consistent with the requirements of the State water quality standards. The biomonitoring frequency has been established to reflect the likelihood of ambient toxicity and to provide data representative of the toxic potential of the facility's discharge. This permit may be reopened to require effluent limits, additional testing, and/or other appropriate actions to address toxicity if biomonitoring data show actual or potential ambient toxicity to be the result of the permittee's discharge to the receiving stream or water body.

Analytical data submitted with the application does not indicate violation of any numerical water quality-based effluent limitation for aquatic life protection; therefore, minimum biomonitoring conditions required for EPA classified major facilities are proposed in the draft permit.

(6) WHOLE EFFLUENT TOXICITY CRITERIA (24 - HOUR ACUTE)

(a) SCREENING

The existing permit includes 24-hour acute freshwater biomonitoring language. A summary of the biomonitoring testing for the facility indicates 11 tests have been performed in the last 5 years with 0 failures for *D. pulex and P. promelas.*

(b) PERMIT ACTION

The draft permit includes 24-hour 100% acute biomonitoring tests for the life of the permit.

9. WATER QUALITY VARIANCE REQUESTS

No variance requests have been received.

10. PROCEDURES FOR FINAL DECISION

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for review and copying in the county where the facility is or will be located. This application will be in a public place throughout the comment period. The Chief Clerk also mails this notice to any interested persons and, if required, to landowners identified in the permit application. This notice

informs the public about the application, and provides that an interested person may file comments on the application or request a contested case hearing or a public meeting.

Once a draft permit is completed, it is sent, along with the Executive Director's preliminary decision, as contained in the technical summary or fact sheet, to the Chief Clerk. At that time, Notice of Application and Preliminary Decision will be mailed to the same people and published in the same newspaper as the prior notice. This notice sets a deadline for making public comments. The applicant must place a copy of the Executive Director's preliminary decision and draft permit in the public place with the application. This notice sets a deadline for public comment.

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding.

After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's Response to Comments and Final Decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If the Executive Director calls a public meeting or the Commission grants a contested case hearing as described above, the Commission will give notice of the date, time, and place of the meeting or hearing. If a hearing request or request for reconsideration is made, the Commission will consider all public comments in making its decision and shall either adopt the Executive Director's response to public comments or prepare its own response.

For additional information about this application contact Donald J. Camp, P.E. at (512) 239-4681.

11. ADMINISTRATIVE RECORD

The following items were considered in developing the proposed permit draft:

A. PERMIT(S)

TPDES Permit No. WQ0010079003 issued October 24, 2006.

B. APPLICATION

Application received November 30, 2010.

C. MEMORANDA

Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division. Interoffice memorandum from the Storm Water & Pretreatment Team of the TCEQ Water Quality Division.

D. MISCELLANEOUS

Federal Clean Water Act, § 402; Texas Water Code § 26.027; 30 TAC Chapters 305, 309, 312, 319, 30; Commission policies; and EPA guidelines.

Texas Surface Water Quality Standards, 30 TAC §§ 307.1 - 307.10.

"Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.

Texas 2008 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, April 1, 2008; approved by the EPA July 9, 2008.

"TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," Document No. 98-001.000-OWR-WQ, May 1998.