

KPDES



KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

PERMIT

PERMIT NO.: KYG400000

AI NO.: 35050

Pursuant to Kentucky Revised Statute (KRS) 224 and Chapters 5 and 10 of Title 401 of the Kentucky Administrative Regulations (KARs) the construction and operation of a wastewater treatment system receiving and treating domestic wastes requires a permit from the Division of Water (DOW). This general permit authorizes the owners of single family residences to construct and operate an On-Site Wastewater Treatment System (OSWTS) to treat and dispose of domestic wastes only.

Only those OSWTSs that meet the application, design, construction and operational requirements and conditions of this permit are eligible for coverage under this permit. Any OSWTS deemed ineligible by DOW shall be required to obtain individual construction and operational permits.

Those OSWTSs granted coverage under this general permit shall comply with all conditions and requirements set forth in this permit that are specific to the type of OSWTS authorized to be installed. This general permit supersedes all previous versions of this general permit.

If this general permit is not reissued or replaced prior to the expiration date below the conditions and requirements shall remain in effective until DOW issues a new permit. All existing coverages at the time of expiration shall continue in effect unless DOW notifies the permittee that coverage under the general permit has been terminated.

This permit shall become effective on August 1, 2013.

This permit and the authorization to discharge shall expire at midnight, July 31, 2018.

July 2, 2013

Date Signed

A handwritten signature in black ink, appearing to read 'Sandra L. Gruzesky', located above the signature line.

**Sandra L. Gruzesky, Director
Division of Water**

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION
Division of Water, 200 Fair Oaks Lane, Frankfort, Kentucky 40601**

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SECTION 1
EFFLUENT QUALITY REQUIREMENTS

1. EFFLUENT QUALITY REQUIREMENTS

On-site domestic wastewater treatment systems (OSWTSs) serving an individual family residence (IFR) are required to meet specific effluent quality requirements. **Routine effluent monitoring is not required provided the permittee complies with the operational requirements detailed in Section 3 of this permit.**

1.1. Existing OSWTSs

The requirements of this section apply to those OSWTSs that were installed prior to January 1, 2013 that may or may not have been granted coverage under KYG400000. Existing facilities are not required to update to the requirements for new coverages unless the current system fails or must be replaced.

1.1.1. Surface Water Discharges

Existing OSWTSs discharging to surface waters shall meet the following effluent quality requirements.

TABLE 1: EXISTING SURFACE WATER DISCHARGES				
Effluent Characteristic	Effluent Quality Requirements			
	Minimum	Monthly Average	Weekly Average	Maximum
pH (Standard Units)	6.0	N/A	N/A	9.0
BOD ₅ (mg/l)	N/A	30	45	N/A
TSS (mg/l)	N/A	30	45	N/A
Ammonia (as mg/l of NH ₃ N)	N/A	20	30	N/A
E. Coli (colonies/100 ml)	N/A	130	240	N/A
Dissolved Oxygen (mg/l)	2.0	N/A	N/A	N/A
Total Residual Chlorine (mg/l)	N/A	0.011	0.019	N/A

1.1.2. Spray Irrigation

Existing OSWTSs land applying treated effluent shall meet the following effluent quality requirements.

TABLE 2: EXISTING SPRAY IRRIGATION SYSTEMS				
Effluent Characteristic	Effluent Quality Requirements			
	Minimum	Monthly Average	Weekly Average	Maximum
BOD ₅ (mg/l)	N/A	30	45	N/A
TSS (mg/l)	N/A	30	45	N/A

1.2. New/Replacement OSWTSs

The requirements of this section apply to all new/replacement OSWTSs installed after the effective date of this permit

1.2.1. Surface Water Discharges

OSWTSs that discharge to surface waterbodies other than those addressed under Subsections 1.2.1.1 and 1.2.1.2 shall meet the following effluent quality requirements.

TABLE 3: SURFACE WATER DISCHARGES				
Effluent Characteristic	Effluent Quality Requirements			
	Minimum	Monthly Average	Weekly Average	Maximum
pH (Standard Units)	6.0	N/A	N/A	9.0
BOD ₅ (mg/l)	N/A	30	45	N/A
TSS (mg/l)	N/A	30	45	N/A
Ammonia (as mg/l of NH ₃ N)	N/A	20	30	N/A
E. Coli (colonies/100 ml)	N/A	130	240	N/A
Dissolved Oxygen (mg/l)	2.0	N/A	N/A	N/A
Total Residual Chlorine (mg/l)	N/A	0.011	0.019	N/A

1.2.1.1. Lake Discharges

OSWTSs that discharge to lakes shall meet the following effluent quality requirements.

TABLE 4: LAKE DISCHARGES				
Effluent Characteristic	Effluent Quality Requirements			
	Minimum	Monthly Average	Weekly Average	Maximum
pH (Standard Units)	6.0	N/A	N/A	9.0
CBOD ₅ (mg/l)	N/A	10	15	N/A
TSS (mg/l)	N/A	30	45	N/A
Ammonia (as mg/l of NH ₃ N)				
May 1 – October 31	N/A	2.0	3.0	N/A
November 1 – April 30	N/A	5.0	7.5	N/A
E. Coli (colonies/100 ml)	N/A	130	240	N/A
Dissolved Oxygen (mg/l)	7.0	N/A	N/A	N/A
Total Residual Chlorine (mg/l)	N/A	0.011	0.019	N/A
Total Phosphorus (mg/l)	N/A	1.0	2.0	N/A

1.2.1.2. Special Use Water Discharges

Special Use Waters are those waterbodies that are designated as Coldwater Aquatic Habitats (CAHs) or as Outstanding State Resource Waters (OSRWs), or are categorized as Exceptional Waters (EWs). OSWTSs that discharge to Special Use Waters shall meet the following effluent quality requirements.

TABLE 5: SPECIAL USE WATER DISCHARGES				
Effluent Characteristic	Effluent Quality Requirements			
	Minimum	Monthly Average	Weekly Average	Maximum
pH (Standard Units)	6.0	N/A	N/A	9.0
CBOD ₅ (mg/l)	N/A	10	15	N/A
TSS (mg/l)	N/A	30	45	N/A
Ammonia (as mg/l of NH ₃ N)				
May 1 – October 31	N/A	2.0	3.0	N/A
November 1 – April 30	N/A	5.0	7.5	N/A
E. Coli (colonies/100 ml)	N/A	130	240	N/A
Dissolved Oxygen (mg/l)	7.0	N/A	N/A	N/A
Total Residual Chlorine (mg/l)	N/A	0.011	0.019	N/A

1.2.1.3. Impaired Waters

OSWTSs that discharge to Impaired Waters, where the pollutants of concern are associated with domestic wastewaters and an approved Total Maximum Daily Load (TMDL) has not been developed, shall meet the following effluent quality requirements.

TABLE 6: IMPAIRED WATER DISCHARGES				
Effluent Characteristic	Effluent Quality Requirements			
	Minimum	Monthly Average	Weekly Average	Maximum
pH (Standard Units)	6.0	N/A	N/A	9.0
CBOD ₅ (mg/l)	N/A	10	15	N/A
TSS (mg/l)	N/A	30	45	N/A
Ammonia (as mg/l of NH ₃ N)				
May 1 – October 31	N/A	2.0	3.0	N/A
November 1 – April 30	N/A	5.0	7.5	N/A
E. Coli (colonies/100 ml)	N/A	130	240	N/A
Dissolved Oxygen (mg/l)	7.0	N/A	N/A	N/A
Total Residual Chlorine (mg/l)	N/A	0.011	0.019	N/A
Total Phosphorus (mg/l) ²	N/A	1.0	2.0	N/A

TABLE 6: IMPAIRED WATER DISCHARGES				
Effluent Characteristic	Effluent Quality Requirements			
	Minimum	Monthly Average	Weekly Average	Maximum
² The requirements for Total Phosphorus apply only if the impairment is due to nutrients, or organic enrichment and low dissolved oxygen.				

OSWTSS that discharge to Impaired Waters, where the pollutants of concern are associated with domestic wastewaters and an approved Total Maximum Daily Load (TMDL) has been developed, shall meet the effluent quality requirements in the preceding table if these requirements are consistent with the TMDL. If the requirements are not consistent with the TMDL, an individual permit will be required.

1.2.2. Spray Irrigation

OSWTSS that land apply treated effluent shall meet the following effluent quality requirements.

TABLE 7: SPRAY IRRIGATION				
Effluent Characteristic	Effluent Quality Requirements			
	Minimum	Monthly Average	Weekly Average	Maximum
BOD ₅ (mg/l)	N/A	30	45	N/A
TSS (mg/l)	N/A	30	45	N/A

1.3. Standard Effluent Requirements

The discharges to waters of the Commonwealth shall not produce floating solids, visible foam or a visible sheen on the surface of the receiving waters.

SECTION 2

DESIGN AND CONSTRUCTION REQUIREMENTS

2. DESIGN AND CONSTRUCTION REQUIREMENTS

2.1. All OSWTSs

The minimum treatment provided by all new and replacement OSWTSs shall include an NSF Certified Wastewater Treatment Unit capable of meeting NSF/American National Standards Institute (ANSI) Standard 40 for Residential Wastewater Treatment Systems and disinfection by either chlorination or ultraviolet. Additional treatment shall be required depending on the receiving stream or disposal method.

All new and replacement OSWTSs shall meet the setbacks summarized in the following table:

TABLE 8: MINIMUM SETBACK DISTANCES	
Structure or Topographic Feature	Minimum Distance (Ft.) from OSWTS
Property lines	5
Building foundations	10
Basements	20
Basements (Downslope from system)	20
Wells	50
Wells (Properly plugged/abandoned)	20
Cisterns	50
Cisterns (Upslope from system with bottom at higher elevation than system)	10
Natural Lakes or Impoundments (Shoreline)	25
Streams	25
Springs (Upslope from system)	25
(Upslope with curtain interceptor drain)	10
(Downslope from system)	50
Drainage Ditches, Cutbanks (Downslope)	10
Curtain or vertical drain (Upslope and Sides)	10
Curtain or vertical drain (Downslope)	25
Sinkhole Throat (Open)	70
Buried Water Lines or Utility Lines	10
Utility Easements	10
Driveways, parking lots, or paved areas	10
Geothermal Vertical	50
Geothermal Horizontal (Downslope)	10
Inground swimming pools	10
Mine Openings and Air Shafts	50
Livestock pens, feed lots, corrals, etc.	10

The OSWTS shall be constructed in accordance with DOW approved plans and specifications. No OSWTS shall be constructed such that any of the treatment units cannot be fully inspected or accessed for necessary maintenance.

2.2. Spray Irrigation

In addition to the minimum treatment requirements of Section 2.1, OSWTSs that spray irrigates the treated effluent shall comply with the following conditions:

1. The OSWTS shall be equipped with a minimum of three (3) sprinkler heads;
2. A minimum surface area of 0.19 acres with at least 12 inches of soil having an infiltration rate between 0.6 and 6.0 inches/hour (10 and 100 micrometers/second) shall be provided for spray fields with slopes of less than or equal to six (6) percent;
3. A minimum surface area of 0.38 acres with at least 24 inches of soil having an infiltration rate greater than 6.0 inches/hour (100 micrometers/second) shall be provided for spray fields with slopes greater than six (6) percent;

4. The spray field shall not be within 200 feet of an existing dwelling;
5. A twenty (20) foot buffer zone shall be maintained between the outer boundary of the spray field and the permittee's property boundary;
6. At least ninety-five (95) percent of the area of the spray irrigation field shall have sufficient perennial vegetative growth to promote absorption, evaporation, and transpiration;
7. The spray field shall have a temporal or physical barrier that inhibits human contact with the airborne spray.
8. Effluent from the spray irrigation field shall be contained on the owner's property.
9. Effluent derived from a wastewater that contained human waste shall not be applied to an area in active production of food for human consumption.

2.3. Discharges to Surface Waters

In addition to the minimum treatment requirements of Section 2.1, OSWTSs that discharge to any surface waters shall include the following additional treatment units: (1) for all surface waters: filtration and de-chlorination; (2) for surface waters that are lakes, special use waters, and impaired waters: post aeration shall be provided.

2.3.1. Outfall Signage

For OSWTSs discharging to the Ohio River the permittee shall comply with the permanent marker requirements of Part V, Section A 3 of ORSANCO's Pollution Control Standards.

For OSWTSs discharging to waters other than the Ohio River the permittee should place and maintain a permanent marker at the discharge location.

2.3.2. Discharge and Monitoring Point Accessibility

In order for the certified operator or authorized agency personnel to inspect and, if necessary, collect effluent samples the OSWTS's discharge point shall be readily and safely accessible.

SECTION 3

OPERATIONAL REQUIREMENTS

3. OPERATIONAL REQUIREMENTS

The operational requirements for all OSWTSs serving individual family residences include: (1) operation and maintenance of the plant by a certified operator; (2) a maintenance contract or, if the permittee is the certified operator, an operation and maintenance (O&M) plan; and (3) prohibition of disposal of non-domestic wastes.

3.1. Certified Operator

The operation and maintenance of an OSWTS serving an individual family residence shall be performed by a certified wastewater treatment plant operator who has received a certificate from the Energy and Environment Cabinet (EEC). Any class of certified wastewater treatment plant operator may operate and maintain an OSWTS. A homeowner who is a certified operator holding a Class I wastewater treatment license with an Operator in Training designation may only operate an OSWTS if that system is owned by the operator and serves only one residence. The certified operator shall have the responsibility of inspecting the OSWTS and performing required maintenance to ensure the OSWTS is functioning within the design requirements and producing the required effluent quality.

3.2. Maintenance Contract/Operation & Maintenance Plan

In order to ensure the OSWTS is properly operating and producing the required effluent quality the permittee shall enter into a Maintenance Contract (MC) with an EEC certified wastewater treatment plant operator or develop and implement an Operation & Maintenance (O&M) Plan if the homeowner is the certified operator.

The MC/O&M plan shall establish the frequency the certified operator shall conduct routine inspections of the OSWTS. The following minimum inspection frequencies are required:

- a) Newly constructed/installed units or replacement units shall be inspected monthly until the unit is consistently producing the required effluent quality, then quarterly thereafter;
- b) OSWTSs that discharge to surface water bodies other than lakes, special use waters, or impaired waters shall be inspected quarterly;
- c) OSWTSs that discharge to lakes, special use waters, or impaired waters shall be inspected monthly; and
- d) OSWTSs that spray irrigate the treated effluent shall be inspected once every six months.

The MC/O&M plan shall describe the items to be addressed during an inspection including the performance of routine maintenance. At a minimum the certified operator shall:

- a) Check each component of the OSWTS to verify that is operating as designed;
- b) Check the discharge structure to ensure it is not clogged with debris;
- c) Fill the tablet chlorinator with fresh chlorine tablets; and
- d) Clean and make minor repairs as necessary

The results of the inspection(s) and any maintenance performed shall be documented by the certified operator on an Individual Family Residence OSWTS Inspection Report. This form is available on KDEP's forms library site at: <http://dep.ky.gov/formslibrary/Pages/default.aspx>. The permittee shall submit copies of each inspection report (for July 1st of the previous calendar year through June 30th of the current calendar year) to the Division of Water at the address listed below postmarked no later than July 28th.

Division of Water
Surface Water Permits Branch
Permits Support Section
200 Fair Oaks Lane
Frankfort, Kentucky 40601
Attention: DMR Coordinator

3.3. Disposal of Non-Domestic Wastes

The pass through or non-treatment by the OSWTS of chemicals or compounds which may injure, be chronically or acutely toxic to or produce adverse physiological or behavioral responses in humans, animals, fish and other aquatic life is not desirable. Materials such as acids, caustics, herbicides, household chemicals or cleansers, insecticides, lawn chemicals, non-biodegradable products, paints, pesticides, pharmaceuticals, and petroleum based products may not be treatable by the OSWTS and should not be introduced to the system. Other environmentally sound methods for disposal of these materials should be utilized. The permittee should educate users of its system that introduction of such chemicals or compounds could result in an adverse environmental impact and provide the users with alternative disposal measures.

SECTION 4
OTHER REQUIREMENTS

4. OTHER REQUIREMENTS

4.1. Administrative Continuation

In the event this general permit expires prior to reissuance by KDOW the conditions and requirements of this version of KYG40 shall continue in effect until KDOW reissues the permit. However new or expanded coverages cannot be authorized until the permit is reissued.

4.2. Antidegradation

For those discharges subject to the provisions of 401 KAR 10:030 Section 1(3)(b)5, the permittee shall install, operate, and maintain wastewater treatment facilities consistent with those required in Sections 1 and 2 of this permit.

4.3. Connection to a Comprehensive Sewer System

The treatment units authorized by this general permit are temporary and in no way supersede the need to connect to a comprehensive sewer system. The permittee will eliminate the system and will connect to a comprehensive sewer system when it becomes available as defined in 401 KAR 5:002, provided such system can adequately treat the wastes.

4.4. Notice of Intent

Owners of individual family residences seeking authorization to construct and operate a new OSWTS, to replace an existing failing OSWTS, or to renew an existing coverage shall use Form NOI-IFR, available on KDEP's forms library site at: <http://dep.ky.gov/formslibrary/Pages/default.aspx>. KDOW shall not process any NOI that is incomplete, inaccurate, or in an incorrect format.

4.4.1. New or Replacement OSWTSs

For new or replacement OSWTSs for which authorization to construct and operate is being sought, the following items are to be included with the NOI-IFR:

1. USGS Topographic Map marked to identify facility location and discharge point;
2. Specifications of Treatment System, including drawings of all components of the WWTP including, if applicable, spray field;
3. Site Plan showing layout of residence, components of treatment system in conjunction with dwelling, property boundaries, spray field, and receiving stream. The plan must show the positions of all dwellings within 200 feet of the treatment system (include measurements and distance from residence), and location of drinking water line or potable water source;
4. Copies of the Department for Public Health Onsite Sewage Disposal System Site Evaluation (Form DFS-321) and Onsite Sewage Agency Referral (Form DFS-405);
5. Maintenance Agreement or Operation and Maintenance (O&M) Plan;
6. If the property is located within a regional facility planning area, submit a letter from the planning authority (municipality, sanitation district, etc.) stating that connection to a regional facility is not available and the proposed treatment system is compatible with the regional facility plan; and
7. \$450 Construction Permit Fee (Your check must be made payable to KENTUCKY STATE TREASURER)

4.4.2. Renewal of Coverage

For existing OSWTSs for which authorization to operate is being sought, the following items are to be competed on and included with the NOI-IFR:

1. Sections I, IV, and V of the NOI-IFR; and
2. Maintenance Agreement or Operation and Maintenance (O&M) Plan.

4.4.3. NOI Contents

The NOI-IFR is comprised of the following sections: (1) Purpose of the NOI, (2) Owner Information, (3) Treatment System Information, (4) Enclosures, (5) Certified Operator Information, and (6) Certification.

4.4.4. NOI Submission Deadlines

Owners of individual family residences seeking authorization to construct and operate a new or replacement OSWTS shall submit the NOI and supporting information a minimum of 60 days prior to proposed commencement of construction.

Owners of individual family residences seeking continuation of existing coverages shall submit an updated NOI-IFR within 90 days of the effective date of the permit to renew the coverage.

4.5. Other Permits

This permit has been issued under the provisions of KRS Chapter 224 and regulations promulgated pursuant thereto. Issuance of this permit does not relieve the permittee from the responsibility of obtaining any other permits or licenses required by this Cabinet and other state, federal, and local agencies.

4.6. Reopener Clause

This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved in accordance with 401 KAR 5:050 through 5:080, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of KRS Chapter 224 when applicable.

4.7. Schedule of Compliance

The permittee shall attain compliance with all requirements of this permit on the effective date of this permit unless otherwise stated.

Permittees shall meet conditions of the permit addressing new plants within the shortest time period feasible; but shall not exceed ninety (90) days after the start-up of the plant.

SECTION 5
STANDARD CONDITIONS

5. STANDARD CONDITIONS

The following conditions apply to all KPDES permits.

5.1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of KRS Chapter 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Any person who violates applicable statutes or who fails to perform any duty imposed, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty as provided at KRS 224.99.010.

5.2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit.

5.3. Need to Halt or Reduce Activity Not a Defense

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

5.4. Duty to Mitigate

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

5.5. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.

5.6. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

5.7. Property Rights

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

5.8. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

5.9. Inspection and Entry

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

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

5.10. Signatory Requirement

(1) All applications, reports, or information submitted to the Director shall be signed and certified pursuant to 401 KAR 5:060, Section 4 [40 CFR 122.22].

(2) KRS 224.99-010 provides that any person who knowingly provides false information in any document filed or required to be maintained under KRS Chapter 224 shall be guilty of a Class D felony and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000), or by imprisonment, or by fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation

5.11. Reporting Requirements

5.11.1. Planned Changes

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- (i) The alteration or addition to a permitted facility may meet one (1) of the criteria for determining whether a facility is a new source in KRS 224.16-050 [40 CFR 122.29(b)]; or
- (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under KRS 224.16-050 [40 CFR 122.42(a)(1)].
- (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

5.11.2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

5.11.3. Transfers

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under KRS 224 [CWA; see 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory].

5.11.4. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.

5.11.5. Twenty-four-Hour Reporting

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the

noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within twenty-four (24) hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See §122.41(g))

(B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within twenty-four (24) hours.

(iii) The Director may waive the written report on a case-by-case basis for reports under paragraph (1)(6)(ii) of this section if the oral report has been received within twenty-four (24) hours.

5.11.6. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Sections 5.11.1, **Error! Reference source not found.**, 5.11.4, and 5.11.5, at the time monitoring reports are submitted. The reports shall contain the information listed in Section 5.11.5.

5.11.7. Other Information

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

5.12. Bypass

5.12.1. Definitions

(i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

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

5.12.2. Bypass Not Exceeding Limitations

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Section 5.12.1.

5.12.3. Notice

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Section 5.11.5.

5.12.4. Prohibition of Bypass

(i) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under Section 5.12.3.

(ii) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three (3) conditions listed above in Section 5.12.3.

5.13. Upset

5.13.1. Definition

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

5.13.2. Effect of an Upset

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Section 5.13.3 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

5.13.3. Conditions Necessary for a Demonstration of Upset

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (ii) The permitted facility was at the time being properly operated; and
- (iii) The permittee submitted notice of the upset as required in Section 5.11.5; and
- (iv) The permittee complied with any remedial measures required under Section 5.4.

5.13.4. Burden of Proof

In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.