

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>ILLINOIS POWER RESOURCES</b>	)	
<b>GENERATING, LLC,</b>	)	
	)	
Petitioner,	)	
	)	
v.	)	<b>PCB 2022-__</b>
	)	<b>(NPDES Permit Appeal-</b>
<b>ILLINOIS ENVIRONMENTAL</b>	)	<b>30-Day Extension)</b>
<b>PROTECTION AGENCY,</b>	)	
	)	
Respondent.	)	
	)	

**NOTICE OF FILING**

To: Division of Legal Counsel	Pollution Control Board, Attn: Clerk
Illinois Environmental Protection Agency	100 West Randolph Street
1021 North Grand Avenue East	James R. Thompson Center, Suite 11-500
P.O. Box 19276	Chicago, Illinois 60601-3218
Springfield IL 62794-9276	<a href="mailto:PCB.Clerks@illinois.gov">PCB.Clerks@illinois.gov</a>
<a href="mailto:epa.dlc@illinois.gov">epa.dlc@illinois.gov</a>	

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the attached **JOINT REQUEST FOR EXTENSION OF THE TIME PERIOD TO APPEAL AN NPDES PERMIT DECISION, APPEARANCES OF DANIEL J. DEEB, AND AMY ANTONIOLLI**, and a **CERTIFICATE OF SERVICE**, copies are which are herewith served upon you.

Respectfully submitted,

Illinois Power Resources Generating, LLC

Dated: March 22, 2022

/s/ Amy Antonioli  
One of its Attorneys

Daniel J. Deeb  
Amy Antonioli

ARENTFOX SCHIFF LLP  
233 South Wacker Drive, Suite 7100  
Chicago, Illinois 60606  
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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>ILLINOIS POWER RESOURCES</b>	)	
<b>GENERATING, LLC,</b>	)	
	)	
Petitioner,	)	
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v.	)	<b>PCB 2022-__</b>
	)	<b>(NPDES Permit Appeal)</b>
<b>ILLINOIS ENVIRONMENTAL</b>	)	
<b>PROTECTION AGENCY,</b>	)	
	)	
Respondent.	)	
	)	

**JOINT REQUEST FOR EXTENSION OF THE TIME PERIOD TO APPEAL A NPDES PERMIT DECISION**

NOW COMES the Petitioner, ILLINOIS POWER RESOURCES GENERATING, LLC (“IPRG”), by and through its undersigned counsel, Dan Deeb, and the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“IEPA”), and pursuant to Section 40(a)(1) of the Environmental Protection Act (the “Act”)—415 Ill. Comp. Stat. 5/40(a)(1)—and the Illinois Pollution Control Board’s (the “Board’s”) rules—35 Ill. Admin. Code §§ 105.206, 105.208, 309.181, hereby respectfully request that the Board grant a 30-day extension of the 35-day period to petition the Board for an appeal of NPDES Permit No. IL0055620 for Duck Creek Power Station. In support of the joint request for extension, IPRG states as follows:

1. On February 15, 2022, IEPA issued a final determination on NPDES Permit No. IL0055620 to IPRG, which is attached as Exhibit A.
2. On March 1, 2022, IPRG received the final issued permit from IEPA via United States’ mail.
3. Pursuant to Section 40(a)(1) and 35 Ill. Admin. Code §§ 105.106 and 105.206(a), 35 days from the date of permit issuance is March 22, 2022, although IPRG currently has 35 days

from the date of service, or until April 5, 2022, to file an appeal of IEPA's final determination on NPDES Permit No. IL0055620.

4. On March 22, 2022, IPRG made a request to IEPA asking that the 35-day period to file an appeal be extended for an additional 30 days.

5. The additional time will allow IPRG and IEPA to discuss the issues to be addressed at any appeal hearing that may be necessary to resolve this matter.

6. Counsel for IPRG has reviewed the 30-day extension request with Stefanie Diers, counsel with the IEPA, and Ms. Diers represents that the IEPA has no objection to the requested extension and agrees with the contents of this request.

WHEREFORE, for the above reasons, IPRG and IEPA respectfully request that the Board grant a 30-day extension of the 35-day period to petition the Board for an appeal of IEPA's final determination on NPDES Permit No. IL0055620 up to and including April 26, 2022.

Respectfully submitted,

Dated: March 22, 2022

Illinois Power Resources Generating, LLC,

Petitioner,

/s/ Daniel J. Deeb

One of its Attorneys

Daniel J. Deeb  
Amy Antonioli  
ARENTFOX SCHIFF LLP  
233 South Wacker Drive, Suite 7100  
Chicago, Illinois 60606  
(312) 258-5500  
[Dan.Deeb@afslaw.com](mailto:Dan.Deeb@afslaw.com)  
[Amy.Antonioli@afslaw.com](mailto:Amy.Antonioli@afslaw.com)

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on this 22nd day of March, 2022:

I have electronically served a true and correct copy of Joint Request for Extension of the Time Period to Appeal a NPDES Permit Decision and Appearances of Daniel J. Deeb and Amy Antonioli, by electronically filing with the Clerk of the Illinois Pollution Control Board and by e-mail upon the following persons:

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276  
[epa.dlc@illinois.gov](mailto:epa.dlc@illinois.gov)

Pollution Control Board, Attn: Clerk  
100 West Randolph Street  
James R. Thompson Center, Suite 11-500  
Chicago, Illinois 60601-3218  
[PCB.Clerks@illinois.gov](mailto:PCB.Clerks@illinois.gov)

My e-mail address is [amy.antonioli@afslaw.com](mailto:amy.antonioli@afslaw.com).

The number of pages in the e-mail transmission is 19.

The e-mail transmission took place before 5:00 p.m.

/s/ Amy Antonioli

Amy Antonioli

Dated: March 22, 2022

Daniel J. Deeb  
Amy Antonioli  
ARENTFOX SCHIFF LLP  
233 South Wacker Drive, Suite 7100  
Chicago, Illinois 60606  
(312) 258-5500  
[Dan.Deeb@afslaw.com](mailto:Dan.Deeb@afslaw.com)  
[Amy.Antonioli@afslaw.com](mailto:Amy.Antonioli@afslaw.com)

Exhibit A

Duck Creek Power Station  
NPDES Permit No. IL0055620



217/782-0610

February 15, 2022

Illinois Power Resources Generating, LLC  
17751 North Cilco Road  
Canton, IL 61520

Re: Illinois Power Resources Generating, LLC  
Duck Creek Power Plant  
NPDES Permit No. IL0055620  
Bureau ID: W0578010001  
Final Permit

Gentlemen:

Attached is the final NPDES Permit for your discharge. The Permit as issued covers discharge limitations, monitoring, and reporting requirements. Failure to meet any portion of the Permit could result in civil and/or criminal penalties. The Illinois Environmental Protection Agency is ready and willing to assist you in interpreting any of the conditions of the Permit as they relate specifically to your discharge. Regarding your comment letter dated December 14, 2021, the following changes have been made to the permit:

1. The request to remove Special Condition 8 has been denied. The Agency cannot remove the limit listed in the condition due to anti-backsliding requirements pursuant to 40 CFR 122.44(i).
2. The request to add cooling pond dewatering as a contributory stream to outfall 004 has been denied. It is very unlikely that such dewatering could occur because such dewatering would require the use of large pumps and piping; something that is not required when discharging to outfall 002.
3. All sampling type for parameters listed in Special Condition 13 have been changed to grab sampling.

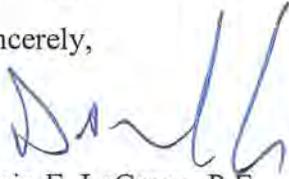
Pursuant to the Final NPDES Electronic Reporting Rule, all permittees must report DMRs electronically unless a waiver has been granted by the Agency. The Agency utilizes NetDMR, a web based application, which allows the submittal of electronic Discharge Monitoring Reports instead of paper Discharge Monitoring Reports (DMRs). More information regarding NetDMR can be found on the Agency website, <https://www2.illinois.gov/epa/topics/water-quality/surface-water/netdmr/Pages/quick-answer-guide.aspx>. If your facility has received a waiver from the NetDMR program, a supply of preprinted paper DMR Forms will be sent to your facility during the interim period prior to your registration in the NetDMR program. Additional information and instructions will accompany the preprinted DMRs. Please see the attachment regarding the electronic reporting rule.

Page 2

The attached Permit is effective as of the date indicated on the first page of the Permit. Until the effective date of any re-issued Permit, the limitations and conditions of the previously-issued Permit remain in full effect. You have the right to appeal any condition of the Permit to the Illinois Pollution Control Board within a 35 day period following the issuance date.

Should you have questions concerning the Permit, please contact Mark E. Liska at 217/782-0610.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. LeCrone', is written over the word 'Sincerely,'.

Darin E. LeCrone, P.E.  
Manager, Permit Section  
Division of Water Pollution Control

DEL:MEL:19061201.docx

Attachment: Final Permit

cc: Records  
Compliance Assurance Section  
Peoria Region  
Billing

NPDES Permit No. IL0055620

Illinois Environmental Protection Agency

Division of Water Pollution Control

1021 North Grand Avenue East

Post Office Box 19276

Springfield, Illinois 62794-9276

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Reissued (NPDES) Permit

Expiration Date: February 28, 2027

Issue Date: February 15, 2022

Effective Date: March 01, 2022

Name and Address of Permittee:

Illinois Power Resources Generating, LLC  
17751 North Cilco Road  
Canton, IL 61520

Name and Address of Facility:

Duck Creek Power Plant  
17751 North Cilco Road  
Canton, IL 61520  
(Fulton County)

Discharge Number and Name:

001 Dam Seepage Collection System  
002 Cooling Pond Overflow (at EL 565.0)  
004 Cooling Pond Overflow (at EL 562.5)

Receiving Waters:

Duck Creek tributary to Illinois River  
Duck Creek tributary to Illinois River  
Illinois River

In compliance with the provisions of the Illinois Environmental Protection Act, Title 35 of Ill. Adm. Code, Subtitle C and/or Subtitle D, Chapter 1, and the Clean Water Act (CWA), the above-named permittee is hereby authorized to discharge at the above location to the above-named receiving stream in accordance with the standard conditions and attachments herein.

Permittee is not authorized to discharge after the above expiration date. In order to receive authorization to discharge beyond the expiration date, the permittee shall submit the proper application as required by the Illinois Environmental Protection Agency (IEPA) not later than 180 days prior to the expiration date.



Darin E. LeCrone, P.E.  
Manager, Permit Section  
Division of Water Pollution Control

DEL:MEL:19061201.docx

NPDES Permit No. IL0055620

Effluent Limitations and Monitoring

1. From the effective date of this permit until the expiration date, the effluent of the following discharge(s) shall be monitored and limited at all times as follows:

PARAMETER	LOAD LIMITS lbs/day DAF (DMF)		CONCENTRATION LIMITS mg/L		SAMPLE FREQUENCY	SAMPLE TYPE
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		
<u>Outfall 001</u> – Dam Seepage Collection System (DAF = 0.038 MGD)						
Flow (MGD)	See Special Condition 1.				Measure When Discharging	
pH				Monitor Only	1/Month	Grab
Total Suspended Solids				Monitor Only	1/Month	Grab
Iron (Total)				Monitor Only	1/Month	Grab
Boron			7.6	Monitor Only	1/Month	Grab
Nickel				Monitor Only	1/Month*	Grab
Chromium (Hex)				Monitor Only	1/Month*	Grab

\* 10-month monitoring condition. See Special Condition 14.

Outfall 002 – Cooling Pond Overflow (at EL. 565.0)  
(Intermittent Discharge – See Special Condition 13)

The discharge consists of :

1. Coal Pile & Limestone Storage Area Runoff
2. Station Yard and Roof Drainage & Stormwater Runoff
3. GMF System Unwaters/Dewaters
4. Cooling Pond Dewatering (Intermittent)

Flow (MGD)	See Special Condition 1.				Measure When Discharging	
pH	See Special Condition 2.				1/Month	Grab
Total Suspended Solids			15	30	1/Month	Grab
Iron (Total)			2	4	1/Month	Grab
Boron*					1/Month	Grab
Mercury**				Monitor Only	2/Year	Grab
Ammonia			3.0	6.0	1/Month	Grab

\* See Special Condition 8.

\*\* See Special Condition 11.

NPDES Permit No. IL0055620

Effluent Limitations and Monitoring

PARAMETER	LOAD LIMITS lbs/day		CONCENTRATION LIMITS mg/L		SAMPLE FREQUENCY	SAMPLE TYPE
	DAF (DMF)					
	30 DAY AVERAGE	DAILY MAXIMUM	30 DAY AVERAGE	DAILY MAXIMUM		

Outfall 004 – Cooling Pond Overflow (at EL. 562.5)  
(Intermittent Discharge)

The discharge consists of:

1. Coal Pile & Limestone Storage Area Runoff
2. Station Yard and Roof Drainage & Stormwater Runoff
3. GMF System Unwaters/Dewaters

Flow (MGD)	See Special Condition 1.			Measure When Discharging	
pH	See Special Condition 2.			1/Month	Grab
Total Suspended Solids		15	30	1/Month	Grab
Iron (Total)		2	4	1/Month	Grab
Boron*			Monitor Only	1/Month	Grab
Mercury**		Report	0.000012***	1/Month	Grab
Ammonia		3.0	6.0	1/Month	Grab

\*See Special Condition 12.

\*\* See Special Condition 11.

\*\*\*This is an annual average.

Special Conditions

SPECIAL CONDITION 1. Flow shall be measured in units of Million Gallons per Day (MGD) and reported as a monthly average and a daily maximum on the monthly Discharge Monitoring Report.

SPECIAL CONDITION 2. The pH shall be in the range 6.0 to 9.0. The monthly minimum and monthly maximum values shall be reported on the DMR form.

SPECIAL CONDITION 3. Samples taken in compliance with the effluent monitoring requirements shall be taken at a point representative of the discharge, but prior to entry into the receiving stream.

SPECIAL CONDITION 4. If an applicable effluent standard or limitation is promulgated under Sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the NPDES Permit, the Agency shall revise or modify the permit in accordance with the more stringent standard or prohibition and shall so notify the permittee.

SPECIAL CONDITION 5. The Permittee shall record monitoring results on Discharge Monitoring Report (DMR) electronic forms using one such form for each outfall each month.

In the event that an outfall does not discharge during a monthly reporting period, the DMR Form shall be submitted with no discharge indicated.

The Permittee is required to submit electronic DMRs (NetDMRs) instead of mailing paper DMRs to the IEPA unless a waiver has been granted by the Agency. More information, including registration information for the NetDMR program, can be obtained on the IEPA website, <https://www2.illinois.gov/epa/topics/water-quality/surface-water/netdmr/Pages/quick-answer-guide.aspx>.

The completed Discharge Monitoring Report forms shall be submitted to IEPA no later than the 25th day of the following month, unless otherwise specified by the permitting authority.

Permittees that have been granted a waiver shall mail Discharge Monitoring Reports with an original signature to the IEPA at the following address:

Illinois Environmental Protection Agency  
Division of Water Pollution Control  
Attention: Compliance Assurance Section, Mail Code # 19  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276

SPECIAL CONDITION 6. The Agency has determined that the effluent limitations in this permit constitute BAT/BCT for storm water which is treated in the existing treatment facilities for purposes of this permit reissuance, and no pollution prevention plan will be required for such storm water. In addition to the chemical specific monitoring required elsewhere in this permit, the permittee shall conduct an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity, and determine whether any facility modifications have occurred which result in previously-treated storm water discharges no longer receiving treatment. If any such discharges are identified the permittee shall request a modification of this permit within 30 days after the inspection. Records of the annual inspection shall be retained by the permittee for the term of this permit and be made available to the Agency on request.

SPECIAL CONDITION 7. There shall be no discharge of polychlorinated biphenyl compounds such as those commonly used for transformer fluid.

SPECIAL CONDITION 8. The discharge from Outfall 002 shall not cause an exceedance of the Illinois Pollution Control Board Adjusted Standard of 4.5 mg/l for Duck Creek downstream of the Duck Creek dam.

SPECIAL CONDITION 9. This permit may be modified to include different final effluent limitations or requirements which are consistent with applicable laws, regulations, or judicial orders. The Agency will public notice the permit modification. Should the permittee wish to discharge chemical metal cleaning wastes to waters of the state, the permittee shall submit to the Agency an application indicating such intention. The Agency may then issue a modified permit, following public notice and opportunity for public comment.

SPECIAL CONDITION 10. Proper operation and maintenance - the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up, or auxiliary facilities, or similar systems which are installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

SPECIAL CONDITION 11. All samples for mercury must be analyzed by EPA Method 1631E using the digestion procedure described in Section 11.1.1.2 of 1631E, which dictates that samples must be heated at 50°C for 6 hours in a bromine chloride (BrCl) solution in closed vessels.

Special Conditions

SPECIAL CONDITION 12. Allowed mixing is recognized for boron at outfall 004 extending 497 feet downstream. Within the allowed mixing, 20.9:1 dilution is afforded.

SPECIAL CONDITION 13. The Permittee shall monitor the effluent from Outfall 002 for the following parameters on a 2/year basis. This Permit may be modified with public notice to establish effluent limitations if appropriate, based on information obtained through sampling. The sample shall be a grab except as otherwise specifically provided below and the results shall be submitted on the DMR's to IEPA. The parameters to be sampled and the minimum reporting limits to be attained are as follows:

<u>STORET CODE</u>	<u>PARAMETER</u>	<u>Minimum reporting limit</u>
10197	Antimony	5.0 ug/L
01002	Arsenic	0.05 mg/L
01007	Barium	0.5 mg/L
01027	Cadmium	0.001 mg/L
01032	Chromium (hexavalent)	0.01 mg/L
01034	Chromium (total)	0.05 mg/L
01042	Copper	0.005 mg/L
00718	Cyanide (weak acid dissociable)	5.0 ug/L
00720	Cyanide	5.0 ug/L
00951	Fluoride	0.1 mg/L
01045	Iron (total)	0.5 mg/L
01046	Iron (Dissolved)	0.5 mg/L
01051	Lead	0.05 mg/L
01055	Manganese	0.5 mg/L
01067	Nickel	0.005 mg/L
32730	Phenols	0.005 mg/L
01147	Selenium	0.005 mg/L
01077	Silver (total)	0.003 mg/L
10159	Thallium	5.0 ug/L
01092	Zinc	0.025 mg/L

Unless otherwise indicated, concentrations refer to the total amount of the constituent present in all phases, whether solid, suspended or dissolved, elemental or combined, including all oxidation states.

SPECIAL CONDITION 14. The permittee may, after a minimum of ten months of sampling, request to modify this permit to remove monitoring requirements for nickel and chromium at outfall 001. The Agency will evaluate the potential for each parameter to exceed the water quality standard. This permit modification will be subject to a public notice.

## Attachment H

## Standard Conditions

## Definitions

**Act** means the Illinois Environmental Protection Act, 415 ILCS 5 as Amended.

**Agency** means the Illinois Environmental Protection Agency.

**Board** means the Illinois Pollution Control Board.

**Clean Water Act** (formerly referred to as the Federal Water Pollution Control Act) means Pub. L 92-500, as amended, 33 U.S.C. 1251 et seq.

**NPDES** (National Pollutant Discharge Elimination System) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318 and 405 of the Clean Water Act.

**USEPA** means the United States Environmental Protection Agency.

**Daily Discharge** means 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 units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

**Maximum Daily Discharge Limitation** (daily maximum) means the highest allowable daily discharge.

**Average Monthly Discharge Limitation** (30 day average) means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

**Average Weekly Discharge Limitation** (7 day average) means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Best Management Practices** (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Aliquot** means a sample of specified volume used to make up a total composite sample.

**Grab Sample** means an individual sample of at least 100 milliliters collected at a randomly-selected time over a period not exceeding 15 minutes.

**24-Hour Composite Sample** means a combination of at least 8 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over a 24-hour period.

**8-Hour Composite Sample** means a combination of at least 3 sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over an 8-hour period.

**Flow Proportional Composite Sample** means a combination of sample aliquots of at least 100 milliliters collected at periodic intervals such that either the time interval between each aliquot or the volume of each aliquot is proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot.

- (1) **Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, permit termination, revocation and reissuance, modification, or for denial of a permit renewal application. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirements.
- (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 and obtain a new permit. If the permittee submits a proper application as required by the Agency no later than 180 days prior to the expiration date, this permit shall continue in full force and effect until the final Agency decision on the application has been made.
- (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.
- (4) **Duty to mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- (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 conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up, or auxiliary facilities, or similar systems only when necessary to achieve compliance with the conditions of the permit.
- (6) **Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause by the Agency pursuant to 40 CFR 122.62 and 40 CFR 122.63. 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.
- (7) **Property rights.** This permit does not convey any property rights of any sort, or any exclusive privilege.
- (8) **Duty to provide information.** The permittee shall furnish to the Agency within a reasonable time, any information which the Agency may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with the permit. The permittee shall also furnish to the Agency upon request, copies of records required to be kept by this permit.
- (9) **Inspection and entry.** The permittee shall allow an authorized representative of the Agency or USEPA (including an authorized contractor acting as a representative of the Agency or USEPA), upon the presentation of credentials and other documents as may be required by law, to:
  - (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records

- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
  - (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
  - (d) Sample or monitor at reasonable times, for the purpose of assuring permit compliance, or as otherwise authorized by the Act, any substances or parameters at any location.
- (10) **Monitoring and records.**
  - (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
  - (b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records, and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of this permit, measurement, report or application. Records related to the permittee's sewage sludge use and disposal activities shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503). This period may be extended by request of the Agency or USEPA at any time.
  - (c) Records of monitoring information shall include:
    - (1) The date, exact place, and time of sampling or measurements;
    - (2) The individual(s) who performed the sampling or measurements;
    - (3) The date(s) analyses were performed;
    - (4) The individual(s) who performed the analyses;
    - (5) The analytical techniques or methods used; and
    - (6) The results of such analyses.
  - (d) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. Where no test procedure under 40 CFR Part 136 has been approved, the permittee must submit to the Agency a test method for approval. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals to ensure accuracy of measurements.
- (11) **Signatory requirement.** All applications, reports or information submitted to the Agency shall be signed and certified.
  - (a) **Application.** All permit applications shall be signed as follows:
    - (1) For a corporation: by a principal executive officer of at least the level of vice president or a person or position having overall responsibility for environmental matters for the corporation;
    - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
    - (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
  - (b) **Reports.** All reports required by permits, or other information requested by the Agency shall be signed by a person described in paragraph (a) or by a duly authorized representative of that person. A person is a duly authorized representative only if:
    - (1) The authorization is made in writing by a person described in paragraph (a); and
    - (2) The authorization specifies either an individual or a position responsible for the overall operation of the facility, from which the discharge originates, such as a plant manager, superintendent or person of equivalent responsibility; and
    - (3) The written authorization is submitted to the Agency.
  - (c) **Changes of Authorization.** If an authorization under (b) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative.
  - (d) **Certification.** Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:
 

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.
- (12) **Reporting requirements.**
  - (a) **Planned changes.** The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required when:
    - (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source pursuant to 40 CFR 122.29 (b); or
    - (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements pursuant to 40 CFR 122.42 (a)(1).
    - (3) 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) **Anticipated noncompliance.** The permittee shall give advance notice to the Agency of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
  - (c) **Transfers.** This permit is not transferable to any person except after notice to the Agency.
  - (d) **Compliance schedules.** Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
  - (e) **Monitoring reports.** Monitoring results shall be reported at the intervals specified elsewhere in this permit.
    - (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR).

- (2) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
- (3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Agency in the permit.
- (f) **Twenty-four hour reporting.** The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 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 time; 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. The following shall be included as information which must be reported within 24-hours:
- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit.
  - (2) Any upset which exceeds any effluent limitation in the permit.
  - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Agency in the permit or any pollutant which may endanger health or the environment.  
The Agency may waive the written report on a case-by-case basis if the oral report has been received within 24-hours.
- (g) **Other noncompliance.** The permittee shall report all instances of noncompliance not reported under paragraphs (12) (d), (e), or (f), at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (12) (f).
- (h) **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 Agency, it shall promptly submit such facts or information.
- (13) **Bypass.**
- (a) Definitions.
    - (1) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
    - (2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
  - (b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (13)(c) and (13)(d).
  - (c) Notice.
    - (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
    - (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (12)(f) (24-hour notice).
  - (d) Prohibition of bypass.
    - (1) Bypass is prohibited, and the Agency may take enforcement action against a permittee for bypass, unless:
      - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
      - (ii) 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
      - (iii) The permittee submitted notices as required under paragraph (13)(c).
    - (2) The Agency may approve an anticipated bypass, after considering its adverse effects, if the Agency determines that it will meet the three conditions listed above in paragraph (13)(d)(1).
- (14) **Upset.**
- (a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond 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.
  - (b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (14)(c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
  - (c) 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:
    - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
    - (2) The permitted facility was at the time being properly operated; and
    - (3) The permittee submitted notice of the upset as required in paragraph (12)(f)(2) (24-hour notice).
    - (4) The permittee complied with any remedial measures required under paragraph (4).
  - (d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

- (15) **Transfer of permits.** Permits may be transferred by modification or automatic transfer as described below:
- (a) Transfers by modification. Except as provided in paragraph (b), a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued pursuant to 40 CFR 122.62 (b) (2), or a minor modification made pursuant to 40 CFR 122.63 (d), to identify the new permittee and incorporate such other requirements as may be necessary under the Clean Water Act.
  - (b) Automatic transfers. As an alternative to transfers under paragraph (a), any NPDES permit may be automatically transferred to a new permittee if:
    - (1) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date;
    - (2) The notice includes a written agreement between the existing and new permittees containing a specified date for transfer of permit responsibility, coverage and liability between the existing and new permittees; and
    - (3) The Agency does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement.
- (16) All manufacturing, commercial, mining, and silvicultural dischargers must notify the Agency as soon as they know or have reason to believe:
- (a) That any activity has occurred or will occur which would result in the discharge of any toxic pollutant identified under Section 307 of the Clean Water Act which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:
    - (1) One hundred micrograms per liter (100 ug/l);
    - (2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6 dinitrophenol; and one milligram per liter (1 mg/l) for antimony.
    - (3) Five (5) times the maximum concentration value reported for that pollutant in the NPDES permit application; or
    - (4) The level established by the Agency in this permit.
  - (b) That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the NPDES permit application.
- (17) All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Agency of the following:
- (a) Any new introduction of pollutants into that POTW from an indirect discharge which would be subject to Sections 301 or 306 of the Clean Water Act if it were directly discharging those pollutants; and
  - (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.
  - (c) For purposes 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.
- (18) If the permit is issued to a publicly owned or publicly regulated treatment works, the permittee shall require any industrial user of such treatment works to comply with federal requirements concerning:
- (a) User charges pursuant to Section 204 (b) of the Clean Water Act, and applicable regulations appearing in 40 CFR 35;
    - (b) Toxic pollutant effluent standards and pretreatment standards pursuant to Section 307 of the Clean Water Act; and
    - (c) Inspection, monitoring and entry pursuant to Section 308 of the Clean Water Act.
- (19) If an applicable standard or limitation is promulgated under Section 301(b)(2)(C) and (D), 304(b)(2), or 307(a)(2) and that effluent standard or limitation is more stringent than any effluent limitation in the permit, or controls a pollutant not limited in the permit, the permit shall be promptly modified or revoked, and reissued to conform to that effluent standard or limitation.
  - (20) Any authorization to construct issued to the permittee pursuant to 35 Ill. Adm. Code 309.154 is hereby incorporated by reference as a condition of this permit.
  - (21) The permittee shall not make any false statement, representation or certification in any application, record, report, plan or other document submitted to the Agency or the USEPA, or required to be maintained under this permit.
  - (22) The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both. Additional penalties for violating these sections of the Clean Water Act are identified in 40 CFR 122.41 (a)(2) and (3).
  - (23) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.
  - (24) The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
  - (25) Collected screening, slurries, sludges, and other solids shall be disposed of in such a manner as to prevent entry of those wastes (or runoff from the wastes) into waters of the State. The proper authorization for such disposal shall be obtained from the Agency and is incorporated as part hereof by reference.
  - (26) In case of conflict between these standard conditions and any other condition(s) included in this permit, the other condition(s) shall govern.
  - (27) The permittee shall comply with, in addition to the requirements of the permit, all applicable provisions of 35 Ill. Adm. Code, Subtitle C, Subtitle D, Subtitle E, and all applicable orders of the Board or any court with jurisdiction.
  - (28) The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit is held invalid, the remaining provisions of this permit shall continue in full force and effect.