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Permit No. WA-000109-1
Issuance Date: March 1, 2007
Expiration Date: March 1, 2012
Minor Modification Date: July 1, 2008

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTE DISCHARGE PERMIT No. WA-000109-1

State of Washington
DEPARTMENT OF ECOLOGY
Bellingham Field Office
1440 – 10th Street, Suite 102
Bellingham, WA 98225-7028

In compliance with the provisions of
The State of Washington Water Pollution Control Law
Chapter 90.48 Revised Code of Washington
and
The Federal Water Pollution Control Act
(The Clean Water Act)
Title 33 United States Code, Section 1251 et seq.

Port of Bellingham
1801 Roeder Avenue
Bellingham, Washington

Facility Location:
300 West Laurel Street
Bellingham, Washington

Receiving Water:
Bellingham Bay
Water Quality Class A
Discharge Location:
Latitude: 48°, 44', 05" N
Longitude: 122°, 30', 55" W

Industry Type:
Nonintegrated Tissue

is authorized to discharge in accordance with the special and general conditions which follow.

Richard Grout
Manager
Bellingham Field Office
Washington State Department of Ecology

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SUMMARY OF PERMIT REPORT SUBMITTALS

Refer to the Special and General Conditions of this permit for additional submittal requirements.

Permit Section	Submittal	Frequency	First Submittal Date
S1.E	Report Priority Pollutant Scan	1/permit cycle	Within 60 days of receiving final test results
S3.A	Discharge Monitoring Report	Monthly	15 th day of month
S3.E	Noncompliance Notification	As necessary	
S4.A	Operations and Maintenance Manual Update or Review Confirmation Letter	Annually	
S4.A	Treatment System Operating Plan	As indicated	Prior to making changes in treatment system
S4.B	Reporting Bypasses	As necessary	
S5.C	Solid Waste Control Plan	1/permit cycle	Submit updated plan with permit renewal application
S5.C	Modification to Solid Waste Plan	As necessary	
S7.	Spill Plan	Update annually	Update within 180 days of permit effective date: submit updates annually (prior to 1 st of each year)
S8.A	Acute Toxicity Tests Characterization Summary Report	1/permit cycle	90 days following the last characterization sampling event
S8.C	Acute Toxicity Compliance Monitoring Reports	As indicated	Within 30 days of receiving final test results
S8.D	Acute Toxicity: "Causes and Preventative Measures for Transient Events."	As necessary	
S8.D	Acute Toxicity TI/TRE Plan	As necessary	
S8.E	Acute Toxicity Effluent Test Results with Permit Renewal Application	2/permit cycle	Once in the Last Summer & Once in the Last Winter Prior to Submission of the Renewal Application)
S9.A	Chronic Toxicity Characterization Data		Within 120 days of permit effective date/60 days after each subsequent sampling event)

Permit Section	Submittal	Frequency	First Submittal Date
S9.A	Chronic Toxicity Tests Characterization Summary Report	1/permit cycle	90 days following the last characterization sampling event
S9.C	Chronic Toxicity Compliance Monitoring Reports	As indicated	Within 30 days of receiving final tests results
S9.D	Chronic Toxicity: "Causes and Preventative Measures for Transient Events."	As necessary	
S9.D	Chronic Toxicity TI/TRE Plan	As necessary	
S9.E	Chronic Toxicity Effluent Test Results with Permit Renewal Application	2/permit cycle	Once in the Last Summer & Once in the Last Winter Prior to Submission of the Renewal Application
S10.	Outfall Evaluation	1/permit cycle	Not later than 6 months before permit expiration
S11.B1	Stormwater Pollution Prevention Plan	1/permit cycle	
S11.B	Stormwater Pollution Prevention Plan Review and Confirmation Letter	Annually	
S11.B2	Stormwater Pollution Prevention Plan Modifications	As necessary	
S11.C2	Notification of Unpermitted non-stormwater to <i>Stormwater Drainage System</i>	As necessary	
S12	Slime Control Reporting	Annually	Within 30 days after the end of the year
S15	Treatment System Operating Plan	1/permit cycle	Within 180 days of permit effective date
G1	Notice of Change in Authorization	As necessary	
G4	Permit Application for Substantive Changes to the Discharge	As necessary	
G5	Engineering Report for Construction or Modification Activities	As necessary	
G7	Notice of Permit Transfer	As necessary	
G20	Reporting Anticipated Non-compliance	As necessary	
G21	Reporting Other Information	As necessary	
G29	Application for Permit Renewal	1/permit cycle	At least 180 days prior to permit expiration

SPECIAL CONDITIONS

S1. DISCHARGE LIMITATIONS

A. Basis of Limitations

Production-based effluent limitations for the Port of Bellingham’s paper mill discharges are derived from the following authorities:

Best Practicable Control Technology Currently Available (BPT) originally promulgated April 15, 1998 by the United States Environmental Protection Agency (EPA). These requirements have remained the same as noted in the July 1, 2005, edition of the 40 CFR 430.120 Subpart L-Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp Subcategory.

Based on a “24-month average” of production levels from September 2003 through August 2005, biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS) effluent limitations are calculated using the factors listed below by multiplying the factor by production.

<u>Production Grade</u> (Subcategory)	<u>Production, Air</u> Dry Tons/Day	<u>Basis</u>	<u>BOD₅</u>		<u>TSS</u>	
			Pounds (in thousand pounds)		Pounds (in thousand pounds)	
			Monthly Average	Max. Daily	Monthly Average	Max. Day
Tissue from purchased pulp Subpart L	123	BPT	6.25	11.4	5	10.25

B. Process Wastewater Limitation Requirements – Outfall 009

The Port of Bellingham is authorized to discharge from Outfall 009, subject to the specified limitations and monitoring requirements. They are also authorized to truck in woodwaste leachate from the airport landfill. There shall be no discharge of floating solids or visible foam in other than trace amounts. All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit.

The discharge of any of the following pollutants more frequently than, or at a level in excess of, that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit.

Beginning on the effective date of this permit and lasting through the expiration date, the Permittee is authorized to discharge treated industrial wastewater at the permitted location subject to complying with the following limitations:

EFFLUENT LIMITATIONS: OUTFALL # 009		
Parameter	Average Monthly^a	Maximum Daily^b
Flow, MGD ^d	-	-
BOD ₅	1,538 lbs/day	2,804 lbs/day
TSS	1,230 lbs/day	2,522 lbs/day
pH ^c	Daily minimum is equal to or greater than 5.0 and the daily maximum is less than or equal to 9.0	
<p>^a The average monthly effluent limitation is defined as 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.</p>		
<p>^b The maximum daily effluent limitation is defined as the highest allowable daily discharge. The daily discharge means the discharge of a pollutant measured during a calendar day. 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 other units of measurement, the daily discharge is the average measurement of the pollutant over the day. The pH shall not be averaged.</p>		
<p>^c Indicates the range of permitted values. Any excursions below 4.0 and above 10.0 at any time are violations. The instantaneous maximum and minimum pH shall be reported monthly. At this facility, the pH is continuously monitored. Therefore, excursions between 4.0 and 5.0, or 9.0 and 10.0 shall not be considered violations provided no single excursion exceeds 60 minutes in length and total excursions do not exceed 7 hours and 30 minutes per month.</p>		
<p>^d The flow data submitted in the application is the limit for the purposes of setting permit fees. Any flows higher than reported on the permit application must be reported to Ecology.</p>		

C. Mixing Zone Description

Based on a dilution ratio study, conducted in December 2001, in accordance with WAC 173-201A-100, Ecology has approved dilution values of 89 to 1 for the acute zone, and 265 to 1 for the chronic zone for the Port of Bellingham outfall 009.

D. Stormwater Allowance

The Port of Bellingham is authorized to receive, for discharge through the treatment system, stormwater from the mill plant site. The Permittee is also authorized to receive and discharge through the treatment system, stormwater from its adjacent property between Whatcom Waterway and Cornwall Avenue, and from the 8 acres of impervious surface at the 250,000 sq/ft “Tissue” warehouse site adjacent to the secondary treatment lagoon.

E. Priority Pollutant Scan

The **Port of Bellingham** shall analyze final mill effluent at least once during the permit term for the priority pollutants identified in EPA Form 3510-2C part C.

F. Wastewater Treatment System Engineering Report

Prior to making any changes in the treatment system, the **Port of Bellingham** shall prepare an engineering report on the proposed wastewater treatment system, in accordance with Chapter 173-240 WAC and include the following elements:

1. A schematic of the treatment units.
2. Data showing flow through the treatment units, including recycle streams, for the past 2-3 years. Flow data shall be presented in terms of average dry weather flow, average monthly flow of the maximum month, and peak hourly flow. If flow-monitoring data is not available for wastewater streams, then the **Port of Bellingham** shall provide an estimate, stating the estimation method used.
3. Basic design data and sizing calculations for each unit in the wastewater treatment system. Clarifier information should include detention times, overflow rates, solids and weir loading rates, volume, and depth. Aeration basin information shall include hydraulic detention time, volumetric loading, sludge depth, and sludge residence time. This information shall be provided for design criteria parameters – BOD₅, TSS, where applicable.
4. An analysis of proposed treatment, removal efficiencies, and operating conditions for each treatment unit.
5. Predicted design capacities, including hydraulic and organic loading for each wastewater treatment unit, under the flow conditions described above in (2).
6. Predicted effluent wastewater characteristics at design flows.

S2. MONITORING REQUIREMENTS

The Permittee shall monitor in accordance with the following schedule:

A. Monitoring Schedule

Category	Parameter ^a	Units ^a	Sample Point	Minimum Sampling Frequency	Sample Type
Wastewater Effluent	Flow	MGD	009	Continuous ^b	Recording
“	BOD ₅	lbs/day	009	Monday, Wednesday, and Friday	24 hour composite, refrigerated
“	TSS	lbs/day	009	Monday, Wednesday, and Friday	24 hour composite

Category	Parameter ^a	Units ^a	Sample Point	Minimum Sampling Frequency	Sample Type
“	pH	Standard Units	009	Continuous ^b	Recording
“	Temperature	°C	009	Continuous ^b	Recording

^a The monthly average is the average of daily values obtained over a month’s time. The daily maximum is defined as the highest daily value for the same monthly period.

^b Continuous means uninterrupted – except for brief lengths of time for calibration, power failure, or for unanticipated equipment repair or maintenance. For facilities which continuously monitor and record pH values, the number of minutes the pH value was below or above the permitted range shall be recorded for each day and the total minutes for the month reported, the durations when values were above and below the permitted range shall be reported separately. The instantaneous maximum and minimum pH shall be reported monthly.

B. Sampling and Analytical Procedures

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameters, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality.

Sampling and analytical methods used to meet the monitoring requirements specified in this permit shall conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136.

C. Flow Measurement

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the quantity of monitored flows. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with manufacturer's recommendations and at a minimum frequency of at least one calibration per year. Calibration records shall be maintained for at least three years.

D. Laboratory Accreditation

All monitoring data required by the Department shall be prepared by a laboratory registered or accredited under the provisions of, *Accreditation of Environmental Laboratories*, Chapter 173-50 WAC. Flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters are exempt from this requirement. Conductivity and pH shall be accredited if the laboratory must otherwise be registered or accredited. The Department exempts crops, soils, and hazardous waste data from this requirement pending accreditation of laboratories for analysis of these media.

S3. REPORTING AND RECORDKEEPING REQUIREMENTS

The Permittee shall monitor and report in accordance with the following conditions. The falsification of information submitted to the Department shall constitute a violation of the terms and conditions of this permit.

A. Reporting

The first monitoring period begins on the effective date of the permit. Monitoring results shall be submitted monthly. Monitoring data obtained during each monitoring period shall be summarized, reported, and submitted on a Discharge Monitoring Report (DMR) form provided, or otherwise approved, by the Department. DMR forms shall be postmarked or received no later than the 15th day of the month following the completed monitoring period, unless otherwise specified in this permit. Priority pollutant analysis data shall be submitted no later than forty-five (45) days following the monitoring period. Unless otherwise specified, all toxicity test data shall be submitted within sixty (60) days after the sample date. The report(s) shall be sent to the address below:

Department of Ecology
Bellingham Field Office
1440 – 10th Street, Suite 102
Bellingham, WA 98225-7028

All laboratory reports providing data for organic and metal parameters shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number, analytical method/ number, method detection limit (MDL), laboratory practical quantitation limit (PQL), reporting units, and concentration detected. Analytical results from samples sent to a contract laboratory must have information on the chain of custody, the analytical method, QA/QC results, and documentation of accreditation for the parameter.

Discharge Monitoring Report forms must be submitted monthly whether or not the facility was discharging. If there was no discharge during a given monitoring period, submit the form as required with the words "no discharge" entered in place of the monitoring results.

B. Records Retention

The Permittee shall retain records of all monitoring information for a minimum of three (3) years. Such information shall include all calibration and maintenance records and all original 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. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the Director (or the Director's duly authorized delegate).

C. Recording of Results

For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place, method, and time of sampling or measurement; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) the individual who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

D. Additional Monitoring by the Permittee

If the Permittee monitors any pollutant more frequently than required by this permit using test procedures specified by Condition S2. of this permit, then the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Permittee's DMR.

E. Twenty-four Hour Notice of Noncompliance Reporting

1. The Permittee must take the following action upon violation of any permit condition:
Immediately take action to stop, contain, and cleanup unauthorized discharges or otherwise stop the noncompliance and correct the problem and, if applicable, immediately repeat sampling and analysis. The results of any repeat sampling shall be submitted to Ecology within 30 days of sampling.
2. The Permittee must report the following occurrences of noncompliance by telephone to Ecology within 24 hours from the time the Permittee becomes aware of any of the following circumstances:
 - a. Any noncompliance that may endanger health or the environment;
 - b. Any unanticipated bypass that exceeds any effluent limitation in the permit (See Part S4.B., "Bypass Procedures");
 - c. Any upset that exceeds any effluent limitation in the permit (See G.15, "Upset");
 - d. Any violation of a maximum daily or instantaneous maximum discharge limitation for any of the pollutants in S1.B.; or
 - e. Any overflow prior to the treatment works, whether or not such overflow endangers health or the environment or exceeds any effluent limitation in the permit.
3. The Permittee must also provide a written submission within five days of the time that the Permittee becomes aware of any event required to be reported under subpart 2, above. The written submission must contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected;
 - d. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance; and

- e. If the non compliance involves an overflow prior to the treatment works, an estimate of the quantity (in gallons) of untreated overflow.
4. Ecology may waive the written report on a case-by-case basis if the oral report has been received within 24 hours of the noncompliance.
5. Reports must be submitted to the address in S3. (“REPORTING AND RECORDKEEPING REQUIREMENTS”).

F. Other Noncompliance Reporting

The Permittee must report all instances of noncompliance, not required to be reported immediately or within 24 hours, at the time that monitoring reports for S3.A ("Reporting") are submitted. The reports must contain the information listed in paragraph E above, (“Twenty-four Hour Notice of Noncompliance Reporting”). Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

G. Maintaining a Copy of This Permit

A copy of this permit must be kept at the permitted facility and be made available upon request to Department of Ecology inspectors.

H. Representative Sampling

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored discharge; this requirement includes representative sampling of any unusual discharge or discharge condition (bypasses, upsets, and maintenance-related conditions affecting effluent quality). After a portion of the composite sample is removed for the Port of Bellingham analysis, the remainder of the sample – a 4 to 8 liter minimum – shall be retained until noon each day. This sample shall be kept refrigerated at 4° centigrade, in the dark.

I. Test Procedures

All sampling and analytical methods used to meet the monitoring requirements specified in this permit shall conform to the *Guidelines Establishing Test Procedures for the Analysis of Pollutants*, contained in 40 CFR Part 136, unless otherwise specified in this permit or approved in writing by the Department.

J. Flow Measurement

Appropriate flow measurement of devices and methods, consistent with accepted scientific practices, shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent

with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with the manufacturer's recommendations; or at a minimum frequency of at least one calibration per year. Calibration records should be maintained for a minimum of three years.

K. Sample Dechlorination

The Port of Bellingham shall not dechlorinate any effluent samples prior to conducting WET testing.

S4. OPERATION AND MAINTENANCE

The Permittee shall, at all times, properly operate and maintain all facilities or systems of treatment and control (and related appurtenances) which are installed to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and 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 the operation is necessary to achieve compliance with the conditions of this permit.

A. Operations and Maintenance Manual

An Operations and Maintenance (O&M) Manual shall be prepared by the Permittee in accordance with WAC 173-240-150 and be submitted to the Department for approval if the Port of Bellingham proceeds with plans to modify or change the facility's treatment system. Also, the O&M Manual shall be reviewed by the Permittee at least annually and the Permittee shall confirm this review by letter to the Department. Substantial changes or updates to the O&M Manual shall be submitted to the Department for review and approval whenever they are incorporated into the manual.

The approved Operations and Maintenance Manual shall be kept available at the permitted facility and all operators shall follow the instructions and procedures of this manual.

In addition to the requirements of WAC 173-240-150(1) and (2), the O&M Manual shall include:

1. Emergency procedures for plant shutdown and cleanup in event of wastewater system upset or failure.
2. Wastewater system maintenance procedures that contribute to the generation of process wastewater.

3. Any directions to maintenance staff when cleaning, or maintaining other equipment or performing other tasks which are necessary to protect the operation of the wastewater system (e.g., defining maximum allowable discharge rate for draining a tank, or blocking all floor drains before beginning the overhaul of a stationary engine.)
4. The treatment plant process control monitoring schedule.

The following information shall be summarized in the initial chapter of the O&M Manual. This chapter shall be entitled the "Treatment System Operating Plan." For the purposes of this NPDES permit, a Treatment System Operating Plan (TSOP) is a concise summary of specifically defined elements of the O&M Manual. The TSOP shall not conflict with the O&M Manual and shall include the following information:

1. A baseline operating condition, which describes the operating parameters and procedures, used to meet the effluent limitations of S1 at the production levels used in developing these limitations.
2. In the event of production rates, which are below the baseline levels used to establish these limitations, the plan shall describe the operating procedures and conditions needed to maintain design treatment efficiency. The monitoring and reporting shall be described in the plan.
3. In the event of an upset, due to plant maintenance activities, severe stormwater events, start ups or shut downs, or other causes, the plan shall describe the operating procedures and conditions employed to mitigate the upset. The monitoring and reporting shall be described in the plan.
4. A description of any regularly scheduled maintenance or repair activities at the facility which would affect the volume or character of the wastes discharged to the wastewater treatment system and a plan for monitoring and treating/controlling the discharge of maintenance-related materials (such as cleaners, degreasers, solvents, etc.).

An updated Treatment System Operating Plan shall be submitted to the Department with the application for renewal 180 days prior to expiration of the permit. This plan shall be updated and submitted, as necessary, to include requirements for any major modifications of the treatment system.

B. Bypass Procedures

Bypass, which is the intentional diversion of waste streams from any portion of a treatment facility, is prohibited, and the Department may take enforcement action against a Permittee for bypass unless one of the following circumstances (1, 2, or 3) is applicable.

1. Bypass for Essential Maintenance without the Potential to Cause Violation of Permit Limits or Conditions.

Bypass is authorized if it is for essential maintenance and does not have the potential to cause violations of limitations or other conditions of this permit, or adversely impact public health as determined by the Department prior to the bypass. The Permittee shall submit prior notice, if possible, at least ten (10) days before the date of the bypass.

2. Bypass which is Unavoidable, Unanticipated, and Results in Noncompliance of this Permit.

This bypass is permitted only if:

- a. Bypass is unavoidable to prevent loss of life, personal injury, or severe property damage. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause 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.
 - b. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment downtime (but not if adequate backup 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 preventative maintenance), or transport of untreated wastes to another treatment facility.
 - c. The Department is properly notified of the bypass as required in condition S3E of this permit.
3. Bypass which is Anticipated and has the Potential to Result in Noncompliance of this Permit.

The Permittee shall notify the Department at least thirty (30) days before the planned date of bypass. The notice shall contain (1) a description of the bypass and its cause; (2) an analysis of all known alternatives which would eliminate, reduce, or mitigate the need for bypassing; (3) a cost-effectiveness analysis of alternatives including comparative resource damage assessment; (4) the minimum and maximum duration of bypass under each alternative; (5) a recommendation as to the preferred alternative for conducting the bypass; (6) the projected date of bypass initiation; (7) a statement of compliance with SEPA; (8) a request for modification of water quality standards as provided for in WAC 173-201A-110, if an exceedence of any water quality standard is anticipated; and (9) steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

For probable construction bypasses, the need to bypass is to be identified as early in the planning process as possible. The analysis required above shall be considered during preparation of the engineering report or facilities plan and plans and specifications and shall be included to the extent practical. In cases where the probable need to bypass is determined early, continued analysis is necessary up to and including the construction period in an effort to minimize or eliminate the bypass.

The Department will consider the following prior to issuing an administrative order for this type bypass:

- a. If the bypass is necessary to perform construction or maintenance-related activities essential to meet the requirements of this permit.
- b. If there are feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment down time, or transport of untreated wastes to another treatment facility.
- c. If the bypass is planned and scheduled to minimize adverse effects on the public and the environment.

After consideration of the above and the adverse effects of the proposed bypass and any other relevant factors, the Department will approve or deny the request. The public shall be notified and given an opportunity to comment on bypass incidents of significant duration, to the extent feasible. Approval of a request to bypass will be by administrative order issued by the Department under RCW 90.48.120.

C. Duty to Mitigate

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

S5. SOLID WASTE DISPOSAL

A. Solid Waste Handling

The Permittee shall handle and dispose of all solid waste material in such a manner as to prevent its entry into state ground or surface water.

B. Leachate

The Permittee shall not allow leachate from its solid waste material to enter state waters without providing all known, available and reasonable methods of treatment, nor allow such leachate to cause violations of the State Surface Water Quality Standards, Chapter

173-201A WAC, or the State Ground Water Quality Standards, Chapter 173-200 WAC. The Permittee shall apply for a permit or permit modification as may be required for such discharges to state ground or surface waters.

C. Solid Waste Control Plan

The Permittee shall submit all proposed revisions or modifications to the solid waste control plan to the Department. The Permittee shall comply with any plan modifications thereof as are approved by the Department. The Permittee shall submit an update of the solid waste control plan with the application for permit renewal 180 days prior to the expiration date of the permit.

S6. NON-ROUTINE AND UNANTICIPATED DISCHARGES

- A. Beginning on the effective date of this permit, the Permittee may discharge non-routine wastewater on a case-by-case basis if approved by the Department. Prior to any such discharge, the Permittee shall contact the Department and at a minimum provide the following information:
1. The nature of the activity that is generating the discharge.
 2. Any alternatives to the discharge, such as reuse, storage, or recycling of the water.
 3. The total volume of water expected to be discharged.
 4. The results of the chemical analysis of the water. The water shall be analyzed for all constituents limited for the Permittee's discharge. The analysis shall also include hardness, any metals that are limited by water quality standards, and any other parameter deemed necessary by the Department. All discharges must comply with the effluent limitations as established in Condition S1. of this permit, water quality standards, sediment management standards, and any other limitations imposed by the Department.
 5. The date of proposed discharge and the rate at which the water will be discharged, in gallons per minute. The discharge rate shall be limited to that which will not cause erosion of ditches or structural damage to culverts and their entrances or exits.
 6. If the proposed discharge is to a municipal storm drain and is approved by the Department, the Permittee shall notify the municipality of the discharge.
- B. The discharge cannot proceed until the Department has reviewed the information provided and has authorized the discharge. Authorization from the Department will be by letter to the Permittee or by an Administrative Order.

S7. SPILL PLAN

The Permittee shall annually update its existing Spill Control Plan – subject to Departmental approval – for the prevention, containment, and control of spills or unplanned discharges of:

1. Oil and petroleum products,
2. Materials, which when spilled, or otherwise released into the environment, are designated Dangerous Waste (DW) or Extremely Hazardous Waste (EHW) by the procedures set forth in WAC 173-303-070, or
3. Other materials which may become pollutants or cause pollution upon reaching state waters.

The **Port of Bellingham** shall follow the plan, and any supplements, throughout the term of the permit. An updated Spill Control Plan shall be submitted to the Department, for Ecology's evaluation and approval, within six months of the issue date of this permit.

The updated spill control plan shall include the following:

- A description of the reporting system which will be used to alert responsible managers and legal authorities, in the event of a spill.
- A description of preventive measures and facilities (including an overall facility plot showing drainage patterns) which prevent, contain, or treat spills of these materials.
- A list of all oil and chemicals used/processed/stored at the facility that may spill into state waters.

For purposes of meeting this requirement, the **Port of Bellingham** may submit plans and manuals required by 40 CFR Part 112, and contingency plans required by Chapter 173-303 WAC.

S8. ACUTE TOXICITY

A. Effluent Characterization

During the first year of the permit term the **Port of Bellingham** shall conduct acute toxicity testing on the final effluent to determine the presence and amount of acute (lethal) toxicity. The two acute toxicity tests listed below shall be conducted on each sample taken for effluent characterization. Effluent characterization for acute toxicity shall be conducted every other month for one year.

Acute toxicity testing shall follow protocols, monitoring requirements, and quality assurance/ quality control procedures specified in this Section. A dilution series consisting of a minimum of five concentrations and a control shall be used to estimate the concentration lethal to 50% of the organisms (LC₅₀). The percent survival in 100% effluent shall also be reported. A written report shall be submitted to the Department within 60 days after the sample date.

A final Effluent Characterization Summary report shall be submitted to the Department within 90 days after the last monitoring test results are final. This Summary report shall include tabulations of the individual test results, as well as any information (developed during the period of testing) about the sources of toxicity, toxicity source control, correlation with effluent data, and toxicity treatability.

Acute toxicity tests shall be conducted with the following species and protocols:

1. Fathead minnow, *Pimephales promelas* (96 hour static-renewal test, method: EPA/600/4-90/027F).
2. Daphnid, *Ceriodaphnia dubia*, *Daphnia pulex*, or *Daphnia magna* (48-hour static test, method: EPA/600/4-90/027F). The Port of Bellingham shall choose one of the three species and use it consistently throughout effluent characterization.

B. Effluent Limit for Acute Toxicity

After completing one year of effluent characterization, the Port of Bellingham has an effluent limit for acute toxicity if either of the following conditions exists:

1. The median survival of any species in 100% effluent is below 80%, or
2. Any one test of any species exhibits less than 65% survival in 100% effluent.

If an effluent limit for acute toxicity is required at the end of one year as a result of effluent characterization (subsection A), the Port of Bellingham shall immediately complete all applicable requirements in subsections B, D, and F.

If no effluent is required at the end of one year, as a result of effluent characterization (subsection A), then the Port of Bellingham shall complete all applicable requirements in subsections E and F.

The effluent limit for acute toxicity is no acute toxicity detected in a test concentration of 1.1% effluent.

In the event of failure to pass the test (described in section S2, subsection C, below) for compliance with the effluent limit for acute toxicity, the Port of Bellingham is considered to be in compliance with all permit requirements for acute whole effluent toxicity as long as the requirements in subsection E are being met to the satisfaction of the Department.

Acute Critical Effluent Concentration (ACEC) means that a 1.1% effluent concentration is the maximum concentration of effluent allowed, during critical conditions, at the boundary of the zone of acute criteria exceedence assigned pursuant to WAC 173-201A-100. The zone of acute criteria exceedence is authorized in section S1, subsection D of this permit.

C. Monitoring for Compliance With an Effluent Limit for Acute Toxicity

Monitoring, to determine compliance with the effluent limit, shall be conducted quarterly for the remainder of the permit term. The Port of Bellingham shall use each of the species listed in subsection A (above) on a rotating basis, and using—at a minimum—100% effluent, a 1.1% effluent concentration, and a control, for the toxicity tests. The Port of Bellingham shall schedule the toxicity tests in the order listed in the permit, unless the Department notifies the Permittee (in writing) of another species rotation schedule. The percentage of survival in 100% effluent shall be reported for all compliance monitoring.

Compliance with the effluent limit for acute toxicity means monitoring shows no statistically significant difference in survival between the control and the test concentration representing the ACEC. The Port of Bellingham shall immediately implement subsection D. if any acute toxicity test conducted for compliance monitoring determines a statistically significant difference in survival between the control and the ACEC using hypothesis testing at the 0.05 level of significance (Appendix H, EPA/600/4-89/001). If the difference in survival between the control and the ACEC is less than 10%, the hypothesis test shall be conducted at the 0.01 level of significance.

D. Response to Noncompliance With an Effluent Limit for Acute Toxicity

If the Port of Bellingham cannot comply with the acute toxicity limit in subsection B, the Permittee shall begin additional compliance monitoring within one week from the time of receiving the tests results. This additional monitoring shall be conducted weekly for four consecutive weeks, using the same test and species as the failed compliance test. Testing shall determine the LC₅₀ and effluent limit compliance. The Port of Bellingham shall return to the original monitoring frequency in subsection C, after completion of the additional compliance monitoring.

If the Port of Bellingham believes that a test indicating noncompliance will be identified by the Department as an anomalous test result, the Permittee may notify the Department that the compliance test result might be anomalous and that the Port of Bellingham intends to take only one additional sample for toxicity testing, and will wait for notification from the Department before completing the additional monitoring required in this subsection. The notification to the Department shall accompany the report of the compliance test result; it shall also identify the Permittee's reason for considering the compliance test result to be anomalous. The Port of Bellingham shall complete all of the additional monitoring required in this subsection as soon as possible after notification by the Department that the compliance test result was not anomalous. If the one additional sample fails to comply with the effluent limit for acute toxicity, then the Permittee shall proceed, without delay, to complete all of the additional monitoring required in this subsection. The one additional test result shall replace the compliance test result, upon determination by the Department that the compliance test result was anomalous.

If all of the additional monitoring—conducted in accordance with this subsection—complies with the permit limit, the Port of Bellingham shall search all pertinent and recent facility records (operating records, monitoring results, inspection records, spill reports, weather records, production records, raw material purchases, pretreatment records, etc.) Based upon the search results, the Port of Bellingham shall submit a report to the Department identifying possible causes—and preventive measures—for the transient toxicity event that triggered the additional compliance monitoring.

If toxicity occurs in violation of the acute toxicity limit, during the additional compliance monitoring, the Port of Bellingham shall submit a Toxicity Identification/Reduction Evaluation (TI/RE) plan to the Department within 60 days after test results are final. The TI/RE plan shall be based on WAC 173-205-100(2) and shall be implemented in accordance with WAC 173-205-100(3).

E. Monitoring When There Is No Permit Limit for Acute Toxicity

The Port of Bellingham shall test final effluent once in the last summer, and once in the last winter, prior to submission of the application for permit renewal. All species used in the initial acute effluent characterization (or substitutes approved by the Department) shall be used and the results submitted to the Department as a part of the permit renewal application process.

F. Sampling and Reporting Requirements

1. All reports for effluent characterization or compliance monitoring shall be submitted in accordance with the most recent version of Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* with regard to format and content. Reports shall contain bench sheets and reference toxicant results for test methods. If the lab provides toxicity test data on floppy disk for electronic entry into the Department's database, then the Port of Bellingham shall send the disk to the Department along with the test report, bench sheets, and reference toxicant results.
2. Testing shall be conducted on grab samples. Samples taken for toxicity testing shall be cooled to 4 degrees Celsius, while being collected, and shall be sent to the lab immediately upon completion. The lab shall begin the toxicity testing as soon as possible, but no later than 36 hours after sampling was ended.
3. All samples and test solutions for toxicity testing shall have water quality measurements as specified in Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*, or most recent version thereof.
4. All toxicity tests shall meet the quality assurance criteria and test conditions published in the most recent versions of the EPA manual listed in subsection A, and in Ecology's Publication # WQ-R-95-80, *Laboratory Guidance and Whole*

Effluent Toxicity Test Review Criteria. If test results are determined by the Department to be invalid or anomalous, testing shall be repeated with freshly collected effluent.

5. Control water and dilution water shall be laboratory water meeting the requirements of the EPA manual listed in subsection A. or pristine natural water of sufficient quality for good control performance.
6. The Whole Effluent Toxicity tests shall be run on an unmodified sample of final effluent.
7. The **Port of Bellingham** may choose to conduct a full dilution series test during compliance monitoring in order to determine dose response. In this case, the series must have a minimum of five effluent concentrations and a control. The series of concentrations must include a 1.1% effluent concentration (the ACEC).
8. All Whole Effluent Toxicity tests, effluent screening tests, and rapid screening tests that involve hypothesis testing and do not comply with the acute statistical power standard of 29% (as defined in WAC 173-205-020), must be repeated on a fresh sample with an increased number of replicates to increase the power.

S9. CHRONIC TOXICITY

A. Effluent Characterization

During the first year of the permit term, the **Port of Bellingham** shall conduct chronic toxicity testing on the final effluent. The three chronic toxicity tests listed below shall be conducted on each sample taken for effluent characterization.

A written report shall be submitted to the Department within 60 days after each sample date. A final effluent characterization summary report shall be submitted to the Department within 90 days after the last monitoring test results are final. This summary report shall include a tabulated summary of the individual test results and any information on sources of toxicity, toxicity source control, correlation with effluent data, and toxicity treatability that the **Port of Bellingham** developed during the period of testing.

Effluent testing for chronic toxicity shall be conducted every other month for one year. The **Port of Bellingham** shall conduct chronic toxicity testing during effluent characterization, on a series of at least five concentrations of effluent, in order to determine appropriate point estimates. This series of dilutions shall include a 1.1% effluent dilution (the ACEC). The **Port of Bellingham** shall compare the 1.1% effluent dilution result to the control, using hypothesis testing at the 0.5 level of significance, as described in Appendix H, EPA/600/4-89/001.

Chronic toxicity tests shall be conducted with the three species categories—numbered 1, 2, and 3 below—and the most recent version of the following protocols:

Saltwater Chronic Toxicity	Test Species	Method
Category 1.		
Topsmelt or Silverside minnow	<i>Atherinops affinis</i> or <i>Menidia beryllina</i>	EPA/600/R-95/136 or EPA/600/4-91/003
Or		
Mysid shrimp	<i>Holmesimysis costata</i> or <i>Mysidopsis bahia</i>	EPA/600/R-95/136 or EPA/600/4-91/003
Category 2.		
Pacific oyster or Mussel	<i>Crassostrea gigas</i> or <i>Mytilus sp.</i>	EPA/600/R-95/136
Category 3.		
Sea urchin or	<i>Strongylocentrotus</i> <i>purpuratus</i> or	EPA/600/R-95/136
Sand dollar	<i>Dendraster</i> <i>excentricus</i>	

The **Port of Bellingham** shall use the West Coast fish (topsmelt, *Atherinops affinis*) and mysid (*Holmesimysis costata*) for toxicity testing unless the lab cannot obtain a sufficient quantity of a West Coast species in good condition—in which case, the East Coast fish (silverside minnow, *Menidia beryllina*) or mysid (*Mysidopsis bahia*) may be substituted.

The Pacific oyster and mussel tests shall be run in accordance with EPA/600/R-95/136 and the bivalve development test conditions in the Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* or most recent version thereof. The laboratory shall use whichever one of the two species that will give a valid result in each particular test.

The sea urchin and sand dollar (echinoderm) test shall be run in accordance with EPA/600/R-95/136 and the echinoderm fertilization test conditions in the Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*, or the most recent version thereof. The laboratory shall use whichever one of the two species that will give a valid result in each particular test.

B. Effluent Limit for Chronic Toxicity

After completion of effluent characterization, the Permittee has an effluent limit for chronic toxicity if any test conducted for effluent characterization shows a significant difference between the control and the 1.1% effluent concentration at the 0.05 level of significance using hypothesis testing (Appendix H, EPA/600/4-89/001) and shall complete all applicable requirements in subsections C, D, and F.

If no significant difference is shown between the 1.1% effluent concentration and the control in any of the chronic toxicity tests, the Permittee has no effluent limit for chronic toxicity and only subsections E and F apply.

The effluent limit for chronic toxicity is no toxicity detected in a test concentration of 0.38% effluent.

In the event of failure to pass the test described in section S3, subsection C for compliance with the effluent limit for chronic toxicity, the Port of Bellingham is considered to be in compliance with all permit requirements for chronic whole effluent toxicity as long as the requirements in subsection E are being met to the satisfaction of the Department.

The 0.38% effluent concentration is the CCEC (chronic critical effluent concentration), which means the maximum concentration of effluent allowable at the boundary of the mixing zone assigned in Section S1 of this permit, pursuant to WAC 173-201A-100.

C. Monitoring for Compliance With an Effluent Limit for Chronic Toxicity

Monitoring to determine compliance with the effluent limit shall be conducted 6 times per year (every other month) for the remainder of the permit term using the two most sensitive species from the effluent characterization study in subsection A above, on a rotating basis and performed using at a minimum a 1.1% effluent concentration (the ACEC), a 0.38% effluent concentration (the CCEC), and a control. The Port of Bellingham shall schedule the toxicity tests in the order listed in the permit unless the Department notifies the Permittee, in writing of another species rotation schedule.

Compliance with the effluent limit for chronic toxicity means no statistically significant difference in response between the control and the 0.38% effluent concentration. The Port of Bellingham shall immediately implement subsection D, if any chronic toxicity test conducted for compliance monitoring determines a statistically significant difference in response between the control and the 0.38% effluent concentration using hypothesis testing at the 0.05 level of significance (Appendix H, EPA/600/4-89/001). If the difference in response between the control and the 0.38% effluent concentration is less than 20%, the hypothesis test shall be conducted at the 0.01 level of significance.

In order to establish whether the chronic toxicity limit is eligible for removal from future permits, the Port of Bellingham shall also conduct this same hypothesis test (Appendix H, EPA/600/4-89/001) to determine if a statistically significant difference in response exists between the 1.1% effluent concentration and the control.

D. Response to Noncompliance With an Effluent Limit for Chronic Toxicity

If a toxicity test conducted for compliance monitoring under subsection C. determines a statistically significant difference in response between the CCEC and the control, the Port of Bellingham shall begin additional compliance monitoring within one week from the time

of receiving the test results. This additional monitoring shall be conducted monthly, for three consecutive months, using the same test and species as the failed compliance test. Testing shall be conducted using a series of at least five effluent concentrations, and a control, in order to be able to determine appropriate point estimates. One of these effluent concentrations shall be at 0.38% effluent and must be compared statistically to the nontoxic control, in order to determine compliance with the effluent limit for chronic toxicity as described in subsection C. The **Port of Bellingham** shall return to the original monitoring frequency in subsection C, after completion of the additional compliance monitoring.

If the **Port of Bellingham** believes that a test indicating noncompliance will be identified by the Department as an anomalous test result, the Permittee may notify the Department that the compliance test result might be anomalous and that the **Port of Bellingham** intends to take only one additional sample for toxicity testing and wait for notification from the Department before completing the additional monitoring required in this subsection. The notification to the Department shall accompany the report of the compliance test result and identify the reason for considering the compliance test result to be anomalous. The **Port of Bellingham** shall complete all of the additional monitoring required in this subsection, as soon as possible, after notification by the Department that the compliance test result was not anomalous. If the one additional sample fails to comply with the effluent limit for chronic toxicity, then the **Port of Bellingham** shall proceed, without delay, to complete all of the additional monitoring required in this subsection. The one additional test result shall replace the compliance test result, upon determination by the Department that the compliance test result was anomalous.

If all of the additional compliance monitoring, conducted in accordance with this subsection, complies with the permit limit, the **Port of Bellingham** shall search all pertinent and recent facility records (operating records, monitoring results, inspection records, spill reports, weather records, production records, raw material purchases, pretreatment records, etc.) Based upon the research results, the **Port of Bellingham** shall submit a report to the Department identifying possible causes—and preventive measures—for the transient toxicity event that triggered the additional compliance monitoring.

If toxicity occurs in violation of the chronic toxicity limit during the additional compliance monitoring, the **Port of Bellingham** shall submit a Toxicity Identification/Reduction Evaluation (TI/RE) plan to the Department, within 60 days after test results are final. The TI/RE plan shall be based on WAC 173-205-100(2) and shall be implemented in accordance with WAC 173-205-100(3).

E. Monitoring When There is No Permit Limit for Chronic Toxicity

The **Port of Bellingham** shall test final effluent once in the last summer and once in the last winter prior to submission of the application for permit renewal. All species used in the initial chronic effluent characterization, or substitutes approved by the Department, shall be used; and the results shall be submitted to the Department as a part of the permit renewal application process.

F. Sampling and Reporting Requirements

1. All reports for effluent characterization or compliance monitoring shall be submitted in accordance with the most recent version of Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* in regards to format and content. Reports shall contain bench sheets and reference toxicant results for test methods. If the lab provides the toxicity test data on floppy disk, for electronic entry into the Department's database, then the Port of Bellingham shall send the disk to the Department along with the test report, bench sheets, and reference toxicant results.
2. Testing shall be conducted on grab samples. Samples taken for toxicity testing shall be cooled to 4 degrees Celsius, while being collected, and shall be sent to the lab immediately upon completion. The lab shall begin the toxicity testing as soon as possible, but no later than 36 hours after sampling was ended.
3. All samples and test solutions for toxicity testing shall have water quality measurements, as specified in Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* or the most recent version thereof.
4. All toxicity tests shall meet quality assurance criteria and test conditions in the most recent versions of the EPA manual listed in subsection A. and the Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*. If test results are determined by the Department to be invalid or anomalous, testing shall be repeated with freshly collected effluent.
5. Control water and dilution water shall be laboratory water meeting the requirements of the EPA manual listed in subsection A or pristine natural water of sufficient quality for good control performance.
6. The whole effluent toxicity tests shall be run on an unmodified sample of final effluent.
7. The Port of Bellingham may choose to conduct a full dilution series test, during compliance monitoring, in order to determine dose response. In this case, the series must have a minimum of five effluent concentrations and a control. The series of concentrations must include a 1.1% effluent concentration and a 0.38% effluent concentration.
8. All whole effluent toxicity tests, effluent screening tests, and rapid screening tests that involve hypothesis testing and do not comply with the chronic statistical power standard of 39% as defined in WAC 173-205-020 must be repeated on a fresh sample with an increased number of replicates to increase the power.

S10. OUTFALL EVALUATION

The Permittee shall inspect the submerged portion of the outfall line and diffuser to document its integrity and continued function. If conditions allow for a photographic verification, it shall be included in the report. The inspection report shall be submitted to the Department no later than six months prior to permit expiration.

S11. STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

The definitions of terms used in this section are provided in the guidance document entitled, *Guidance Manual for Preparing/Updating a Stormwater Pollution Prevention Plan for Industrial Facilities Publication number 04-10-030 April 2004*, which is published by the Department of Ecology and available on Ecology's website at <http://www.ecy.wa.gov/biblio/0410030.html>.

A. Plan Development

The Permittee shall develop, implement, and comply with an SWPPP in accordance with the following schedule:

1. Within 90 days from effective date of permit, develop an SWPPP and retain it on-site.
2. Within 9 months from effective date of permit, complete the implementation of *operational BMPs* and applicable *source control BMPs*, as required under this Special Condition, which do not require *capital improvements*.
3. Within 18 months from effective date of permit, complete the implementation of BMPs requiring capital improvements.

The Permittee shall implement all the elements of the SWPPP including operational, treatment and source control BMPs, as well as erosion and sediment control BMPs determined necessary.

4. The Permittee shall prepare the SWPPP in accordance with the guidance provided in the *Guidance Manual for Preparing/Updating a Stormwater Pollution Prevention Plan for Industrial Facilities Publication number 04-10-030 April 2004* which is published by the Department of Ecology and available on Ecology's website at <http://www.ecy.wa.gov/biblio/0410030.html>. The plan shall contain the following elements:
 - a. Assessment and description of existing and potential pollutant sources.
 - b. A description of the operational BMPs.
 - c. A description of selected source-control BMPs.

- d. When necessary, a description of the erosion and sediment control BMPs.
- e. When necessary, a description of the treatment BMPs.
- f. An implementation schedule.

B. General Requirements

1. Submission, Retention, and Availability:

The Permittee shall submit a copy of the SWPPP to the Department for review and comment. If stormwater discharge is to a municipal storm sewer system, submit a copy of the SWPPP to the municipal operator of the storm sewer system. The Permittee shall retain the SWPPP on-site, or within reasonable access to the site.

2. Modifications:

The Permittee shall modify the SWPPP whenever there is a change in design, construction, operation or maintenance, or personnel which causes the SWPPP to be less effective in controlling the pollutants. Whenever the description of potential pollutant sources or the pollution prevention measures and controls identified in the SWPPP are inadequate, the SWPPP shall be modified, as appropriate, within one month (30 days) of such determination. The proposed modifications to the SWPPP shall be submitted to the Department at least 30 days in advance of implementing the proposed changes in the plan unless Ecology approves immediate implementation. The Permittee shall provide for implementation of any modifications to the SWPPP in a timely manner.

3. The Permittee may incorporate applicable portions of plans prepared for other purposes. Plans or portions of plans incorporated into an SWPPP become enforceable requirements of this permit.

C. Implementation

The Permittee shall conduct four inspections per year - one per quarter (January – March, April – June, July – September, October – December).

D. Plan Evaluation

The Permittee shall evaluate whether measures to reduce pollutant loadings identified in the SWPPP are adequate and properly implemented in accordance with the terms of the permit or whether additional controls are needed. A record shall be maintained summarizing the results of all site inspections and include a certification of whether the facility is in compliance with the plan and in compliance with this permit. The record shall identify any incidents of noncompliance.

S12. SLIME CONTROL REPORTING

In-plant slime control methods and materials shall be reported in detail, annually, giving the description, amount, and periods of application of each slimicide used. Any deviation from these techniques shall be reported as soon as practicable.

S13. REOPENER CLAUSE

The Department may reopen and revise or amend this permit, if needed, to coordinate with issues raised in the watershed/geographic analysis process.

S14. SHORT-TERM WATER QUALITY VARIANCE

The **Port of Bellingham** may perform periodic activities deemed necessary by Ecology such as maintenance, repair, or remediation which might temporarily violate permit or water quality parameters, provided the activities are in accordance with WAC 173-201A-110 and Ecology is notified in advance of such activities. Such activities require Ecology's written approval prior to their commencement.

S15. TREATMENT SYSTEM OPERATING PLAN

Wastewater treatment systems shall be operated according to procedures and criteria described in an operating plan. This plan shall be prepared/updated and submitted to the Department, for evaluation and approval, within 180 days of the issuance date of this permit. The plan shall include, but is not limited to, the following:

- A baseline operating condition description of the operating parameters and procedures used to meet the effluent limitations of S1, at the production levels used in developing these limitations.
- The plan shall describe alternate operating procedures and conditions needed to maintain design treatment efficiency in the event that production levels drop below the baseline levels used to establish these limitations. Monitoring and reporting changes shall also be described in the plan.
- A description of any regularly scheduled maintenance or repair activities at the permitted facilities, which would affect the volume or character of the wastes discharged; a list, including quantities and chemical compositions, of any maintenance-related substances (such as cleaners, degreasers, solvents, etc.) that will be discharged; and a plan for monitoring and treating/controlling the discharge of maintenance-related materials.
- This plan shall be updated to include requirements for any major modifications of the treatment system.
- At lower production levels, the **Port of Bellingham** shall operate the treatment system to meet its optimum design efficiency.

GENERAL CONDITIONS

G1. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Department shall be signed and certified.

- A. All permit applications shall be signed by either a responsible corporate officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.
- B. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - 1. The authorization is made in writing by a person described above and submitted to the Department.
 - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- C. Changes to authorization. If an authorization under paragraph B.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph B.2 above must be submitted to the Department 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 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 gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering 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.

G2. RIGHT OF INSPECTION AND ENTRY

The Permittee shall allow an authorized representative of the Department, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this permit.
- B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.
- C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

G3. PERMIT ACTIONS

This permit may be modified, revoked and reissued, or terminated either at the request of any interested person (including the Permittee) or upon the Department's initiative. However, the permit may only be modified, revoked and reissued, or terminated for the reasons specified in 40 CFR 122.62, 122.64 or WAC 173-220-150 according to the procedures of 40 CFR 124.5.

- A. The following are causes for terminating this permit during its term, or for denying a permit renewal application:
 - 1. Violation of any permit term or condition.
 - 2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts.
 - 3. A material change in quantity or type of waste disposal.
 - 4. A determination that the permitted activity endangers human health or the environment or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR part 122.64(3)].
 - 5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit [40 CFR part 122.64(4)].
 - 6. Nonpayment of fees assessed pursuant to RCW 90.48.465.
 - 7. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090.

- B. The following are causes for modification but not revocation and reissuance except when the Permittee requests or agrees:
1. A material change in the condition of the waters of the state.
 2. New information not available at the time of permit issuance that would have justified the application of different permit conditions.
 3. Material and substantial alterations or additions to the permitted facility or activities which occurred after this permit issuance.
 4. Promulgation of new or amended standards or regulations having a direct bearing upon permit conditions, or requiring permit revision.
 5. The Permittee has requested a modification based on other rationale meeting the criteria of 40 CFR Part 122.62.
 6. The Department has determined that good cause exists for modification of a compliance schedule, and the modification will not violate statutory deadlines.
 7. Incorporation of an approved local pretreatment program into a municipality's permit.
- C. The following are causes for modification or alternatively revocation and reissuance:
1. Cause exists for termination for reasons listed in A1 through A7, of this section, and the Department determines that modification or revocation and reissuance is appropriate.
 2. The Department has received notification of a proposed transfer of the permit. A permit may also be modified to reflect a transfer after the effective date of an automatic transfer (General Condition G8) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new Permittee.

G4. REPORTING PLANNED CHANGES

The Permittee shall, as soon as possible, but no later than sixty (60) days prior to the proposed changes, give notice to the Department of planned physical alterations or additions to the permitted facility, production increases, or process modification which will result in:

- 1) the permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b);
- 2) a significant change in the nature or an increase in quantity of pollutants discharged; or
- 3) a significant change in the Permittee's sludge use or disposal practices.

Following such notice, and the submittal of a new application or supplement to the existing application, along with required engineering plans and reports, this permit may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

G5. PLAN REVIEW REQUIRED

Prior to constructing or modifying any wastewater control facilities, an engineering report and detailed plans and specifications shall be submitted to the Department for approval in accordance with Chapter 173-240 WAC. Engineering reports, plans, and specifications shall be submitted at least one hundred eighty (180) days prior to the planned start of construction unless a shorter time is approved by Ecology. Facilities shall be constructed and operated in accordance with the approved plans.

G6. COMPLIANCE WITH OTHER LAWS AND STATUTES

Nothing in this permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

G7. TRANSFER OF THIS PERMIT

In the event of any change in control or ownership of facilities from which the authorized discharge emanate, the Permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Department.

A. Transfers by Modification

Except as provided in paragraph B below, this permit may be transferred by the Permittee to a new owner or operator only if this permit has been modified or revoked and reissued under 40 CFR 122.62(b)(2), or a minor modification made under 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

This permit may be automatically transferred to a new Permittee if:

1. The Permittee notifies the Department at least 30 days in advance of the proposed transfer date.
2. The notice includes a written agreement between the existing and new Permittee's containing a specific date transfer of permit responsibility, coverage, and liability between them.
3. The Department does not notify the existing Permittee and the proposed new Permittee of its intent to modify or revoke and reissue this permit. A modification under the subparagraph may also be minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the written agreement.

G8. REDUCED PRODUCTION FOR COMPLIANCE

The Permittee, in order to maintain compliance with its permit, shall control production and/or all discharges upon reduction, loss, failure, or bypass of the treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

G9. REMOVED SUBSTANCES

Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall not be resuspended or reintroduced to the final effluent stream for discharge to state waters.

G10. DUTY TO PROVIDE INFORMATION

The Permittee shall submit to the Department, within a reasonable time, all information which the Department 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 submit to the Department upon request, copies of records required to be kept by this permit.

G11. OTHER REQUIREMENTS OF 40 CFR

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

G12. ADDITIONAL MONITORING

The Department may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

G13. PAYMENT OF FEES

The Permittee shall submit payment of fees associated with this permit as assessed by the Department.

G14. PENALTIES FOR VIOLATING PERMIT CONDITIONS

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars (\$10,000) and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars (\$10,000) for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

G15. UPSET

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.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

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 being properly operated at the time of the upset;
- 3) the Permittee submitted notice of the upset as required in condition S3.E; and
- 4) the Permittee complied with any remedial measures required under S4.C of this permit.

In any enforcement proceedings the Permittee seeking to establish the occurrence of an upset has the burden of proof.

G16. PROPERTY RIGHTS

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

G17. DUTY TO COMPLY

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

G18. TOXIC POLLUTANTS

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 those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

G19. PENALTIES FOR TAMPERING

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 per violation, or by imprisonment for not more than two (2) years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this condition, punishment shall be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four (4) years, or by both.

G20. REPORTING ANTICIPATED NON-COMPLIANCE

The Permittee shall give advance notice to the Department by submission of a new application or supplement thereto at least one hundred and eighty (180) days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during non-critical water quality periods and carried out in a manner approved by the Department.

G21. REPORTING 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 Department, it shall promptly submit such facts or information.

G22. REPORTING REQUIREMENTS APPLICABLE TO EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS

The Permittee belonging to the categories of existing manufacturing, commercial, mining, or silviculture must notify the Department 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, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels”:
 1. One hundred micrograms per liter (100 µg/L).
 2. 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.
 3. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
 4. The level established by the Director in accordance with 40 CFR 122.44(f).
- B. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels”:
 1. Five hundred micrograms per liter (500 µg/L).
 2. One milligram per liter (1 mg/L) for antimony.

3. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
4. The level established by the Director in accordance with 40 CFR 122.44(f).

G23. 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.

G24. DISCHARGE VIOLATIONS

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit. The discharge of any pollutant more frequently than, or at a concentration in excess of, that authorized by this permit shall constitute a violation of the terms and conditions of this permit.

G25. PROPER OPERATION AND MAINTENANCE

The Permittee shall at all times properly operate and maintain all facilities and systems of collection, treatment, and control (and related appurtenances) which are installed or used by the Permittee for pollution control.

G26. NONCOMPLIANCE NOTIFICATION

If for any reason, the Permittee does not comply with, or will be unable to comply with, any of the discharge limitations or other conditions specified in the permit, the Permittee shall, at a minimum, provide the Department with the following information:

- A. A description of the nature and cause of noncompliance, including the quantity and quality of any unauthorized waste discharges;
- B. The period of noncompliance, including exact dates and times and/or the anticipated time when the Permittee will return to compliance; and
- C. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the noncompliance.

In addition, the Permittee shall take immediate action to stop, contain, and clean up any unauthorized discharges. The Permittee shall also take all reasonable steps to minimize any adverse impacts to waters of the state, and to correct the problem. The Permittee shall notify the Department by telephone so that an investigation can commence; the Department will evaluate both any resulting impacts, and the corrective actions taken, to determine whether additional action should be taken.

In the case of a discharge-whether subject to an applicable toxic pollutant effluent standard under Section 307(a) of the Clean Water Act, or which could constitute a threat to human health, welfare, or the environment-40 CFR Part 122 requires that the information specified in the Section G26, subsections A, B, and C (above), shall be provided not later than 24 hours from the time the Permittee becomes aware of the circumstances. If information about an unauthorized discharge is provided orally, a written submittal covering these points shall be provided within five days of the time the Permittee becomes aware of the circumstances. The Department may waive or extend the performance period of this requirement, on a case-by-case basis.

Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the conditions of this permit, nor is the Permittee relieved of the resulting liability for failure to comply.

G27. BYPASS PROHIBITION

The intentional bypass of wastes from all or any portion of a treatment works is prohibited unless the following four conditions are met:

- A. The bypass is: (1) unavoidable to prevent loss of life, personal injury, or severe property damage*; or (2) necessary to perform construction or maintenance-related activities essential to meet the requirements of the Clean Water Act, and is authorized by Administrative Order;
- B. There are no feasible alternatives to bypass-such as the use of auxiliary treatment facilities, the retention of untreated wastes, the maintenance during normal periods of equipment down time, or the temporary reduction or termination of production;
- C. The Permittee submits notice of an unanticipated bypass to the Department, in accordance with Condition G26. Where the Permittee knows-or should have known-in advance, of the need for a bypass: Prior notification shall be submitted to the Department of approval-if possible-at least 30 days before the date of bypass (or longer, if specified in the special conditions);
- D. The bypass is allowed under conditions determined by the Department to be necessary, to minimize any adverse effects. The public shall be notified and given an opportunity to comment on bypass incidents of significant duration, to the extent feasible.

* "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause 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.*

After consideration of the factors above, and the adverse effects of the proposed bypass, the Department will approve or deny the request. Approval of a request to bypass will be by Administrative Order under RCW 90.48.120.

G28. REVOCATION FOR NONPAYMENT OF FEES

The Department may revoke this permit if the permit fees established under Chapter 173-224 WAC are not paid.

G29. DUTY TO REAPPLY

The Permittee must reapply for permit renewal at least 180 days prior to the specified expiration date of this permit.