

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

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

**GENERAL PERMIT FOR
CONCENTRATED AQUATIC ANIMAL PRODUCTION FACILITIES (CAAPF)**

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

the concentrated aquatic animal production facilities identified in their respective Notice of Intent's, upon approval of the Executive Secretary, are authorized to discharge to those waters of the state identified in their Notice of Intent's, in accordance with discharge point(s), effluent limitations monitoring requirements and those conditions as set forth herein.

Coverage under this general permit shall become effective on April 10, 2020

This permit expires at midnight on March 31, 2025.

Signed this 6th day of April, 2020.



Erica Brown Gaddis, PhD
Director

DWQ-2020-004399

PART I
GENERAL DISCHARGE PERMIT NO. UT130000
DISCHARGE LIMITATIONS AND REPORTING REQUIREMENTS

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PART I
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DISCHARGE LIMITATIONS AND REPORTING REQUIREMENTS

I. DISCHARGE LIMITATIONS AND REPORTING REQUIREMENTS

A. Criteria for Inclusion in the General Permit for Concentrated Aquatic Animal Production Facilities

This general permit shall apply only to the discharge of wastewater from Concentrated Aquatic Animal Production facilities as defined in *Utah Administrative Code (UAC) R317-8-3.7*. A concentrated aquatic animal production facility" means a hatchery, fish farm, or other facility which meets the criteria:

1. For cold water aquatic animals which include but are not limited to the Salmonidae family of fish; e.g. trout and salmon; 1) the facility must discharge at least 30 days per year and 2) produce 9,090 harvest weight kilograms (approximately 20,000 lbs) of aquatic animals per year; or 3) feed at least 2,272 kilograms (approximately 5000 lbs) of food during the calendar month of maximum feeding; or 4) any facility which the Director designates under R317-8-3.7(3).
2. For warm water aquatic animals which include but are not limited to the Ictaluridae, Centrarchidae and Cyprinidae families of fish; e.g. respectively, catfish, sunfish and minnows; 1) the facility must discharge at least 30 days per year, and 2) produce 45,454 harvest weight kilograms (approximately 100,000 lbs) of aquatic animals per year; or 3) any facility which the Director designates under R317-8-3.7(3). It does not include closed ponds which discharge only during periods of excess runoff or less than thirty days a year.
3. For facilities raising a combination of both warm and cold water species the most restrictive criteria above apply. In such cases, all wastewater discharges from all sources must be reported.

B. Notice of Intent for a General Permit for Concentrated Aquatic Animal Production Facilities

1. All facilities which meet the above criteria and desires a General Permit for Concentrated Aquatic Animal Production (UTG130000) must submit a NOI to the Utah Department of Environmental Quality. At a minimum the NOI shall include responses to the following items:
 - a. Qualifying Information
 - (1) Are you primarily involved in operating fish hatcheries or preserves?
 - (a) SIC Code
 - (b) NAICS Code
 - (2) Does the facility contain , grow, or hold fish, eggs or other aquatic animals all twelve months of the year for harvesting or for release (stocking) purposes?
 - (3) Does the facility raise Warm Water Species, Cold Water Species or both?
 - (a) Please identify each species the facility raises
 - (b) Provide the maximum monthly production of each species in pounds.
 - (4) Please provide the estimated maximum number of days for each month the facility contains, grows, or holds fish, eggs, or other aquatic animals for harvesting or release (stocking purposes).
 - (5) Please provide the maximum harvest weight production per month.
 - (6) Please provide the maximum monthly amount of feed the facility uses per month.

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- (7) Is the facility located on Indian Lands?
- (8) Are you a Federal Operator?
- b. Is this NOI for a new facility or existing permitted facility?
 - (1) If new facility, proceed to Item c.
 - (2) If renewal,
 - (a) Have there been any changes or additions to the facility that will increase it to more than 100,000 lbs. of annual production since the last permit application?
 - (b) Date facility was first operated (if known).
 - (c) Dates(s) facility was remodeled, expanded or upgraded. (Please describe)
 - (d) Are there any planned remodels, additions or expansions that will increase the annual production to over 100,000 lbs. during the next 5 years? (Please describe)
- c. Applicant Information
 - (1) Name
 - (2) Address
 - (3) Phone Number
 - (4) E-mail
 - (5) Fax Number (if applicable)
 - (6) Responsible On-Site Official
 - (a) Name
 - (b) Phone
 - (c) E-mail
- d. Facility Information
 - (1) Facility Name
 - (2) Facility Owner
 - (3) Facility Address
 - (4) Facility Location: Latitude:, Longitude:
 - (5) Facility Phone Number
 - (6) Please attach a process flow diagram that includes the following information:
 - (a) All aquaculture production units. For each unit please include the following:
 - i) Average area
 - a. Source water
 - b. Size
 - c. Volume
 - d. Retention time
 - e. Treatment units
 - f. Indicate whether these units discharge to waters of the State
 - (b) Wastewater treatment units
 - (c) Source water intakes or wells
 - (d) All outfalls
 - (e) Waterbody monitoring locations
 - (f) All waste stream discharges (e.g., tailraces, settling basins, fish tagging operations, laboratories, known leaks, etc.).

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- (g) Please identify on the drawing or map each discharge to waters of the State.
 - i) Identify any source water that is not used for production
 - ii) Identify any discharges to receiving waterbodies or systems that are not Waters of the State (e.g. irrigation waters)

C. Description of Discharge Points.

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

Outfall locations shall be located where a representative sample of the effluent can be collected prior to discharging to surface water as *Part I.B.1.6.d of the permit*.

Outfall Number(s)
001

Location of Discharge Outfall(s)
A physical description of the outfall location including latitude and longitude shall be provided by the permittee as part of the NOI.

If there is more than one discharge location, each discharge point where a representative sample of the effluent can be collected prior to discharging to surface waters shall be designated as Outfall-001, Outfall-002, etc. This is also considered the monitoring location for compliance with this permit. If a parameter that must be calculated as a sum, the sum outfall shall be the sum total of that parameter from all outfalls.

- D. Narrative Standard. It shall be unlawful, and a violation of this permit, for the permittee to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum, or other nuisances such as color, odor or taste, or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by a bioassay or other tests performed in accordance with standard procedures.

E. Specific Limitations and Self-Monitoring Requirements.

1. Effective immediately, and lasting through the life of this permit, there shall be no acute or chronic toxicity in Outfall(s) as defined in *Part VIII* of this permit.
2. Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below:
 - a. There shall be no discharge of untreated cleaning wastewater (e.g. water obtained from a standpipe bottom drain system or rearing/holding unit cleaning or disinfection).
 - b. There shall be no discharge of floating solids or visible foam in other than trace amounts.

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- c. There shall be no discharge of sanitary wastes or process water from fish processing operations. This includes dead fish, blood or fish parts in amounts causing impairment of the designated uses or nuisance and objectionable conditions in the receiving waters.
- d. There shall be no discharge of any toxic substances, including drugs, pesticides, disinfectants, or other chemicals in concentrations that impair designated uses.
- e. There shall be no discharge of copper sulfate and chelated copper compounds to waters of the U.S.;
- f. Only commercially processed fish feed shall be used (no unprocessed offal or other animal by-products).
- g. Rearing of fish within settling ponds and/or waste treatment ponds is prohibited.
- h. At least one regular sampling per year shall be taken during raceway cleaning. It shall be noted at the bottom of the discharge monitoring report in the comments section which sample was taken during raceway cleaning.

| Table 1 | Effluent Limitations *a *b | | | |
|---------------------------------|----------------------------|----------------|---------------|---------------|
| Parameter | Maximum Monthly Avg | Yearly Maximum | Daily Minimum | Daily Maximum |
| Total Flow | -- | -- | -- | NA |
| TSS, mg/L | 25 | -- | -- | -- |
| pH, Standard Units | -- | -- | 6.5 | 9 |
| Total Dissolved Solids, Tons *c | -- | 366 | -- | 1 |
| Total Residual Chlorine, mg/L | -- | -- | -- | 0.011 |

| Table 2 | Self-Monitoring and Reporting Requirements *a | | |
|---------------------------------|---|-------------|-------|
| Parameter | Frequency | Sample Type | Units |
| Total Flow *d *e | Continuous | Measured | MGD |
| TSS, | Monthly | Grab | mg/L |
| pH | Monthly | Grab | SU |
| TDS, *c | Yearly | Grab | Tons |
| Total Dissolved Solids, mg/L *c | Monthly | Grab | mg/L |
| Total Residual Chlorine, mg/L | Daily | Grab | mg/L |

*a See Definitions, *Part VIII*, for definition of terms.

*b Facilities discharging to impaired waters must

*c Total Dissolved Solids (TDS) limitations will only be applicable to those discharges from fish hatcheries within the Colorado River Basin. For these hatcheries TDS shall be monitored in the water source as well as the effluent by grab sample. The yearly sample shall be taken at the time of year during which the fish population is greatest, as indicated in the NOI. If any of the hatcheries exceed a 100 mg/L net increase the permittee shall immediately resample. If the second sample shows a net increase greater than 100 mg/L, the permittee may submit a request for a waiver of the TDS requirement to the Executive Secretary.

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This waiver will limit the facility to 1 ton of TDS per day or 366 tons per year. If this waiver is denied or the permittee cannot meet the provisions of the waiver, the facility will be requested to obtain an individual permit. The general permit will remain in effect until an individual permit is issued. If the resample indicates a net increase of TDS less than 100 mg/L, the permittee shall continue to monitor TDS on a yearly basis during the time of greatest fish population.

- *d Flow measurements of influent/effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained.
- *e If the rate of discharge is controlled, the rate and duration of discharge shall be reported.
- *f For any facility that uses chlorine or Chloramine-T that is or may be discharged to waters of the State, the applicable effluent limits for total residual chlorine are listed in Table 1. This does not apply if the chlorine being used for disinfection is allowed to dry at the location of use.

3. In addition to the above limits, certain facilities discharge to water bodies listed as “impaired”. These waters are referenced on the 303(d) list of the Clean Water Act, and a plan to restore water quality called a Total Maximum Daily Load study (TMDL) must be completed for that water body. A facility that discharges to a water body on the 303(d) list must at a minimum sample for any parameter for which that water body is impaired, if there is reasonable potential for that facility to discharge the pollutant(s) of concern. If a load allocation has been established for a facility, the facility will be required to meet the limits of the load allocation for that pollutant. The facilities subject to this requirement are listed in Table 3.

| Table 3 | | Facilities with additional TMDL Requirements *a | | | |
|---|----------------------|---|----------------|---------------------------------|------------------|
| Facility | Impairment Parameter | Sample Frequency | Approved TMDL? | Limit(s) | |
| UDW Springville Hatchery (UT130002) | Ammonia, Temperature | Monthly | No | None | |
| UDW Egan Fish Hatchery (UT130003) | Total Phosphorus, | Monthly | Yes | 869.1 kg Total Phosphorus/year | |
| UDW Fountain Green Hatchery (UT130004) | TDS | Monthly | Yes | None | |
| UDW Loa Hatchery (UT130007) | Total Phosphorus | Monthly | Yes | 613.64 kg Total Phosphorus/year | |
| UDW Mammoth Fish Hatchery (UT130008) | Total Phosphorus, | Monthly | Yes | None | |
| UDW Mantua Fish Hatchery (UT130009) | Total Phosphorus, | Monthly | Yes | 258.72 kg Total Phosphorus/year | |
| | Dissolved Oxygen, | Monthly | No | None | |
| UDW Fisheries Experiment Station (UT130021) | Total Phosphorus | Monthly | Yes | 185 kg (May-Oct) | 182 kg (Nov-Apr) |

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| | | | | |
|---|------------------|---------|-----|-------------|
| UDW Midway Fish Hatchery (UT0025879) | Total Phosphorus | Monthly | Yes | 400 kg/Year |
| | | | | |

*a All samples taken for compliance with TMDL requirements shall be reported monthly via NetDMR. All load based limits shall be reported annually or biannually as required by the appropriate TMDL.

4. Best Management Practices. Facilities that produce more than 45,454 harvest weight kilograms (approximately 100,000 lbs) will be required to develop and certify a Best Management Plan. An existing BMP Plan may be modified. Existing and new Permittees must submit the certification statement with the NOI. The BMP shall and describes how the facility will meet the following requirements;

a. Record Keeping:

- (1) Document the frequency of cleanings, inspections, maintenance, and repairs.
- (2) Document feed amounts and numbers and weights of aquatic animals to calculate feed conversion ratios.
- (3) Document all medicinal and therapeutic chemical usage for each treatment at the facility. Include the information required in the Drug, Pesticide & Chemical Use Report (Appendix D) and in the Annual Reports (Appendix B).
- (4) Maintain a copy of the label (with treatment application requirements) and the Material Safety Data Sheet (MSDS) in the facility's records for each drug or chemical used at the facility.

b. Chemical Storage:

- (1) Ensure proper storage of drugs and other chemicals to prevent spills that may result in the discharge to waters of the State.
- (2) Procedures must be implemented to prevent the release of chemicals, disinfectants or cleaning agents to waters of the State.

c. Structural Maintenance

- (1) Routinely inspect rearing and holding units and waste collection and containment systems to identify and promptly repair damage.
- (2) Regularly conduct maintenance of rearing and holding units and waste collection and containment systems to ensure their proper function.

d. Training Requirements

- (1) Train all relevant personnel in spill prevention and how to respond in the event of a spill to ensure proper clean-up and disposal of spilled materials.
- (2) Train personnel on proper structural inspection and maintenance of rearing and holding units and waste collection and containment systems.

e. Operational Requirements:

- (1) Fish feeding must be conducted in such a manner as to minimize the discharge of unconsumed food.
- (2) Treatment equipment used to control the discharge of floating, suspended or submerged matter must be cleaned and maintained at a frequency sufficient to prevent overflow or bypass of the treatment unit by floating, suspended, or submerged matter.
- (3) Exclude fish from quiescent zones, full-flow and off-line settling basins. Fish which have entered quiescent zones or basins must be removed as soon as practicable.

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- (4) All approved drugs and registered pesticides must be used in accordance with applicable label directions (FIFRA or FDA), except under the following conditions below, both of which must be reported to UT DEQ:
 - (a) Participation in Investigational New Animal Drug (INAD) studies, using established protocols; or
 - (b) Extra label drug use, as prescribed by a veterinarian.
- (5) Implement procedures to prevent the release of chemicals, disinfectants or cleaning agents to waters of the U.S.
- (6) Implement procedures to ensure animal mortalities are removed from raceways on a regular basis.
- f. BMP Plan Documentation Required On-site: The Permittee must maintain a copy of the BMP Plan at the facility and make it available to the EPA, Utah DEQ, or an authorized representative upon request.
- g. BMP Plan Modification: The Permittee must amend the BMP Plan whenever there is a change in the facility or in the operation of the facility which materially increases the generation of pollutants or their release or potential release to surface water. With any change in operator, the BMP plan must be reviewed and modified, if necessary.
- h. Annual Review: Permittees must review the BMP Plan annually. A certified statement that the annual review has been completed and that the BMP Plan fulfills the requirements set forth in this permit is included in an Annual Report that must be submitted to UT DEQ, due by January 20th each year.

F. Reporting of Monitoring Results.

- 1. Reporting of Wastewater Monitoring Results Monitoring results obtained during the previous month shall be summarized for each month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1)* or by NetDMR, post-marked or entered into NetDMR no later than the 28th day of the month following the completed reporting period. The first report is due on Month 28, 20--. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports including whole effluent toxicity (WET) test reports required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements (see Part VII.G)*, and submitted by NetDMR, or to the Division of Water Quality at the following address:

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

* Starting January 1, 2017 monitoring results must be submitted using NetDMR unless the permittee has successfully petitioned for an exception.

PART II
GENERAL PERMIT NO. UT130000
PRETREATMENT

II. INDUSTRIAL PRETREATMENT PROGRAM

- A. Discharges to a POTW. Any process wastewater that the facility may discharge to the sanitary sewer, either as direct discharge or as a hauled waste, is subject to federal, state and local pretreatment regulations. Pursuant to Section 307 of the Clean Water Act, the permittee shall comply with all applicable Federal General Pretreatment Regulations promulgated, found in 40 CFR Part 403, the State Pretreatment Requirements found in *UAC R317-8-8*, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the waste.
- B. Hazardous Waste Requirements. The permittee is required to modify its pretreatment program, as necessary, to reflect changes in the regulations of 40 CFR 403. Such modifications shall be completed within the time frame set forth by the applicable regulations. Modification of the approved pretreatment program must be done in accordance with the requirements of 40 CFR 403.18. Modifications of the approved program which result in less stringent industrial user requirements shall not be effective until after approval has been granted by the Director.

III. BIOSOLIDS REQUIREMENTS

- A. Biosolids Treatment and Disposal. The State of Utah has adopted the 40 CFR 503 federal regulations for the disposal of sewage sludge (biosolids) by reference. However, this facility does not receive, generate, treat or dispose of biosolids. Therefore 40 CFR 503 does not apply. As a result, there are no specific biosolids requirements in this permit.

PART IV
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STORM WATER

IV. STORM WATER REQUIREMENTS.

- A. A. Storm Water Permit . The facility's SIC code does not fall under an Industrial Storm Water Sector. Therefore the permittee is not required to obtain coverage under the Multi Sector General Permit for Industrial Activities.

- B. Storm Water-Reopener Provision. At any time during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *UAC R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to "waters-of-State".

PART V

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MONITORING, RECORDING & GENERAL REPORTING REQUIREMENTS

V. MONITORING, RECORDING & GENERAL REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under *Part I* shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10 and 40CFR Part 503*, unless other test procedures have been specified in this permit.
- C. Penalties for Tampering. The *Act* provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- D. 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. Additional Monitoring by the Permittee. If the permittee monitors any parameter more frequently than required by this permit, using test procedures approved under *UAC R317-2-10 and 40 CFR 503* or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated. Only those parameters required by the permit need to be reported.
- F. Records Contents. Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements;
 2. The individual(s) who performed the sampling or measurements;
 3. The date(s) and time(s) analyses were performed;
 4. The individual(s) who performed the analyses;
 5. The analytical techniques or methods used; and,
 6. The results of such analyses.
- G. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time. A copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location
- H. Twenty-four Hour Notice of Noncompliance Reporting.
1. The permittee shall (orally) report any noncompliance including transportation accidents, spills, and uncontrolled runoff from biosolids transfer or land application sites which may seriously endanger health or environment, as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of circumstances. The

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report shall be made to the Division of Water Quality, (801) 536-4300, or 24-hour answering service (801) 536-4123.

2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4300 as soon as possible but no later than 24 hours from the time the permittee becomes aware of the circumstances:
 - a. Any noncompliance which may endanger health or the environment;
 - b. Any unanticipated bypass, which exceeds any effluent limitation in the permit (See *Part VI.G, Bypass of Treatment Facilities.*);
 - c. Any upset which exceeds any effluent limitation in the permit (See *Part VI.H, Upset Conditions.*);
 - d. Violation of a daily discharge limitation for any of the pollutants listed in the permit; or,
3. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected;
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and,
 - e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.
4. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Division of Water Quality, (801) 536-4300.
5. Reports shall be submitted to the addresses in *Part I.F, Reporting of Monitoring Results.*
- I. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for *Part I.F* are submitted. The reports shall contain the information listed in *Part V.H.3*
- J. Inspection and Entry The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
 1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

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3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit;
4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the *Act*, any substances or parameters at any location; and,
5. The permittee shall make the necessary arrangements with the landowner or leaseholder to obtain permission or clearance, the Director, or authorized representative, upon the presentation of credentials and other documents as may be required by law, will be permitted to enter without delay for the purposes of performing their responsibilities.

**PART VI
GENERAL PERMIT NO. UT130000
COMPLIANCE RESPONSIBILITIES**

VI. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions. The *Act* provides that any person who violates a permit condition implementing provisions of the *Act* is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions or the Act is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at *Part VI.G, Bypass of Treatment Facilities* and *Part VI.H, Upset Conditions*, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.
- C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment. The permittee shall also take all reasonable steps to minimize or prevent any land application in violation of this permit.
- E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. Removed Substances. Collected screening, grit, solids, sludge, or other pollutants removed in the course of treatment shall be disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not directly enter either the final effluent or waters of the state by any other direct route.
- G. Bypass of Treatment Facilities.
1. Bypass Not Exceeding Limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to paragraph 2 and 3 of this section.
 2. Prohibition of Bypass.

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- a. Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
 - (1) Bypass was unavoidable to prevent loss of human life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to 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 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 preventive maintenance, and
 - (3) The permittee submitted notices as required under *Part VI.G.3*.
 - b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in *Part VI.G.2.a (1), (2) and (3)*.
3. Notice.
- a. *Anticipated bypass.* Except as provided above in *section VI.G.2* and below in *section VI.G.3.b*, if the permittee knows in advance of the need for a bypass, it shall submit prior notice, at least ninety days before the date of bypass. The prior notice shall include the following unless otherwise waived by the Director:
 - (1) Evaluation of alternative to bypass, including cost-benefit analysis containing an assessment of anticipated resource damages;
 - (2) A specific bypass plan describing the work to be performed including scheduled dates and times. The permittee must notify the Director in advance of any changes to the bypass schedule;
 - (3) Description of specific measures to be taken to minimize environmental and public health impacts;
 - (4) A notification plan sufficient to alert all downstream users, the public and others reasonably expected to be impacted by the bypass;
 - (5) A water quality assessment plan to include sufficient monitoring of the receiving water before, during and following the bypass to enable evaluation of public health risks and environmental impacts; and,
 - (6) Any additional information requested by the Director.
 - b. *Emergency Bypass.* Where ninety days advance notice is not possible, the permittee must notify the Director, and the Director of the Department of Natural Resources, as soon as it becomes aware of the need to bypass and provide to the Director the information in *section VI.G.3.a.(1) through (6)* to the extent practicable.

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- c. *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass to the Director as required under *Part IV.H, Twenty Four Hour Reporting.* The permittee shall also immediately notify the Director of the Department of Natural Resources, the public and downstream users and shall implement measures to minimize impacts to public health and environment to the extent practicable.

H. Upset Conditions.

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph 2 of this section are met. Director's administrative determination regarding a claim of upset cannot be judiciously challenged by the permittee until such time as an action is initiated for noncompliance.
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under *Part V.H, Twenty-four Hour Notice of Noncompliance Reporting;* and,
 - d. The permittee complied with any remedial measures required under *Part VI.D, Duty to Mitigate.*
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

PART VII
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GENERAL REQUIREMENTS

VII. GENERAL REQUIREMENTS

- A. Planned Changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of parameters discharged or pollutant sold or given away. This notification applies to pollutants, which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing sludge facilities or their manner of operation or to current sludge management practices of storage and disposal, the permittee shall give notice to the Director of any planned changes at least 30 days prior to their implementation.
- B. Anticipated Noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.
- C. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- D. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit.
- E. Duty to Provide Information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
- F. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.
- G. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.
 - 1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
 - 2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Director, and,

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- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. A duly authorized representative may thus be either a named individual or any individual occupying a named position.
3. Changes to authorization. If an authorization under *paragraph VII.G.2* is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of *paragraph VII.G.2* must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- H. Penalties for Falsification of Reports. The *Act* provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both.
- I. Availability of Reports. Except for data determined to be confidential under *UAC R317-8-3.2*, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of Director. As required by the *Act*, permit applications, permits and effluent data shall not be considered confidential.
- J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the *Act*.
- K. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- L. Severability. The provisions of this permit are severable, and if any provisions of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

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- M. Transfers. This permit may be automatically transferred to a new permittee if:
1. The current permittee notifies the Director at least 20 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 for transfer of permit responsibility, coverage, and liability between them; and,
 3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.
- N. State or Federal Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by *UCA 19-5-117* and *Section 510* of the *Act* or any applicable Federal or State transportation regulations, such as but not limited to the Department of Transportation regulations.
- O. Water Quality - Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:
1. Water Quality Standards for the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
 2. A final wasteload allocation is developed and approved by the State and/or EPA for incorporation in this permit.
 3. Revisions to the current CWA § 208 area-wide treatment management plans or promulgations/revisions to TMDLs (40 CFR 130.7) approved by the EPA and adopted by DWQ which calls for different effluent limitations than contained in this permit.
- P. Biosolids – Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate biosolids limitations (and compliance schedule, if necessary), management practices, other appropriate requirements to protect public health and the environment, or if there have been substantial changes (or such changes are planned) in biosolids use or disposal practices; applicable management practices or numerical limitations for pollutants in biosolids have been promulgated which are more stringent than the requirements in this permit; and/or it has been determined that the permittees biosolids use or land application practices do not comply with existing applicable state of federal regulations.
- Q. Toxicity Limitation - Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include WET testing, a WET limitation, a compliance schedule, a compliance date, additional or modified numerical limitations, or any

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other conditions related to the control of toxicants if toxicity is detected during the life of this permit.

- R. Storm Water-Reopener Provision. At any time during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *UAC R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to "waters-of-State".

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DEFINITIONS**

VIII. DEFINITIONS

A. Wastewater.

1. The "7-day (and weekly) average", other than for *E. coli* bacteria, fecal coliform bacteria, and total coliform bacteria, is the arithmetic average of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for *E. coli* bacteria, fecal coliform bacteria, and total coliform bacteria. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains Saturday.
2. The "30-day (and monthly) average," other than for *E. coli* bacteria, fecal coliform bacteria and total coliform bacteria, is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for *E. coli* bacteria, fecal coliform bacteria and total coliform bacteria. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
3. "Act," means the *Utah Water Quality Act*.
4. "Acute toxicity" occurs when 50 percent or more mortality is observed for either test species at any effluent concentration (lethal concentration or "LC₅₀").
5. "Bypass," means the diversion of waste streams from any portion of a treatment facility.
6. "Chronic toxicity" occurs when the IC₂₅< XX% effluent. The % effluent is the concentration of the effluent in the receiving water, at the end of the mixing zone expressed as per cent effluent.
7. "IC₂₅" is the concentration of toxicant (given in % effluent) that would cause a 25% reduction in mean young per female, or a 25% reduction in overall growth for the test population.
8. "Composite Samples" shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:
 - a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;

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- b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
 - c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every “X” gallons of flow); and,
 - d. Continuous sample volume, with sample collection rate proportional to flow rate.
9. “CWA,” means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.
10. “Daily Maximum” (Daily Max.) is the maximum value allowable in any single sample or instantaneous measurement.
11. “EPA,” means the United States Environmental Protection Agency.
12. “Director,” means Director of the Division of Water Quality.
13. A “grab” sample, for monitoring requirements, is defined as a single “dip and take” sample collected at a representative point in the discharge stream.
14. “Influent Sample Location” (if required) shall be located where a representative sample of influent water can be collected prior to entering the CAAP facility. If there is more than one influent source, each source shall be designated in sequence and designated as INF-001, INF-002, etc.
15. An “instantaneous” measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
16. “Outfall” - A location where a representative sample of the effluent can be collected prior to discharging to surface water. If there is more than one discharge, each discharge point where a representative sample of the effluent can be collected prior to discharging to surface waters shall be designated as Outfall 001, Outfall 002, etc. This is also considered the monitoring location for compliance with this permit.
17. “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.
18. “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 preventative maintenance, or careless or improper operation.
19. “Waters of the State” means all streams, lakes, ponds, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private,

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which are contained within, flow through, or border upon this state or any portion thereof, except that bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish and wildlife, shall not be considered to be "waters of the state" under this definition (Section 19-5-102).