

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
 WASTE DISCHARGE PERMIT**

Department of Environmental Quality
 Western Region - Salem Office
 750 Front St. NE, Ste. 120, Salem, OR 97301-1039
 Telephone: (503) 378-8240

Issued pursuant to ORS 468B.050 and The Federal Clean Water Act

ISSUED TO:

J.H. Baxter & Company
 P. O. Box 5902
 San Mateo, CA 94402

SOURCES COVERED BY THIS PERMIT:

<u>Type of Waste</u>	<u>Outfall Number</u>	<u>Outfall Location</u>
Treated Stormwater & Boiler Blowdown	001	Unnamed Trib to Amazon Cr.
Treated Groundwater	002	Unnamed Trib to Amazon Cr.

FACILITY TYPE AND LOCATION:

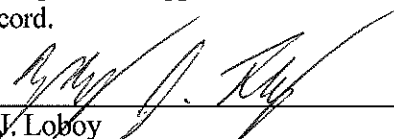
Wood Preserving
 85 N. Baxter Road
 Eugene, Oregon 97440-2797

RECEIVING STREAM INFORMATION:

Basin: Willamette
 Sub-Basin: Upper Willamette
 Receiving Stream: Storm Ditch to Amazon Creek
 LLID 123197440631
 County: Lane

EPA REFERENCE NO: OR 003100-3

Issued in response to Application No. 97797 received 6/30/2006. This permit is issued based on the land use findings in the permit record.



 Zachary J. Lohoy
 Water Quality Manager, Western Region

November 30, 2010

 Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, or operate a wastewater collection, treatment, control and disposal system and discharge to public waters adequately treated wastewaters only from the authorized discharge point or points established in Schedule A and only in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

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Unless specifically authorized by this permit, by another NPDES or WPCF permit, or by Oregon Administrative Rule, any other direct or indirect discharge of waste is prohibited, including discharge to waters of the state or an underground injection control system.

SCHEDULE A

1. Waste Discharge Limitations not to be exceeded after permit issuance.

a. Outfall Number 001 (Stormwater Treatment Plant Discharge)

Parameters	Effluent Concentrations	
	Monthly Avg. Mg/l	Daily Max. Mg/l
BOD ₅	30	45
Arsenic	0.048	0.850
Copper	0.0063	0.011
Total Chromium	0.067	0.558
Zinc	0.110	0.120

Parameter	pH Range	Effluent Concentrations	
		Monthly Avg. Mg/l	Daily Max. Mg/l
Pentachlorophenol	6.5 ≤ pH < 7.0	0.0031	0.0053
	7.0 ≤ pH < 7.3	0.0050	0.0087
	7.3 ≤ pH < 7.5	0.0068	0.0118
	7.5 ≤ pH < 7.7	0.0083	0.0144
	7.7 ≤ pH < 8.0	0.0102	0.0176
	8.0 ≤ pH < 8.5	0.0137	0.0238

Other Parameters	Limitations
pH	Shall be within the range of 6.5 – 8.5
Temperature	Daily maximum shall not exceed 64° F during the period of May 1 to October 31

b. Outfall Number 002 (Groundwater Treatment Plant Discharge)

Parameters	Effluent Concentrations	
	Monthly Avg. Mg/l	Daily Max. Mg/l
Arsenic	0.048	0.850
Copper	0.012	0.018
Total Chromium	0.210	1.700
Zinc	0.110	0.120

Other Parameters	Limitations
pH	Shall be within the range of 6.5 – 8.5
Temperature	Daily maximum shall not exceed 64°F during the period of May 1 to October 31.

2. No wastes may be discharged or activities conducted that cause or contribute to a violation of water quality standards in OAR 340-041 applicable to the Willamette basin except as provided for in OAR 340-045-0080.
3. No activities shall be conducted that could cause an adverse impact on existing or potential beneficial uses of groundwater. All wastewater and process related residuals shall be managed and disposed in a manner that will prevent a violation of the Groundwater Quality Protection Rules (OAR 340-040).

SCHEDULE B

1. Minimum Monitoring and Reporting Requirements to be met after permit issuance

The permittee shall monitor the parameters as specified below at the locations indicated. The laboratory used by the permittee to analyze samples shall have a quality assurance/quality control (QA/QC) program to verify the accuracy of sample analysis. If QA/QC requirements are not met for any analysis, the results shall be included in the report, but not used in calculations required by this permit. When possible, the permittee shall re-sample in a timely manner for parameters failing the QA/QC requirements, analyze the samples, and report the results.

a. Outfall Number 001

Item or Parameter	Minimum Frequency	Type of Sample
Flow	Daily	Measurement
BOD ₅	Monthly	Grab
Arsenic	Monthly	Grab
Copper	Monthly	Grab
Zinc	Monthly	Grab
Total Chromium	Monthly	Grab
Pentachlorophenol	Monthly	Grab
Polynuclear Aromatic Hydrocarbons	Annually ¹	Grab
pH	Monthly	Grab
Hardness	Monthly	Grab
Lead	Twice /Year	Grab
TCDD, TCDF (Dioxin)	Annually ^{1,2}	Grab
Temperature	Monthly (May Through October)	Grab
Whole Effluent Toxicity Testing	Monthly to Semi-annually ⁴	Composite ^{3,4}

b. Outfall Number 002

Item or Parameter	Minimum Frequency	Type of Sample
Flow	Daily	Measurement
Pentachlorophenol	Monthly	Grab
pH	Monthly	Grab
Temperature	Monthly (May Through October)	Grab
Arsenic	Quarterly	Grab
Copper	Quarterly	Grab
Zinc	Quarterly	Grab
Total Chromium	Quarterly	Grab
Polynuclear Aromatic Hydrocarbons	Annually ¹	Grab

2. Reporting Procedures

- a. Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to the appropriate Department office by the 15th day of the month following the reporting period. If there is no discharge for a calendar month, the report must be submitted by the 15th of the following month with "no discharge" indicated.
- b. Monitoring reports shall be complete and include the name of the facility, file number, and all monitoring results.
- c. The permittee must ensure that all monitoring analysis reports contain both the Detection Level (DL) and the Quantitation Limit (QL) as defined below:
 - (1) **Detection Level:** Same as the "Method Detection Limit" (MDL) derived using 40 CFR 136 Appendix B (40 CFR 136, Appendix B).
 - (2) **Quantitation Limit:** Same as the Method Reporting Limit (MRL). It is the lowest level at which the entire analytical system must give a recognizable signal and acceptable calibration for the analyte. It is equivalent to the concentration of the lowest calibration standard, assuming that all method-specified sample weights, volumes, and cleanup procedures have been employed.
 - (3) Test methods, as indicated in 40 CFR 136.3, should achieve a Quantitation Limit (QL) less than or equal to those listed below unless a higher QL is unnecessary for determining compliance with an effluent limit or water quality criterion. If the permittee is unable to achieve the necessary QL, an alternate QL may be approved in writing by the Department.
 - Arsenic - 50 µg/L
 - Chromium - 10 µg/L
 - Copper - 10 µg/L
 - Lead - 5 µg/L
 - Zinc - 5 µg/L
 - Pentachlorophenol - 2 µg/L
- d. Do not report sample results or mass loads as estimated values on the DMR. Report sample results and mass loads as follows:
 - (1) Sample result at or below detection level

If a sample result is at or below the detection level, report the result as less than the specified detection level. For example, if the detection level is 1.0 ug/L and the result is non-detect, report "<1.0 ug/L" on the DMR. To calculate the mass load from this result, use the detection level. Report the mass load as less than the calculated mass load. For example, if flow is 2 MGD and the reported sample result is <1.0 ug/L, report "<0.017 lb/day" for mass load on the DMR (1.0 ug/L x 2 MGD x conversion factor = 0.017 lb/day).
 - (2) Sample result above detection level but below quantitation level

If a sample result is above the detection level but below the quantitation level, report the result as the detection level preceded by the Department's data code "e". This code identifies the result as being between the detection level and quantitation level. For example, if the detection level is 1 ug/l and the quantitation level is 5 ug/L and the sample result is 4 ug/L, report "e1 ug/l" on the DMR. To calculate the mass load from this result, use the detection level. Report the mass load as less than the calculated mass load preceded by "e". For example, if flow is 2 MGD and the reported sample result is e1.0 ug/L, report "e0.017 lb/day" for mass load on the DMR (1.0 ug/L x 2 MGD x conversion factor = 0.017 lb/day).
- e. When the quantitation limit for a particular parameter is higher than the permit limit for that parameter, the facility shall be considered to be in compliance as long as the parameter is not detected at the reported quantitation limit. This applies to arsenic and copper.

NOTES:

1. If Polynuclear Aromatic Hydrocarbons and TCDD/TCDF(Dioxin) are not detected in the first two years after permit issuance, monitoring for these parameters may be eliminated until permit renewal.
2. PCDD and PCDF shall be analyzed using EPA Method 1613 or equivalent. The following congeners shall be tested for:

2,3,7,8 – TCDD
1,2,3,7,8 – PeCDD
1,2,3,4,7,8 – HxCDD
1,2,3,6,7,8 – HxCDD
1,2,3,7,8,9 – HxCDD
1,2,3,4,6,7,8 – HpCDD
OCDD
2,3,7,8 – TCDF
1,2,3,7,8 – PeCDF
2,3,4,7,8 – PeCDF
1,2,3,4,7,8 – HxCDF
1,2,3,6,7,8 – HxCDF
1,2,3,7,8,9 – HxCDF
2,3,4,6,7,8 – HxCDF
1,2,3,4,6,7,8 – HpCDF
1,2,3,4,7,8,9 - HpCDF
OCDF

The results shall be reported in total 2,3,7,8-TCDD toxicity equivalents using WHO (2005) TEFs (Toxicity Equivalence Factors). The quantitation limit and TEF shall be reported for each congener, and the total TEF-adjusted concentration shall be calculated with all values below the quantitation limit set equal to zero. If the value is below the quantitation limit but above the detection limit, the detection limit should be used. In reporting the results, the permittee shall include a narrative interpretation of the results as well as supporting QA/QC documentation including but not limited to information regarding blanks and surrogates.

3. Bioassay testing shall be done in accordance with the protocol specified in Schedule D, Condition 5 of this permit.
4. The permittee shall conduct WET testing monthly until the results of two consecutive tests indicate no toxicity, at which point the frequency may be reduced to semi-annually. If the results of two years' of tests (a total of four tests) indicate no toxicity, the permittee may submit a written request to the Department to eliminate further WET testing for the remainder of the permit cycle. Testing may be eliminated only upon a written response by the Department confirming the request.

SCHEDULE D**Special Conditions**

1. An adequate contingency plan for prevention and handling of spills and unplanned discharges shall be in force at all times. A continuing program of employee orientation and education shall be maintained to ensure awareness of the necessity of good inplant control and quick and proper action in the event of a spill or accident.
2. The Permittee shall store all Chemonite treated product under cover during the period from November 1st to April 30th.
3. Sanitary wastes shall be disposed of to the Metropolitan Wastewater Management Commission (MWMC) sewage treatment system.
4. An environmental supervisor shall be designated to coordinate and carry out all necessary functions related to operation and maintenance of waste collection, treatment, and discharge facilities. This person must have access to all information pertaining to the generation of wastes in the various process areas.
5. Whole Effluent Toxicity Testing.
 - a. The permittee shall conduct whole effluent toxicity (WET) tests as specified in Schedule B of this permit.
 - b. It is recommended that sampling for WET testing occur at the same time as sampling for parameters that are collected monthly to assist in the analysis of results.
 - c. Acute Toxicity Testing - Organisms and Protocols
 - (1) The permittee shall conduct 48-hour static renewal tests with *Ceriodaphnia dubia* (water flea) and 96-hour static renewal tests with *Pimephales promelas* (fathead minnow).
 - (2) All test methods and procedures shall be in accordance with **Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms**, Fifth Edition, EPA-821-R-02-012, October 2002. Any deviation of the bioassay procedures outlined in this method shall be submitted in writing to the Department for review and approval prior to use.
 - (3) Tests shall be conducted on final effluent sample collected as a single grab sample. No treatments to the final effluent (i.e. dechlorination, etc), except those included as part of the methodology, shall be performed by the laboratory unless approved by the Department prior to analysis.
 - (4) Acute tests shall be conducted on a control and the following dilution series, unless otherwise approved by the Department in writing: 6.25%, 12.5%, 25%, 50%, and 100%.
 - (5) An acute WET test shall be considered to show toxicity if there is a statistically significant difference in survival between the control and 100% percent effluent.
 - d. Chronic Toxicity Testing - Organisms and Protocols
 - (1) The permittee shall conduct tests with: *Ceriodaphnia dubia* (water flea) for reproduction and survival test endpoint, *Pimephales promelas* (fathead minnow) for growth and survival test endpoint, and *Raphidocelis subcapitata* (green alga formerly known as *Selenastrum capricornutum*) for growth test endpoint.
 - (2) All test methods and procedures shall be in accordance with **Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater**

Organisms, Fourth Edition, EPA-821-R-02-013, October 2002. Any deviation of the bioassay procedures outlined in this method shall be submitted in writing to the Department for review and approval prior to use.

- (3) Tests shall be conducted on final effluent samples collected as grab samples. No treatments to the final effluent (i.e. dechlorination, etc), except those included as part of the methodology, shall be performed by the laboratory unless approved by the Department prior to analysis.
- (4) Chronic tests shall be conducted on a control and the following dilution series, unless otherwise approved by the Department in writing: 6.25%, 12.5%, 25%, 50%, and 100%.
- (5) A chronic WET test shall be considered to show toxicity if the IC₂₅ (25% inhibition concentration) occurs with 100% effluent.

e. Dual End-Point Tests –

- (1) WET tests may be dual end-point tests in which both acute and chronic end-points can be determined from the results of a single chronic test. The acute end-point shall be based on 48-hours for the *Ceriodaphnia dubia* (water flea) and 96-hours for the *Pimephales promelas* (fathead minnow).
- (2) All test methods and procedures shall be in accordance with **Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms**, Fourth Edition, EPA-821-R-02-013, October 2002. Any deviation of the bioassay procedures outlined in this method shall be submitted in writing to the Department for review and approval prior to use.
- (3) Tests shall be conducted on final effluent samples collected as described in item d.(3).
- (4) Tests run as dual end-point tests shall be conducted on a control and the following dilution series, unless otherwise approved by the Department in writing: 6.25%, 12.5%, 25%, 50%, and 100%.
- (5) Toxicity determinations for dual end-point tests shall correspond to the acute, c.(5), and chronic, d.(5), described above.

f. Evaluation of Causes and Exceedances

- (1) If any test exhibits toxicity, as defined in sections c.(5) or d.(5) of this permit condition, another toxicity test using the same species and Department approved methodology shall be conducted within two weeks, unless otherwise approved by the Department.
- (2) If two consecutive WET test results indicate acute and/or chronic toxicity, as defined in sections c.(5) or d.(5) of this permit condition, the permittee shall immediately notify the Department of the results. The Department will work with the permittee to determine the appropriate course of action to evaluate and address the toxicity.

g. Quality Assurance / Reporting

- (1) Quality assurance criteria, statistical analyses, and data reporting for the WET tests shall be in accordance with the EPA documents stated in this condition.
- (2) A bioassay laboratory report for each test shall be prepared according to the EPA method documents referenced in this Schedule. This shall include all QA/QC documentation, statistical analysis for each test performed, standard reference toxicant test (SRT) conducted on each species required for the toxicity tests, and completed Chain of Custody forms for the samples

including time of sample collection and receipt. Reports shall be submitted to the Department within 45 days of test completion.

- (3) The report should include all endpoints measured in the test, i.e. NOEC, LOEC, and IC₂₅.
- (4) The permittee shall make available to the Department, on request, the written standard operating procedures they, or the laboratory performing the WET tests, are using for all toxicity tests required by the Department.

h. Reopener

- (1) The Department may reopen and modify this permit to include new limitations, monitoring requirements, and/or conditions as determined by the Department to be appropriate, and in accordance with procedures outlined in Oregon Administrative Rules, Chapter 340, Division 45, if:
 - a. WET testing data indicate acute and/or chronic toxicity.
 - b. The facility undergoes any process changes.
 - c. Discharge monitoring data indicate a change in the reasonable potential to exhibit toxicity.

6. Prior to constructing or modifying wastewater treatment facilities, detailed plans and specifications must be approved in writing by the Department.
7. The permittee shall notify the DEQ Western Region in accordance with the response times noted in the General Conditions of this permit, of any malfunction so that corrective action can be coordinated between the permittee and the Department.
8. Record Keeping and Internal Reporting Procedures: The following information shall be recorded and maintained at the facility and provided to the Department and other government agencies upon request.
 - a) Spills or leaks of significant materials that impacted or had the potential to impact storm water or surface waters. Include the corrective actions to clean up the spill or leak as well as measures to prevent future problems of the same nature.

SCHEDULE F

NPDES GENERAL CONDITIONS – INDUSTRIAL FACILITIES

SECTION A. STANDARD CONDITIONS

1. Duty to Comply with Permit

The permittee must comply with all conditions of this permit. Failure to comply with any permit condition is a violation of Oregon Revised Statutes (ORS) 468B.025 and the federal Clean Water Act and is grounds for an enforcement action. Failure to comply is also grounds for the Department to terminate, modify and reissue, revoke, or deny renewal of a permit.

2. Penalties for Water Pollution and Permit Condition Violations

The permit is enforceable by DEQ or EPA, and in some circumstances also by third-parties under the citizen suit provisions 33 USC §1365. DEQ enforcement is generally based on provisions of state statutes and EQC rules, and EPA enforcement is generally based on provisions of federal statutes and EPA regulations.

ORS 468.140 allows the Department to impose civil penalties up to \$10,000 per day for violation of a term, condition, or requirement of a permit. The federal Clean Water Act provides for civil penalties not to exceed \$32,500 and administrative penalties not to exceed \$11,000 per day for each violation of any condition or limitation of this permit.

Under ORS 468.943, unlawful water pollution, if committed by a person with criminal negligence, is punishable by a fine of up to \$25,000, imprisonment for not more than one year, or both. Each day on which a violation occurs or continues is a separately punishable offense. The federal Clean Water Act provides for criminal penalties of not more than \$50,000 per day of violation, or imprisonment of not more than 2 years, or both for second or subsequent negligent violations of this permit.

Under ORS 468.946, a person who knowingly discharges, places, or causes to be placed any waste into the waters of the state or in a location where the waste is likely to escape into the waters of the state is subject to a Class B felony punishable by a fine not to exceed \$200,000 and up to 10 years in prison. The federal Clean Water Act provides for criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment of not more than 3 years, or both for knowing violations of the permit. In the case of a second or subsequent conviction for knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.

3. Duty to Mitigate

The permittee must 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. In addition, upon request of the Department, the permittee must correct any adverse impact on the environment or human health resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

4. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and have the permit renewed. The application must be submitted at least 180 days before the expiration date of this permit.

The Department may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date.

5. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any term, condition, or requirement of this permit, a rule, or a statute
- b. Obtaining this permit by misrepresentation or failure to disclose fully all material facts
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge
- d. The permittee is identified as a Designated Management Agency or allocated a wasteload under a Total Maximum Daily Load (TMDL)
- e. New information or regulations
- f. Modification of compliance schedules
- g. Requirements of permit reopener conditions
- h. Correction of technical mistakes made in determining permit conditions
- i. Determination that the permitted activity endangers human health or the environment
- j. Other causes as specified in 40 CFR 122.62, 122.64, and 124.5

The filing of a request by the permittee for a permit modification, revocation or reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Toxic Pollutants

The permittee must comply with any applicable effluent standards or prohibitions established under Oregon Administrative Rules (OAR) 340-041-0033 and 307(a) of the federal Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

7. Property Rights and Other Legal Requirements

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, or authorize any injury to persons or property or invasion of any other private rights, or any infringement of federal, tribal, state, or local laws or regulations.

8. Permit References

Except for effluent standards or prohibitions established under Section 307(a) of the federal Clean Water Act and OAR 340-041-0033 for toxic pollutants and standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act, all rules and statutes referred to in this permit are those in effect on the date this permit is issued.

9. Permit Fees

The permittee must pay the fees required by Oregon Administrative Rules.

SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that 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 appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Need to Halt or Reduce Activity Not a Defense

For industrial or commercial facilities, upon reduction, loss, or failure of the treatment facility, the permittee must, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost. It is not 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.

3. Bypass of Treatment Facilities

a. Definitions

- (1) "Bypass" means intentional diversion of waste streams from any portion of the treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, provided the diversion is to allow essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs b. and c. of this section.
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Prohibition of bypass.

- (1) Bypass is prohibited and the Department may take enforcement action against a permittee for bypass unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance; and
 - (c) The permittee submitted notices and requests as required under General Condition B.3.c.
- (2) The Department may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when the Department determines that it will meet the three conditions listed above in General Condition B.3.b.(1).

c. Notice and request for bypass.

- (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, a written notice must be submitted to the Department at least ten days before the date of the bypass.
- (2) Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required in General Condition D.5.

4. Upset

- a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of General Condition B.4.c are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and that the permittee can identify the causes(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The permittee submitted notice of the upset as required in General Condition D.5, hereof (24-hour notice); and
 - (4) The permittee complied with any remedial measures required under General Condition A.3 hereof.
- d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Treatment of Single Operational Upset
For purposes of this permit, A Single Operational Upset that leads to simultaneous violations of more than one pollutant parameter will be treated as a single violation. A single operational upset is an exceptional incident that causes simultaneous, unintentional, unknowing (not the result of a knowing act or omission), temporary noncompliance with more than one Clean Water Act effluent discharge pollutant parameter. A single operational upset does not include Clean Water Act violations involving discharge without a NPDES permit or noncompliance to the extent caused by improperly designed or inadequate treatment facilities. Each day of a single operational upset is a violation.
6. Public Notification of Effluent Violation
If effluent limitations specified in this permit are exceeded or an overflow occurs that threatens public health, the permittee must take such steps as are necessary to alert the public, health agencies and other affected entities (e.g., public water systems) about the extent and nature of the discharge in accordance with the notification procedures developed in accordance with General Condition B.7. Such steps may include, but are not limited to, posting of the river at access points and other places, news releases, and paid announcements on radio and television.
7. Emergency Response and Public Notification Plan
The permittee must develop and implement an emergency response and public notification plan that identifies measures to protect public health from bypasses or upsets that may endanger public health. At a minimum the plan must include mechanisms to:
 - a. Ensure that the permittee is aware (to the greatest extent possible) of such events;
 - b. Ensure notification of appropriate personnel and ensure that they are immediately dispatched for investigation and response;
 - c. Ensure immediate notification to the public, health agencies, and other affected entities (including public water systems). The response plan must identify the public health and other officials who will receive immediate notification;
 - d. Ensure that appropriate personnel are aware of and follow the plan and are appropriately trained;
 - e. Provide emergency operations; and
 - f. Ensure that DEQ is notified of the public notification steps taken.
8. Removed Substances
Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters must be disposed of in such a manner as to prevent any pollutant from such materials from entering waters of the state, causing nuisance conditions, or creating a public health hazard.

SECTION C. MONITORING AND RECORDS

1. Representative Sampling
Sampling and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit, and shall be taken, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points may not be changed without notification to and approval of the Department.
2. Flow Measurements
Appropriate flow measurement devices and methods consistent with accepted scientific practices must be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices must be installed, calibrated and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected must be capable of measuring flows with a maximum deviation of less than ± 10 percent from true discharge rates throughout the range of expected discharge volumes.
3. Monitoring Procedures
Monitoring must be conducted according to test procedures approved under 40 CFR part 136, or in the case of sludge use and disposal, under 40 CFR part 503, unless other test procedures have been specified in this permit.

4. Penalties of 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 may, upon conviction, be punished by a fine of not more than \$10,000 per violation, imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person, punishment is a fine not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.

5. Reporting of Monitoring Results

Monitoring results must be summarized each month on a Discharge Monitoring Report form approved by the Department. The reports must be submitted monthly and are to be mailed, delivered or otherwise transmitted by the 15th day of the following month unless specifically approved otherwise in Schedule B of this permit.

6. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR part 136 or, in the case of sludge use and disposal, under 40 CFR part 503, or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report. Such increased frequency must also be indicated. For a pollutant parameter that may be sampled more than once per day (e.g., Total Chlorine Residual), only the average daily value must be recorded unless otherwise specified in this permit.

7. Averaging of Measurements

Calculations for all limitations that require averaging of measurements must utilize an arithmetic mean, except for bacteria which shall be averaged as specified in this permit.

8. Retention of Records

Records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities shall be retained for a period of at least five years (or longer as required by 40 CFR part 503). Records of all monitoring information including all calibration and maintenance records, 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 shall be retained for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Department at any time.

9. Records Contents

Records of monitoring information must include:

- a. The date, exact place, time, and methods of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

10. Inspection and Entry

The permittee must allow the Department or EPA upon the presentation of credentials, to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location.

11. Confidentiality of Information

Any information relating to this permit that is submitted to or obtained by DEQ is available to the public unless classified as confidential by the Director of DEQ under ORS 468.095. The Permittee may request that information be classified as confidential if it is a trade secret as defined by that statute. The name and address of the permittee, permit applications, permits, effluent data, and information required by NPDES application forms under 40 CFR 122.21 will not be classified as confidential. 40 CFR 122.7(b).

SECTION D. REPORTING REQUIREMENTS

1. Planned Changes

The permittee must comply with OAR chapter 340, division 52, "Review of Plans and Specifications" and 40 CFR Section 122.41(l) (1). Except where exempted under OAR chapter 340, division 52, no construction, installation, or modification involving disposal systems, treatment works, sewerage systems, or common sewers may be commenced until the plans and specifications are submitted to and approved by the Department. The permittee must give notice to the Department as soon as possible of any planned physical alternations or additions to the permitted facility.

2. Anticipated Noncompliance

The permittee must give advance notice to the Department of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

3. Transfers

This permit may be transferred to a new permittee provided the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of the permit and the rules of the Commission. No permit may be transferred to a third party without prior written approval from the Department. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under 40 CFR Section 122.61. The permittee must notify the Department when a transfer of property interest takes place.

4. Compliance Schedule

Reports of compliance or noncompliance with, or any progress reports on interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date. Any reports of noncompliance must include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements.

5. Twenty-Four Hour Reporting

The permittee must report any noncompliance that may endanger health or the environment. Any information must be provided orally (by telephone) within 24 hours from the time the permittee becomes aware of the circumstances, unless a shorter time is specified in the permit. During normal business hours, the Department's Regional office must be called. Outside of normal business hours, the Department must be contacted at 1-800-452-0311 (Oregon Emergency Response System).

The following must be included as information that must be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass that exceeds any effluent limitation in this permit;
- b. Any upset that exceeds any effluent limitation in this permit;
- c. Violation of maximum daily discharge limitation for any of the pollutants listed by the Department in this permit; and
- d. Any noncompliance that may endanger human health or the environment.

A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain:

- e. A description of noncompliance and its cause;
- f. The period of noncompliance, including exact dates and times;
- g. The estimated time noncompliance is expected to continue if it has not been corrected;

- h. Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance; and
- i. Public notification steps taken, pursuant to General Condition B.7.

The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

6. Other Noncompliance

The permittee must report all instances of noncompliance not reported under General Condition D.4 or D.5, at the time monitoring reports are submitted. The reports 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; and
- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

7. Duty to Provide Information

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

Other Information: When the permittee becomes aware that it has failed to submit any relevant facts or has submitted incorrect information in a permit application or any report to the Department, it must promptly submit such facts or information.

8. Signatory Requirements

All applications, reports or information submitted to the Department must be signed and certified in accordance with 40 CFR Section 122.22.

9. Falsification of Information

Under ORS 468.953, 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, is subject to a Class C felony punishable by a fine not to exceed \$100,000 per violation and up to 5 years in prison. Additionally, according to 40 CFR 122.41(k)(2), any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a federal civil penalty not to exceed \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

10. Changes to Discharges of Toxic Pollutant

The permittee must notify the Department as soon as it knows or has reason to believe the following:

- a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (1) One hundred micrograms per liter (100 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 Section 122.21(g)(7); or
 - (4) The level established by the Department in accordance with 40 CFR Section 122.44(f).
- b. That any activity has occurred or will occur that would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant that is not limited in the 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 Section 122.21(g)(7); or
- (4) The level established by the Department in accordance with 40 CFR Section 122.44(f).

SECTION E. DEFINITIONS

1. *BOD* means five-day biochemical oxygen demand.
2. *CBOD* means five day carbonaceous biochemical oxygen demand.
3. *TSS* means total suspended solids.
4. "*Bacteria*" includes but is not limited to fecal coliform bacteria, total coliform bacteria, and *E. coli* bacteria.
5. *FC* means fecal coliform bacteria.
6. *Total residual chlorine* means combined chlorine forms plus free residual chlorine
7. *Technology based permit effluent limitations* means technology-based treatment requirements as defined in 40 CFR Section 125.3, and concentration and mass load effluent limitations that are based on minimum design criteria specified in OAR Chapter 340, Division 41.
8. *mg/l* means milligrams per liter.
9. *kg* means kilograms.
10. *m³/d* means cubic meters per day.
11. *MGD* means million gallons per day.
12. *24-hour Composite sample* means a combination of at least six discrete sample aliquots of at least 100 milliliters, collected at periodic intervals from the same location, during the operating hours of the facility over a 24 hour period. Four (rather than six) aliquots should be collected for volatile organics analyses. The composite must be flow or time proportional, whichever is more appropriate. The sample aliquots must be collected and stored in accordance with procedures prescribed in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*.
13. *Grab sample* means an individual discrete sample collected over a period of time not to exceed 15 minutes.
14. *Quarter* means January through March, April through June, July through September, or October through December.
15. *Month* means calendar month.
16. *Week* means a calendar week of Sunday through Saturday.

