

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

Oregon Department of Environmental Quality
Northwest Region - Portland Office
2020 SW 4th Avenue, Suite 400, Portland, OR 97201
Telephone: (503) 229-5263

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

ISSUED TO:

Permittee:
Permapost Products Co.
P. O. Box 100
Hillsboro, OR 97123

SOURCES COVERED BY THIS PERMIT:

<u>Type of Waste</u>	<u>Outfall Number</u>	<u>Outfall Location</u>
Storm water runoff and non-contact compressor cooling water	001	R.M. 1.1

PLANT TYPE AND LOCATION:

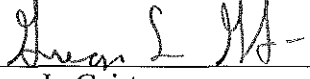
Wood Preserving Facility
4066 SE Tualatin Valley Hwy.
Hillsboro, OR 97123

RECEIVING STREAM INFORMATION:

Basin: Willamette
Sub-Basin: Tualatin
Receiving Stream: Rock Creek
LLID: 12294444454907-5810-I
County: Washington

EPA REFERENCE NO: OR 003959-4

This permit is issued in response to Renewal Application No. 68872, received May 24, 2010.



Gregory L. Geist
Manager, Water Quality Source Control Section
Northwest Region

12/15/10

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 to waters of the state is prohibited, including discharge to an underground injection control system.

Schedule A
Waste Discharge Limitations

- 1. Process Wastewater:** No discharge of process wastewaters to surface waters is permitted. All process wastewaters must be re-circulated and reused or otherwise controlled in a manner to prevent discharge to surface waters. Process wastewater includes process water, water from the kiln, water (including any storm water) collected on the drip pad, and water within the tank farm secondary containment structures.
- 2. Outfall 001:** Discharge of storm water runoff and non-contact compressor cooling water from the northwestern portion of the Permapost facility to a road-side drainage ditch (storm water conveyance) constructed to serve State Highway No. 8 in Washington County. Storm water collected along this section of Highway No. 8 flows approximately 500 meters to Rock Creek. During precipitation events Highway No. 8 storm water dilutes Permapost's effluent discharge.

<u>Parameter</u>	<u>Daily Maximum</u>
Copper*	0.043 mg/L
Oil & Grease	10 mg/L
pH	Within the range of 6.5 – 8.5 at all times
Floating solids and debris	Must not be larger than a 5 mesh screen

* Total Recoverable

- 3. Compliance Point:** The Outfall 001 discharge pipe is located in the northwestern portion of the facility. This discharge represents the non-contact compressor cooling water and storm water discharge from the facility. Sampling must be conducted and compliance with the discharge limits specified in condition A.2, above, will be determined at the point of entry into the storm water drainage ditch along Tualatin Valley Highway (State Highway No. 8).
- 4. Groundwater:** Treated groundwater may be redistributed to an on-site infiltration system in accordance with a valid Resource Conservation and Recovery Act (RCRA) post-closure permit approved by the Department. Process wastewater or storm water runoff from the facility must not be introduced to the on-site infiltration system.
- 5. Compliance with Water Quality Standards:** Outfall 001 discharges to a drainage ditch that conveys storm water away and parallel to State Highway No. 8. Dilution at a level of 2.5 or greater is provided downstream of the outfall in the first 33 meters of the ditch. The ditch is approximately 500 meters long. Except as provided for in Oregon Administrative Rule (OAR) 340-045-0080, no wastes may be discharged and no activities may be conducted that violate Water Quality Standards as adopted in OAR 340-041-0345 outside of the drainage ditch. *This source has no mixing zone in Rock Creek.*

Schedule B
Monitoring and Reporting Requirements

1. Monitoring Requirements

- a) **Outfall 001:** Discharge of storm water runoff and non-contact compressor cooling water from the northwestern portion of the facility to drainage ditch serving State Highway No. 8.

Monitoring Requirements (See Note 1)			
Parameter	Minimum Frequency	Sample Type	Quantitation Limit
Flow	Daily during each sampling event	Estimate	N/A
Chromium (VI)	2/year	Grab ^{2,4}	10 µg/L
Copper	4/year	Grab ³	10 µg/L
Hardness	2/year	Grab ²	N/A
Total Suspended Solids	2/year	Grab ²	5 mg/L
Oil & Grease	2/year	Grab ²	5 mg/L
pH	2/year	Grab ²	N/A
Pentachlorophenol	2/year	Grab ^{2,4}	2 µg/L
Zinc	2/year	Grab ^{2,4}	5 µg/L
Floating Solids and Debris	During each sampling event	Visual Observation	5 mesh

Notes:

- ¹ Monitoring is required from November 1 to May 31.
² At least one sample must be taken on or before January 31 and one sample taken on or after February 1. The samples must be collected at least 60 days apart.
³ At least two samples must be taken on or before January 31 and two samples taken on or after February 1. The samples must be collected at least 14 days apart.
⁴ Monitoring for these parameters may be discontinued after two years if analytical results do not show detectable levels.

2. Reporting Requirements

- a) **Reporting Frequency.** Monitoring results must be reported on approved forms. The reporting period is the season from November 1 to May 31. Reports for the reporting period must be submitted to the Department's Northwest Region – Portland Office by June 25th of each year. The results of each annual review of the Stormwater Pollution Control Plan (SWPCP), required under Schedule D.1, are to be submitted along with these reports.

If during a specified monitoring period, there are insufficient storm events to produce sufficient runoff to enable the permittee to collect the required number of samples, the permittee must submit a report to the Department that states that there were insufficient storm events. Along with the report, the permittee must provide rainfall data from the site or the closest government monitoring station with reasonably available data that would be representative of rainfall conditions at the site. The report must be signed and certified in accordance with 40 CFR 122.22.

- b) The permittee must monitor the parameters as specified above at the location indicated. The laboratory used by the permittee to analyze samples must have a quality assurance/quality control (QA/QC) program to verify the accuracy of sample analyses. If QA/QC requirements are not met for any analysis, the results must be included in the report, but not used in the calculations required by this permit. When possible, the permittee must re-sample in a timely manner for parameters failing QA/QC requirements, analyze the samples, and report the results.
- c) **Analytic Methods:** Whenever possible, the permittee shall use a test method with a Quantitation Limit (QL) that is at, or lower than, the QL listed in Schedule B.1.a, above. All analysis reports must contain both the QL and detection level of the method as defined below:
Detection Level: Same as the "Method Detection Limit" (MDL) derived using 40 CFR 136 Appendix B.
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.
- d) **Reporting of Sample Results.** For sample results below the detection level, the result shall be reported as "<DL" (e.g. <1.0). For sample results above the detection level and below the quantitation limit, the results shall be reported as "eDL" (e.g., if the quantitation limit is 5.0, the detection limit is 1.0, and the analytical results give an estimated value of 3.0, then the value shall be reported as "e1.0").
- e) **Monitoring Records Prepared in Ink.** All bench sheets, laboratory analysis sheets, and other records to support the data reported on the Discharge Monitoring Report (DMR) shall be prepared in ink. Pencil entries or *liquid paper corrections* shall be prohibited by appropriate laboratory operating procedures. Changes to any supporting records that may be required to correct the original data shall be made by lining through the original data. The date of the change and the initials of the individual making the change shall be recorded in ink adjacent to the change.

Schedule D Special Conditions

1. Implementation, Review and Revision of the Stormwater Pollution Control Plan (SWPCP)

The permittee must implement the facility's Stormwater Pollution Control Plan (SWPCP), dated October 2009, immediately upon permit issuance. The current SWPCP fully satisfies the requirements of this permit, including but not limited to Conditions D.1 through D.3. On an annual basis, the permittee shall review and, if necessary, revise its SWPCP to ensure that items a through g, below, are addressed (any revisions are subject to condition D.2.). The results of this review are to be submitted to the Department as specified in Schedule B.2.a.

- a) The permittee must ensure that the SWPCP continues to contain the applicable information described in condition D.3.
- b) SWPCP revisions must be prepared by a person knowledgeable in stormwater management and familiar with the facility.
- c) The name of the person(s) preparing the SWPCP revisions must be included in the plan.
- d) SWPCP revisions must be signed and certified in accordance with 40 CFR §122.22.
- e) The SWPCP must be implemented according to condition D.3.c. Failure to implement any portion of the SWPCP constitutes a violation of the permit.
- f) The SWPCP must be kept current and updated as necessary to reflect any changes in facility operation.
- g) A copy of the SWPCP must be kept at the facility and made available upon request to government agencies responsible for stormwater management in the permittee's area.

2. SWPCP Revisions and Actions Plans

- a) If the permittee proposes to revise its SWPCP or the department requires revisions to the SWPCP, the permittee must clearly describe these revisions in an Action Plan.
- b) The Action Plan is considered an addendum to the SWPCP and must be prepared in compliance with condition D.1 above.
- c) Within 30 calendar days of making SWPCP revisions, permittee must submit an Action Plan to the department for approval. If the department does not comment within 10 business days of receiving the Action Plan, it is deemed approved. Failure to implement any portion of the Action Plan constitutes a violation of the permit.

3. Required SWPCP Elements

- a) **Title Page(s)** - The title page(s) of the SWPCP must contain the following information:
 - i) Name of the site.
 - ii) Name of the site operator or owner.
 - iii) Site or file number as indicated on the permit (may be added at time of first annual review).
 - iv) Contact person's name and telephone number (may be added at time of first annual review).
 - v) Physical address, including county, and mailing address if different (may be added at time of first annual review).
- b) **Site Description** - The SWPCP must contain the following information:
 - i) A description of the industrial activities conducted at the site. Include a description of the significant materials that are stored, used, treated or disposed of in a manner that allows exposure to stormwater. Also describe the methods of storage, usage, treatment or disposal.
 - ii) A general location map showing the location of the site in relation to surrounding properties, transportation routes, surface waters and other relevant features.

- iii) A site map including the following:
 - (1) drainage patterns;
 - (2) drainage and discharge structures (piping, ditches, etc.);
 - (3) outline of the drainage area for each stormwater outfall;
 - (4) paved areas and buildings within each drainage area;
 - (5) areas used for outdoor manufacturing, treatment, storage, or disposal of significant materials;
 - (6) existing structural control measures for reducing pollutants in stormwater runoff;
 - (7) material loading and access areas;
 - (8) hazardous waste treatment, storage and disposal facilities;
 - (9) location of wells including waste injection wells, seepage pits, drywells, etc., and
 - (10) location of springs, wetlands and other surface waterbodies both on site and adjacent to the site.
 - iv) Estimates of the amount of impervious surface area (including paved areas and building roofs) relative to the total area drained by each stormwater outfall.
 - v) For each area of the site where a reasonable potential exists for contributing pollutants to stormwater runoff, identify the potential pollutants that could be present in stormwater discharges.
 - vi) The name(s) of the receiving water(s) for stormwater drainage. If drainage is to a municipal storm sewer system, the name(s) of the ultimate receiving waters and the name of the municipality.
 - vii) Identification of the discharge outfall(s) and the point(s) where stormwater monitoring will occur as required by Schedule B.
- c) **Site Controls** - The permittee must develop, implement, and maintain the controls that are appropriate for the site, taking into consideration the permittee's operations and stormwater treatment facilities. The purpose of these controls is, in conjunction with other controls at the site (e.g., the stormwater treatment system), to eliminate or minimize the exposure of pollutants to stormwater or to remove pollutants from stormwater before it discharges to surface waters. In developing a control strategy, the permittee must consider the following four (4) types of controls in the SWPCP and describe the specific components of each control:
- i) *Stormwater Best Management Practices* - The permittee must employ the following types of best management practices that are appropriate for the site, taking into consideration the permittee's operations and stormwater treatment facilities. A schedule for implementation of these practices must be included in the SWPCP if the practice has not already been accomplished. This schedule must be consistent with the requirements for implementing the SWPCP in Schedule C of this permit.
 - (1) **Containment** - All hazardous substances (see condition D.3, Definitions) must be stored within berms or other secondary containment devices to prevent leaks and spills from contaminating stormwater. If the use of berms or secondary containment devices is not possible, then hazardous substances must be stored in areas that do not drain to the storm sewer system.
 - (2) **Oil and Grease** - Oil/water separators, booms, skimmers or other methods must be employed to eliminate or minimize oil and grease contamination of stormwater discharges.
 - (3) **Waste Chemicals and Material Disposal** - Wastes must be recycled or properly disposed of in a manner to eliminate or minimize exposure of pollutants to stormwater. All waste contained in bins or dumpsters where there is a potential for drainage of stormwater through the waste must be covered as necessary and appropriate to prevent exposure of stormwater to these pollutants. Acceptable covers include, but are not limited to, storage of bins or dumpsters under roofed areas and use of lids or temporary covers such as tarps.

- (4) Erosion and Sediment Control - Erosion control methods such as vegetating exposed areas, graveling or paving must be employed as necessary and appropriate to minimize erosion of soil at the site. Sediment control methods such as detention facilities, vegetated filter strips, bioswales, or other permanent erosion or sediment controls must be considered to minimize sediment loads in stormwater discharges. For activities that involve land disturbance, the permittee must contact the local municipality to determine if there are other applicable requirements.
 - (5) Debris Control - Screens, booms, settling ponds, or other methods must be employed to eliminate or minimize debris in stormwater discharges.
 - (6) Stormwater Diversion - Stormwater must be diverted away from fueling, manufacturing, treatment, storage, and disposal areas as necessary and appropriate to prevent exposure of uncontaminated stormwater to potential pollutants.
 - (7) Covering Activities - Fixed fueling, manufacturing, treatment, storage, and disposal areas must be covered as necessary and appropriate to prevent exposure of stormwater to potential pollutants. Acceptable covers include, but are not limited to, permanent structures such as roofs or buildings and temporary covers such as tarps.
 - (8) Housekeeping - Areas that may contribute pollutants to stormwater must be kept clean. Sweeping, litter pick-up, prompt clean up of spills and leaks, and proper maintenance of vehicles must be employed to eliminate or minimize exposure of stormwater to pollutants.
- ii) *Spill Prevention and Response Procedure* - Permittee must include in the SWPCP methods to prevent spills along with clean-up and notification procedures. These methods and procedures must be made available to appropriate personnel. The required clean-up material must be on-site or readily available and the location of materials must either be shown on the site drawings or indicated in the text of the SWPCP. Spills prevention plans required by other regulations may be substituted for this provision providing that stormwater management concerns are adequately addressed.
- iii) *Preventative Maintenance* - Permittee must include in the SWPCP a preventative maintenance program to ensure the effective operation of all stormwater best management practices. At a minimum the program must include:
- (1) Monthly inspections of areas where potential spills of significant materials or industrial activities could impact stormwater runoff.
 - (2) Monthly inspections of stormwater control measures, structures, catch basins, and treatment facilities.
 - (3) Cleaning, maintenance or repair of all materials handling and storage areas and all stormwater control measures, structures, catch basins, and treatment facilities as needed upon discovery. Cleaning, maintenance, and repair of such systems must be performed in such a manner as to prevent the discharge of pollution.
- iv) *Employee Education* - Permittee must develop and maintain an employee orientation and education program to inform personnel of the components and goals of the SWPCP. The program must also address spill response procedures and the necessity of good housekeeping practices. A schedule for employee education must be included in the SWPCP. The education and training must occur within 30 calendar days of hiring an employee who works in areas where stormwater is exposed to industrial activities or conducts duties related to the implementation of the SWPCP, and annually thereafter.

4. Environmental Supervision and Management

The permittee must designate an environmental supervisor to coordinate and carry out all necessary functions related to maintenance and operation of waste collection, treatment, and disposal facilities. This person must be allowed access to all information relevant to the generation of wastes in the various process areas.

5. **Notification**

The permittee must notify the Department's Northwest Region – Portland office at (503) 229-5263 in accordance with the response times contained in **Schedule F** of this permit of any malfunction so that corrective action can be coordinated between the permittee and the Department.

6. **Hazardous Substances**

Except as provided in 40 CFR 117.12, this permit does not relieve the permittee of the reporting requirements listed in 40 CFR Part 117 and 40 CFR Part 302. The discharge of hazardous substances in the storm water discharge from the facility must be minimized in accordance with the applicable storm water pollution control plan for the facility and in no case, during any **24-hour** period, must the discharge contain a hazardous substance equal to or in excess of reporting requirements.

7. **Notification of a Process Change**

Permittee must notify the Department by letter at least **30 days** prior to the planned implementation of a treatment process change at this wood treatment facility. Notification must include a detailed description of proposed changes in chemicals, concentrations, and/or quantities of toxic substances used in the wood treatment process. Any change to the storm water treatment facilities must be identified. *Prior to implementation of wood treatment changes, the permittee must receive written approval from the Department to proceed.*

8. **Stormwater Treatment System Bypass**

Notwithstanding general condition (Schedule F) B.3.b.(1) of this permit, the discharge of stormwater without routing it through the stormwater treatment unit is not a bypass or prohibited by this permit once the facility's 30,000 gallon stormwater storage and treatment capacity is reached.

9. **Dilution Study**

Within 120 days of permit issuance, the permittee shall develop and submit to the Department for approval a Dilution Study Plan. The plan must detail how the permittee will collect and analyze information to evaluate the available dilution of effluent within the drainage ditch receiving the discharge.

The permittee must begin implementation of the Dilution Study Plan within two weeks of notification of plan approval by the Department. If the Department determines that the plan is not approvable, the Department will notify the permittee of the missing program elements.

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 \$37,500 and administrative penalties not to exceed \$16,000 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.