

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

Oregon Department of Environmental Quality
Northwest Region 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:

Vigor Industrial, LLC
5555 N. Channel Avenue
Portland, OR 97217

SOURCES COVERED BY THIS PERMIT:

Type of Waste

Outfall
Number

Outfall
Location

Treated ballast/bilge water and tank
wash water

001

R.M. 8.2

Treated Dry Dock and Buildway
Process Water and Stormwater

002

R.M. 8.2

Non-contact cooling water

005, 006,
007, 008,
009 & 010

R.M. 8.1

PLANT TYPE AND LOCATION:


Ship Repair Yard
Swan Island
5555 N. Channel Avenue
Portland, Oregon

RECEIVING STREAM INFORMATION:

Basin: Willamette
Sub-Basin: Lower Willamette
Receiving Stream: Willamette River
LLID: 1227618456580-8.2-D
County: Multnomah

EPA REFERENCE NO : OR 002294-2

This permit is issued in response to Renewal Application No. 972121 received January 21, 2009.
Supplemental information received on March 31, 2009 and October 18, 2010.



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

6/15/11
Date

8/1/11
Effective 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:

Schedule A - Waste Discharge Limitations	Page 3-5
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Schedule C - Compliance Conditions and Schedules	Not Applicable
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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. Outfall 001: Treated Ballast/Bilge Water and Tank Wash Water (upon permit issuance) - No discharge to surface waters

There shall be no discharge to surface waters from Outfall 001 until the Permittee provides the following to the Department: 1) The results of a dive survey indicating that the diffuser for outfalls 001/002 has eleven operational ports, and 2) Evidence that the Environmental Best Management Practices Plan required under Schedule D.4 has been updated to address treatment system flushing.

2. Outfall 001: Treated Ballast/Bilge Water and Tank Wash Water

Parameter	Daily Maximum
Flow	1.0 MGD
Total Suspended Solids	50 mg/L
Oil & Grease	10 mg/L
Copper ¹	0.34 mg/L
Lead ¹	0.079 mg/L
Zinc ¹	2.6 mg/L
pH	Within the range 6.0 – 9.0 S.U.
Excess Thermal Load	17 x 10 ⁶ Kcal/day
Total Arsenic	Operate treatment processes at the highest and best extent practicable treatment ²

¹ Total Recoverable

² The Department has established a quarterly average of 18 µg/L total arsenic as a non-regulatory numeric benchmark to use in assessing whether the applicable treatment technology is providing the highest and best practicable treatment for arsenic in the discharge. An exceedance of this average value shall not in itself constitute a violation of this permit, but the Department will require the facility to submit a report to the Department detailing the conditions that resulted in the elevated value. The Department will use the report, monitoring information and operational records to assist in the determination of whether or not the facility was in compliance with the narrative operational requirements for total arsenic. The permittee must comply with this requirement until it can be determined by the Department that the facility does not have the reasonable potential to exceed the anticipated water quality criteria or the end of the permit term.

3. Outfall 002: Treated Dry Dock and Buildway Process Water and Stormwater (upon permit issuance) - No discharge to surface waters.

There shall be no discharge to surface waters from Outfall 001 until the Permittee provides the following to the Department: 1) The results of a dive survey that the diffuser for outfalls 001/002 has eleven operational ports, 2) A demonstration that the discharge from outfall 002 does not exhibit toxicity, and 3) Evidence that the Environmental Best Management Practices Plan required under Schedule D.4 has been updated to address treatment system flushing.

To demonstrate that the discharge does not exhibit toxicity, the permittee must submit to the Department a plan for addressing toxicity issues. At a minimum, the plan must include modifications to the process and/or treatment facilities as well as provisions for conducting Whole Effluent Toxicity (WET) testing of each batch of treated wastewater from the dry dock treatment system. Upon successful demonstration that the discharge does not exhibit toxicity, the permittee may commence discharge to surface waters in accordance with the requirements of Schedule A.

4. Outfall 002: Treated Dry Dock and Buildway Process Water and Stormwater (upon commencement of discharge to surface waters)

Parameter	Daily Maximum
Total Suspended Solids	10 mg/L
Oil & Grease	10 mg/L
Copper ¹	0.087 mg/L
Lead ¹	0.079 mg/L
Tri-butyl tin ¹	0.02 mg/L
Zinc ¹	1.0 mg/L
pH	Within the range 6.0 – 9.0 S.U.
Excess Thermal Load	14 x 10 ⁶ Kcal/day
Total Arsenic	Operate treatment processes at the highest and best extent practicable treatment ²

¹ Total Recoverable

² The Department has established a quarterly average of 18 µg/L total arsenic as a non-regulatory numeric benchmark to use in assessing whether the applicable treatment technology is providing the highest and best practicable treatment for arsenic in the discharge. An exceedance of this average value shall not in itself constitute a violation of this permit, but the Department will require the facility to submit a report to the Department detailing the conditions that resulted in the elevated value. The Department will use the report, monitoring information and operational records to assist in the determination of whether or not the facility was in compliance with the narrative operational requirements for total arsenic. The permittee must comply with this requirement until it can be determined by the Department that the facility does not have the reasonable potential to exceed the anticipated water quality criteria or the end of the permit term.

5. Outfalls 003 & 004: No Discharge. These discharges were formerly associated with dry dock 4, which is no longer in place.

6. **Outfalls 005, 006, 007, 008, 009 & 010: Non-contact cooling water**

Parameter	Limitation
Excess Thermal Load (Temperature)	37 x 10 ⁶ Kcal/day (daily maximum)

7. **Mixing Zones**

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 except in the defined mixing zone:

Outfall 001/002: The allowable mixing zone is that portion of the Willamette River within a 10-meter radius from the points of discharge (i.e. the multi-port outfall diffuser). The Zone of Immediate Dilution (ZID) is that portion of the Willamette River within a 3-meter radius from the outfall diffuser.

Outfall 005, 006, 007, 008, 009 & 010: The allowable mixing zone is that portion of the Willamette River within a 10-meter radius from the point of discharge.

8. **Compliance Locations**

Outfall 001: This outfall is defined as the discharge from the holding tanks used to hold the treated ballast/bilge water for testing prior to discharge to the Willamette River. Sampling must be conducted and compliance will be determined at the point of discharge from the holding tanks.

Outfall 002: This outfall is defined as the discharge from the holding tanks used to hold treated water from the dry dock treatment system. Sampling must be conducted and compliance will be determined at the point of discharge from the holding tanks.

Outfall 005: This outfall is defined as the discharge from the south sally ports of Dry Dock 3. Sampling must be conducted and compliance will be determined at the point the non-contact cooling water is discharged from the sally ports.

Outfall 006: This outfall is defined as the discharge from the north sally ports of Dry Dock 3. Sampling must be conducted and compliance will be determined at the point the non-contact cooling water is discharged from the sally ports.

Outfall 007: This outfall is defined as the discharge from the south sally ports of Dry Dock 1. Sampling must be conducted and compliance will be determined at the point the non-contact cooling water is discharged from the sally ports.

Outfall 008: This outfall is defined as the discharge from the north sally ports of Dry Dock 1. Sampling must be conducted and compliance will be determined at the point the non-contact cooling water is discharged from the sally ports.

Outfall 009: This outfall is defined as the discharge from the south sally ports of Dry Dock 5. Sampling must be conducted and compliance will be determined at the point the non-contact cooling water is discharged from the sally ports.

Outfall 010: This outfall is defined as the discharge from the north sally ports of Dry Dock 5. Sampling must be conducted and compliance will be determined at the point the non-contact cooling water is discharged from the sally ports.

Schedule B
Minimum Monitoring and Reporting Requirements

1. Monitoring Requirements (See notes 7 and 8)

a) Outfall 001 (Treated Ballast/Bilge Water and Tank Wash Water):

Parameter	Minimum Frequency	Sample Type
Flow	Once for each batch	Measure
Copper ¹	Once for each batch	Grab
Lead ¹	Once for each batch	Grab
Zinc ¹	Once for each batch	Grab
pH	Once for each batch	Grab
Oil & Grease	Once for each batch	Grab
Total Suspended Solids	Once for each batch	Grab
Total Dissolved Solids	Once for each batch	Grab
Whole Effluent Toxicity Testing ⁴	1/year	Composite
Priority Pollutant Scan ⁵	1/year	Composite

b) Outfall 002 (Treated Dry Dock Process Water and Stormwater):

Parameter	Minimum Frequency	Sample Type
Flow	Once per each batch	Measure
Copper ¹	Once for each batch	Grab
Lead ¹	Once for each batch	Grab
Tri-butyl tin ^{1,2}	Once for each batch	Grab
Zinc ¹	Once for each batch	Grab
pH	Once for each batch	Grab
Oil & Grease	Once for each batch	Grab
Suspended Solids	Once for each batch	Grab
Iron ^{1,3}	Once for each batch	Grab
Manganese ^{1,3}	Once for each batch	Grab
Whole Effluent Toxicity Testing ⁴	2/year	Composite
Priority Pollutant Scan ⁵	1/year	Composite

c) **Outfalls 005, 006, 007, 008, 009, and 010: Non-contact cooling water**

Parameter	Minimum Frequency	Sample Type
Flow	Once for each vessel	Measure
Temperature	Once for each vessel	Measure
Excess Thermal Load (Daily Maximum) ⁶	Once for each vessel	Calculate

Schedule B.1 Notes:

1. Total recoverable
2. Sampling for tri-butyl tin is required when surface preparation is performed on the underwater hull of vessels containing tri-butyl tin coatings
3. Sampling is proposed until such time as Vigor collects 4 samples for these parameters
4. Results are to be reported the month following receipt of test results.
5. The permittee must perform chemical analysis of the effluent for the specific toxic pollutants listed in Tables II and III of Appendix D of 40 CFR 122 (including PCBs), inorganic arsenic, iron and manganese in accordance with the sampling frequency specified above. The effluent samples must be composites, except where sampling volatile compounds and cyanide. For these pollutants, at least four discrete samples (not less than 100 mL) collected over the operating day are acceptable. Also, each cyanide aliquot must be collected and composited into a larger container which has been preserved with sodium hydroxide to insure sample integrity.
6. The daily maximum excess thermal load must be calculated using the daily maximum temperature and the total discharge flow for the day. Excess thermal loads must be calculated using the formula below. If the calculation results in a thermal load value less than zero, the results must be recorded as zero.

$$ETL = \Delta T * Q * C_p * SW * 0.252$$

Where:

- ETL = Excess thermal load (10⁶ Kcal/day)
- ΔT = effluent temperature (°F) minus criterion (68°F)
- Q = Discharge flow (mgd)
- C_p = Specific heat of water (1 Btu/lb °F)
- SW = Specific weight in lb/gallon (8.34 lb/gallon)
- 0.252 = conversion from million BTU/day to Kcals/day

7. The permittee must ensure that all monitoring analysis reports 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 (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.

8. Whenever possible, the permittee should use a test method, as indicated in 40 CFR 136.3 (or an approved alternative under 40 CFR 136.4 or 136.6), with a Quantitation Limit (QL) that is lower than the permitted effluent limit or water quality criteria for priority pollutant scans. A list of the analytic methods approved by the department and the applicable QLs are located in the document *Revised RPA IMD, Appendix B Quantitation Limits Tables* (November 2007) available from DEQ and also located on the web at <http://www.deq.state.or.us/wq/pubs/imds/rpaammend.pdf>. Due to the difficulty of achieving the total arsenic QL of 0.05 ug/l reported in the Revised RPA IMD, the facility is required (when applicable) to use a method with a minimum analytic range of 0.5 ug/l.

2. Reporting Requirements

- a) **Reporting Frequency.** Monitoring results must be reported on approved forms. Reports must be submitted to the Department's Northwest Region – Portland Office by the 15th day following the reporting month.

The permittee must monitor the parameters as specified above at the locations 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 analysis. 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 samples, and report results.

- b) **Reporting of Non-Detect 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 limit 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”). For the purpose of calculating mass loads and averages, the following concentrations shall be used: 1) Where the sample results are above the detection limit and below the quantitation limit, the concentration values used shall be the detection limit, 2) Where the sample results are below the detection limit, the concentration values used shall be zero (0).
- c) **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) must be prepared in ink. Pencil entries or *liquid paper* corrections must be prohibited by appropriate laboratory operating procedures. Changes to any supporting records that may be required to correct the original data must be made by lining through the original data. The date of the change and the initials of the individual making the change must be recorded in ink adjacent to the change.

Schedule D Special Conditions

1. Whole Effluent Toxicity Testing

- a. The permittee shall conduct whole effluent toxicity (WET) tests as specified in Schedule B of this permit.
- b. The facility is required to sample as specified in Schedule B
- 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 composite 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: 3%, 4.5%, 25%, 50%, and 100%. The control water and dilution water used shall be moderately hard water as described in EPA-821-R-02-012, Section 7.
 - (5) An acute WET test shall be considered to show toxicity if there is a statistically significant difference in survival between the control and 4.5 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 *Selanastrum 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 24-hour composite 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: 0.7%, 12.5%, 25%, 50%, and 100%. The control water and dilution water used shall be moderately hard water as described in EPA-821-R-02-013, Section 7.
- (5) A chronic WET test shall be considered to show toxicity if the IC_{25} (25% inhibition concentration) occurs at dilutions equal to or less than the dilution that is known to occur at the edge of the mixing zone, i.e. $IC_{25} \leq 0.7\%$.

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: 0.7%, 4.5%, 25%, 50%, and 100%. The control water and dilution water used shall be moderately hard water as described in EPA-821-R-02-013, Section 7.
- (5) Toxicity determinations for dual end-point tests shall correspond to the acute, c.(5), and chronic, d.(5), described above.

f. Additional Sampling Requirements

Not Applicable

g. 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 of the permittee's receipt of the test results, 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.

h. 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.

i. 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.

2. Spill Prevention and Response Procedures

An adequate contingency plan to prevent spills along with clean-up and notification procedures must be in place at all times. 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 plan.

3. 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 shall be allowed access to all information relevant to the generation of wastes in the various process areas.

4. Annual Update of Environmental Best Management Practices Plan

By March 1 of each year, the permittee must update its Environmental Best Management Practices (BMPs) Plan for the Cascade General Shipyard to incorporate solutions to problems encountered during the previous calendar year or new practices learned during the previous calendar year.

In its update, Vigor must also ensure that the plan includes BMPs, to be implemented prior to any discharge to surface waters from Outfalls 001 and/or 002, to fully flush the treatment system of any wastewaters not listed as a type of waste on the cover page of this permit. The plan must also include BMPs to clean the dry docks of residual materials generated during dry dock repair periods. The implementation of these BMPs is required under Schedule D.7 prior to the direct discharge of stormwater from the dry docks.

The permittee must ensure that all applicable Environmental BMPs are employed at all times.

5. Containment Booms

The permittee must use floating containment booms around all ships while transferring fuel in the shipyard. Permanent oil containment booms must be installed on the inside of the outermost pier pilings and around all dry dock areas.

6. Pollution Prevention Program

A program of pollution prevention must be maintained with the purpose to: (1) reduce, recycle and reuse water, stock, and chemicals, (2) substitute less toxic chemicals for more toxic chemicals, (3) eliminate the use of certain chemicals, and (4) use best management practices (BMPs) to improve housekeeping and spill response through better training and better operations and maintenance procedures.

7. Discharge of Uncontaminated Stormwater

The permittee is authorized to discharge stormwater from the dry docks directly to the Willamette River if no work is being performed on the dry docks and the dry docks have been cleaned in accordance with the Environmental Best Management Practices (BMPs) for the Cascade General Shipyard.

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(I) (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*₃ means kilograms.
10. *m /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.

