NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTE DISCHARGE PERMIT

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

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

ISSUED TO:
SFPP, L.P.
1100 Town & Country Road
Orange, CA 92868

SOURCES COVERED BY THIS PERMIT:

Type of Wastewater	Outfall Number	Outfall Location
Stormwater, Hydrostatic test water	001 &002	RM 7.89
Treated Process wastewater and treated stormwater	003	RM 7.89

FACILITY TYPE AND LOCATION:
Bulk Petroleum products
SFPP, L.P.
1765 Prairie Road, Eugene OR

RECEIVING STREAM INFORMATION
Basin: Willamette
Sub-Basin: Upper Willamette
Stream: Un-named tributary to Flat Creek
LLID: 1231356441696-I
County: Lane

EPA REFERENCE NO: OR000171-6
Issued in response to Application No. 971175 received August 19, 2009. This permit is issued based on the land use findings in the permit record.

Steve Schnurbusch, Acting Water Quality Manager
Western Region

12-18-12
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:

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

SCHEDULE A

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

A. Outfall 001& 002 (Stormwater)

Parameter	Limitation
Oil & Grease	Shall not exceed 10mg/l (See Note 2)
Oil & Grease	No Visible Sheen (See Note 2)
Residual Chlorine	Shall not exceed 0.01mg/L daily maximum concentration and 0.02mg/L monthly average (See Note 1)

B. Outfall 003 (Treated contact water)

Parameter	Limitation	
	Monthly Average mg/l	Daily Maximum mg/l
Oil & Grease	10	15
Oil & Grease	No visible sheen at any time	
pH	Shall be between 6.5 and 8.5	
	S.U.	

No activities shall be conducted that could cause an adverse impact on existing or potential beneficial uses of groundwater. All wastewater and process related residuals shall be managed and disposed in a manner that will prevent a violation of the Groundwater Quality Protection Rules (OAR 340-040).

Notes:

1. When the total residual chlorine limitation is lower than 0.10mg/L, the Department will use 0.10mg/L as the compliance evaluation level (i.e. daily maximum concentrations below 0.10mg/L will be considered in compliance with the limitation).
2. If limitations are not achieved, the permitee must review their Storm Water Pollution Control Plan (SWPCP) within 60 days of receiving sampling results. The purpose of this review is to determine if the SWPCP is being followed and to identify any additional technically and economically feasible site controls that need to be implemented to further improve the quality of storm water discharges. These site controls include best management practices, spill prevention and response procedures, preventative maintenance, and employee education procedures as described in Schedule D.2.

SCHEDULE B

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

A. Outfall 001 & 002 (Stormwater)

Item or Parameter	Minimum Frequency	Type of Sample
Flow	Daily when discharging	Estimate
Oil & Grease	Weekly	Grab (See Note 1)
Oil & Grease	Daily	No visible sheen at any time (observation)
Total Suspended Solids	2/ year	Grab
Copper, Lead, and Zinc (Total and Dissolved)	2/ year	Grab
Oxygenated fuel additives (See Note 2)	Quarterly	Grab
Residual Chlorine	Per Event, prior to discharging potable hydrostatic test water	Grab

B. Outfall 003 (Treated Contact Water)

Item or Parameter	Minimum Frequency	Type of Sample
Flow	Daily when discharging	Estimate
Oil/ Water Separator	Daily	Visual Observations
Oil & Grease	Weekly	Grab (See Note 1)
Oxygenated Fuel Additives (See Note 2)	Quarterly	Grab
pH	2/ month	Grab
BTEX	1/ Month	Grab
Metals, cyanide, phenols (see table below)	1/ year	Grab(See Note 3)

Note 1: A monitoring reduction based upon facility performance will be allowed if the following condition is met. After one year of monitoring, the monitoring frequency may be reduced to two times per month if all monitoring results demonstrate compliance with the limits in Schedule A. The permitee must submit the request, including a summary of monitoring results, in writing to the Department.

Note 2: Oxygenated fuel additives means ethyl alcohol (ethanol) and/ or Methyl-t-Butyl Ether (MTBE). Sampling for either or both of these compounds is required only during the calendar quarters when either or both of these compounds is on-site in bulk quantities. Sampling for oxygenated fuel additives is not required if these compounds are on-site only in the form of a ready-to-use pre-blended fuel mixture.

Note 3: The permittee shall use a test method, as indicated in 40 CFR 136.3 and achieve a quantification level (QL) as listed in the table below. In the event that a sample is analyzed and the laboratory is unable to achieve the necessary QL, the permittee shall attach a request to the DMR for approval of the alternate QL for that sample, including a discussion of the reasons for the elevated QL. Within 30-days of receiving the DMR, the Department

may disapprove the alternate QL and, at its discretion, request re-sampling, or the alternative QL shall be deemed approved. The permittee must ensure that all monitoring analysis reports contain both the QL and detection level as defined below:

Dectection Level: Same as the "Method Dectection Limit (MRL) derived using 40CFR 136 Appendix B.

Quantitiation Limit: Same as the Method Reporting Limit (MRL). It is the lowest level at which the entire analytic 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-specific sample weights, volumes, and cleanup procedures have been employed.

Metals[1], Cyanide, Phenols and Hardness					
Pollutant	CAS Number	QL[2] (ug/L)	Pollutant	CAS Number	QL (ug/L)
Antimony [(1)]	7440360	0.1	Arsenic III [(1)]	22541544	50
Arsenic (inorganic) [(1)]	na	1.0	Beryllium [(1)]	7440417	0.1
Cadmium [(1)]	7440439	0.1	Chromium [(1)]	1440473	0.4
Copper [(1)]	7440508	10	Iron [(1)]	7439896	100
Mercury [(1)]	7439976	0.01	Lead [(1)]	7439921	5
Selenium [(1)]	7782492	2	Nickel [(1)]	7440020	10
Thallium [(1)]	7440280	0.1	Silver [(1)]	7440224	1
Cyanide (total)	57125	5	Zinc [(1)]	7440666	5
Total Phenolic Compounds	na	na	Cyanide (free)	57125	na
Hardness	na	na			
[1]All metals must be analyzed for total and dissolved [2] QL=Quantitation Limit					

2. **Reporting Procedures**

a. Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to the appropriate Department office by the 15th day of the following month.

b. 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. e1.0).

SCHEDULE D

Special Conditions

1. The permittee shall implement a contingency plan for prevention and handling of spills and unplanned discharges and the plan shall be in force at all times. A continuing program of employee orientation and education shall be maintained to ensure awareness of the necessity of good in-plant control and quick and proper action in the event of a spill or accident.

2. No later than 90 days after receiving this permit, the permitee must complete or revise and begin implementation of their SWPCP to meet any new permit requirements. A current copy of the SWPCP must be kept at the facility at all times.

    a. SWPCP revision- Any newly identified site controls must be implemented in a timely manner (not to exceed 60 days) and incorporated into the SWPCP as an update. A new SWPCP is not required. If no additional site controls are identified, the permitee must state as such in an update to the SWPCP.

    b. SWPCP Revising Submittal- The permittee must submit any revisions to the SWPCP within 14 days after the SWPCP is revised. Copies must be provided upon request, to government agencies responsible for storm water management in the permittee's area. If the Department does not comment on the revised SWPCP within 30 days, the permittee must implement the revisions as proposed.

    c. The SWPCP must be prepared and implemented according to the time frames set forth above. The SWPCP must be signed in accordance with 40CFR § 122.22. Updates and revisions to the SWPCP shall also be signed in this manner. The SWPCP must be signed as follows:

    d. For a Corporation- By a responsible corporate officer;

    e. For a Partnership or Sole Proprietorship- By a general partner or the proprietor, respectively; or

    f. For a Municipality, State, Federal, or other Public Facility-By either a principal executive officer or ranking elected official.

    g. The SWPCP shall be kept current and updated as necessary to reflect any changes in facility operation.

3. Storm Water Pollution Control Plan Requirements
    a. Site Description. The SWPCP must contain the following information:
    b. A description of the industrial activities conducted at the site. Including a description of the signification materials (See Schedule D.13., Definitions) that are stored, used, treated and/or disposed of in a manner that allows exposure to storm water. Also describe the methods of storage, useage, treatment and.or disposal.
    c. A general location map showing the location of the site in relation to surrounding properties, transportation routes, surface waters and other relevant features.
    d. A site map including the following:
    e. Drainage patterns
    f. Drainage and discharge structures
    g. Outline of the drainage area for each storm water outfall
    h. Paved areas and buildings within each drainage area
    i. Areas used for outdoor manufacturing, treatment, storage, and/or disposal of significant materials.
    j. Existing structural control measures for reducing pollutants in stormwater runoff
    k. Material loading and access areas
    l. Hazardous waste treatment, storage and disposal facilities
    m. Location of wells including injection wells, seepage pits, drywells, etc.
    n. Locations of springs, wetlands and other surface water bodies.

o. Estimates of the amount of impervious surface area (including paved areas and building roofs) relative to the toal area drained by each storm water outfall.
p. For each area of the site where a reasonable potential exists for contributing pollutants to storm water runoff, identify the potential pollutants that could be present in storm water discharges.
q. The names(s) of the receiving water(s) for storm water drainage. If drainage is to a municipal storm sewer systems, the name (s) of the ultimate receiving waters and the name of the municipality
r. Identification of the discharge outfall(s) and point(s) where storm water monitoring will occur as required by Schedule B.

4. Site Controls

The permittee must maintain existing controls and/or develop new controls appropriate for the site. The purpose of these controls is to eliminate or minimize the exposure of pollutants to storm water. In developing a control strategy , the SWPCP must have the following minimum components. A description of each component shall be included in the SWPCP.

Storm Water Best Management Practices If technically and economically feasible, the following best management practices must be employed at the site. A schedule for implementation of these practices must be included in the SWPCP if the practice has not already been accomplished. The schedule must be consistent with the requirements for developing and implementing the SWPCP in Schedule C of the permit.

Containment- All hazardous materials (See Schedule D X., Definitions) must be stored within berms or other secondary containment devices to prevent leaks and spills from contaminating storm water. If the use of berms or secondary containment devices is not possible, then hazardous materials shall be stored in areas that do not drain to the storm sewer system.

Oil & Grease- Oil/ Water separators, booms, skimmers or other methods must be employed to eliminate or minimize oil and grease contamination of storm water discharges.

Waste Chemicals and Material Disposal- Wastes must be recycled or properly disposed of in a manner to eliminate or minimize exposure of pollutants to storm water. All waste contained in bins or dumpsters where there is a potential for drainage of storm water through the waste must be covered to prevent exposure of storm water to these pollutants. Acceptable covers include, but are not limited to storage bins or dumpsters under roofed areas and use of lids or temporary covers such as tarps.

Erosion and Sediment Control- Erosion control methods such as vegetating exposed areas, graveling or paving must be employed to minimize erosion of soil at the site. Sediment control methods such as detention facilities, sediment control fences, vegetated filter strips, bioswales, or grassy swales shall be employed to minimize sediment loads in storm water discharges. For activities that involve land disturbance, the permittee must contact the local municipality to determine if there are other applicable requirements.

Debris Control- Screens, booms, settling ponds, or other methods must be employed to eliminate or minimize debris in storm water discharges.

Storm Water Diversion- Storm water must be diverted away from fueling, manufacturing, treatment, storage, and disposal areas to prevent exposure of uncontaminated storm water to potential pollutants.

Covering Activities-Fueling, manufacturing, treatment, storage, and disposal areas must be covered to prevent exposure of storm water to potential pollutants. Acceptable covers include, but are not limited to, permanent structures such as roofs or buildings and temporary covers such as tarps.

Housekeeping- Areas that may contribute to pollutants to storm water must be kept clean. Sweeping, prompt clean up of spills and leaks, and proper maintenance of vehicles shall be employed to eliminate or minimize exposure of storm water to pollutants.

Spill Prevention and Response Procedures. Methods to prevent spills along with clean-up and notification procedures must be included in the SWPCP. These methods and procedures must be made available to appropriate personnel. The required clean up material must be onsite and readily available. Spills prevention plans required by other regulations may be substituted for this provision providing that storm water management concerns are adequately addressed.

5. *Preventative Maintenance.* A preventative maintenance program must be implemented to ensure the effective operation of all storm water best management practices. At a minimum the program must included:

    a. Monthly inspections of areas where potential spills of significant materials or industrial activities could impact storm water runoff.
    b. Monthly inspections of storm water control measures, structures, catch basins, and treatment facilities.
    c. Cleaning, maintenance and/or repair of all materials handling and storage areas and all storm water control measures, structures, catch basins, and treatment facilities as needed upon discovery.

6. *Employee Education*. An employee orientation and education program shall be developed and maintained to inform personnel of the components and goals of the SWPCP. The education program must also address spill response procedures and the necessity of good housekeeping practices. A schedule for employee education shall be included in the SWPCP.

7. ***Record Keeping and Internal Reporting Procedures***- The following information must be recorded and maintained at the facility and provided to the Department and other government agencies upon request. This information does not need to be submitted as part of the SWPCP.

    a. Inspection, maintenance, repair and education activities as required by SWPCP.
    b. Spills leaks of significant materials that impacted or had the potential to impact stormwater or surface waters. Include the corrective actions to clean up the spill or leak as well as measures to prevent future problems of the same nature.

8. A site contact person shall be designated to coordinate and carry out all necessary functions related to operation and maintenance of waste collection, treatment, and disposal facilities. This person must have access to all information pertaining to the generation of wastes in the various process areas.

9. The permittee is required to immediately notify the designated DEQ Western Region office of any plant malfunction spill or release that may cause an adverse impact to the environment or public health.

10. 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. The facility undergoes any process changes.
    b. Discharge monitoring data indicate a change in the reasonable potential to exhibit toxicity.

11. **Releases in Excess of Reportable Quantities.** This permit does not relieve the permittee of the reporting requirements of 40 CFR § 117 Determination of Reportable Quantities for Hazardous Substances and 40 CFR§ 302 Designation, Reportable Quantities, and Notificaiton.
12. **Availablility of SWPCP and Monitoring Data.** The Storm Water Pollution Control Plan and/or storm water monitoring data shall be made available to government agencies responsible for storm water management in the permitee's area.

13. Definitions:

A) Capital Improvements means the following improvements that require capital expenditures:

I. *Treatment best management practices including but not limited to settling basins, oil/water separation equipment, catch basins, grassy swales, and detention/retention basins.*
II. *Manufacturing modificiations that incur capital expenditures, including process design changes for reduction of pollutants or wastes at the source.*
III. *Concrete pads, dikes and conveyance or pumping systems utilized for collection and transfer of storm water to treatment systems.*
IV. *Roofs and appropriate covers for manufacturing areas.*

b) *Hazardous Materials* as defined in 40 CFR§302 Designation, Reportable Quantities, and Notification.

c) *Material Handling Activities* include the storage, loading and unloading, transportation or conveyance of raw material, intermediate product, finished product, by-product or waste product.

d) *Point Source* means a discharge from any discernable, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, or conduit

e) *Significant Materials* includes, but is not limited to: Raw materials, fuels; materials such as solvents, detergents, and plastic pellets, finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical that a facility is required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ash, slag, and sludge that have the potential to be released with storm water discharges.

f) *Product Dispensing Equipment* includes the pump, hose, nozzle, and meter assembly used to dispense product.

g) *Product Dispensing Site* is a site where product is dispensed for final use; e.g, a vehicle fueling station.

h) *Secondary Containment Area* means a containment area for a tank or tanks, intended to prevent a release to the environment in the event of an accidental release of product.

i) Storm Water means storm water runoff, snow melt runoff, and surface runoff and drainage.

J) Storm Water Discharge Associated with Industrial Activities [Edited version of 40 CFR § 122.26(b)(14)] means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR § 122. For the categories of industries identified in 40 CFR § 122.26(b)(14), the term includes , but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refusesites; sites used for the application or disposal of process waste waters [as defined at 40 CFR §401]; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.

For the categories of industries identified in 40 CFR § 122.26, the term includes only storm water discharges from all areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery **are exposed to storm water.** For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are federally, state, or municipally owned or operated that meet the description of the facilities listed in 40 CFR § 122.26) also include those facilities designated under the provisions of 40 CFR § 122.26 (a)(1)(v).

SCHEDULE F
NPDES GENERAL CONDITIONS – INDUSTRIAL FACILITIES

SECTION A. STANDARD CONDITIONS

A1. 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 DEQ to terminate, modify and reissue, revoke, or deny renewal of a permit.

A2. 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 Environmental Quality Commission (EQC) rules, and EPA enforcement is generally based on provisions of federal statutes and EPA regulations.

ORS 468.140 allows DEQ 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 $250,000 and up to 10 years in prison. ORS 161. 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 is subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both.

A3. 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 DEQ, 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.

A4. 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.

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

A5. 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.

A6. 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 federal 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.

A7. 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.

A8. 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 federal Clean Water Act, all rules and statutes referred to in this permit are those in effect on the date this permit is issued.

A9. Permit Fees
The permittee must pay the fees required by OAR.

SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

B1. 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.

B2. 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.

B3. 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 DEQ may take enforcement action against a permittee for bypass unless:

i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

ii. 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

iii. The permittee submitted notices and requests as required under General Condition B3.c.

(2) DEQ may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when DEQ determines that it will meet the three conditions listed above in General Condition B3.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 DEQ 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 D5.

B4. 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 B4.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 D5, hereof (24-hour notice); and

(4) The permittee complied with any remedial measures required under General Condition A3 hereof.

d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

B5. 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 federal Clean Water Act effluent discharge pollutant parameter. A single

operational upset does not include federal 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.

B6. 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 (for example, public water systems) about the extent and nature of the discharge in accordance with the notification procedures developed under General Condition B7. 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.

B7. 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.

B8. 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

C1. Representative Sampling

Sampling and measurements taken as required herein must be representative of the volume and nature of the monitored discharge. All samples must be taken at the monitoring points specified in this permit, and must be taken, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points must not be changed without notification to and the approval of DEQ.

C2. 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.

C3. 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, approved under 40 CFR part 503 unless other test procedures have been specified in this permit.

C4. Penalties of Tampering

The federal 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.

C5. Reporting of Monitoring Results
Monitoring results must be summarized each month on a Discharge Monitoring Report form approved by DEQ. 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.

C6. 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, approved 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 (for example, Total Chlorine Residual), only the average daily value must be recorded unless otherwise specified in this permit.

C7. Averaging of Measurements
Calculations for all limitations that require averaging of measurements must utilize an arithmetic mean, except for bacteria which must be averaged as specified in this permit.

C8. Retention of Records
Records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities must be retained for a period of at least 5 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 must 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 DEQ at any time.

C9. 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.

C10. Inspection and Entry
The permittee must allow DEQ 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.

C11. 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 are not classified as confidential. 40 CFR § 122.7(b).

SECTION D. REPORTING REQUIREMENTS

D1. Planned Changes

The permittee must comply with OAR 340-052, "Review of Plans and Specifications" and 40 CFR § 122.41(l)(1). Except where exempted under OAR 340-052, 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 DEQ. The permittee must give notice to DEQ as soon as possible of any planned physical alternations or additions to the permitted facility.

D2. Anticipated Noncompliance

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

D3. 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 EQC rules. No permit may be transferred to a third party without prior written approval from DEQ. DEQ 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 § 122.61. The permittee must notify DEQ when a transfer of property interest takes place.

D4. 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.

D5. 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 DEQ regional office must be called. Outside of normal business hours, DEQ 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 DEQ 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 B7.

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

D6. Other Noncompliance

The permittee must report all instances of noncompliance not reported under General Condition D4 or D5, 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.

D7. Duty to Provide Information

The permittee must furnish to DEQ within a reasonable time any information that DEQ 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 DEQ, 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 DEQ, it must promptly submit such facts or information.

D8. Signatory Requirements

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

D9. 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 $125,000 per violation and up to 5 years in prison. ORS 161. 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 will, 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.

D10. Changes to Discharges of Toxic Pollutant

The permittee must notify DEQ 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 § 122.21(g)(7); or
   (4) The level established by DEQ in accordance with 40 CFR § 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 § 122.21(g)(7); or
   (4) The level established by DEQ in accordance with 40 CFR § 122.44(f).

SECTION E. DEFINITIONS

E1. *BOD or BOD_5* means five-day biochemical oxygen demand.
E2. *CBOD or $CBOD_5$* means five-day carbonaceous biochemical oxygen demand.
E3. *TSS* means total suspended solids.
E4. *Bacteria* means but is not limited to fecal coliform bacteria, total coliform bacteria, and *E. coli* bacteria.
E5. *FC* means fecal coliform bacteria.
E6. *Total residual chlorine* means combined chlorine forms plus free residual chlorine
E7. *Technology based permit effluent limitations* means technology-based treatment requirements as defined in 40 CFR § 125.3, and concentration and mass load effluent limitations that are based on minimum design criteria specified in OAR 340-041.
E8. *mg/l* means milligrams per liter.
E9. *kg* means kilograms.
E10. *m^3/d* means cubic meters per day.
E11. *MGD* means million gallons per day.
E12. *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*.
E13. *Grab sample* means an individual discrete sample collected over a period of time not to exceed 15 minutes.
E14. *Quarter* means January through March, April through June, July through September, or October through December.
E15. *Month* means calendar month.
E16. *Week* means a calendar week of Sunday through Saturday.