



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

Oregon Department of Environmental Quality
Northwest Region Office
2020 SW Fourth Ave., Suite 400 Portland, OR 97201
Telephone: 503-229-5263

Issued pursuant to ORS 468B.050 and The Federal Water Pollution Control Act (The Clean Water Act)

ISSUED TO:

Arkema, Inc.
468 Thomas Jones Way
Exton, PA 19341

SOURCES COVERED BY THIS PERMIT:

Type of Waste	Outfall Number	Location
Treated	004	Willamette River, RM 7.2
Groundwater		

FACILITY TYPE AND LOCATION:


Groundwater Treatment System - Former
Chemical Manufacturing Facility
6400 NW Front Ave.
Portland, OR 97210

RECEIVING STREAM INFORMATION:

WRD Basin: Willamette
USGS Subbasin: Lower Willamette
Receiving Stream: Willamette River
LLID: 1227618456580-7.2-D
Lat/Long: 45.573/-122.745
County: Multnomah

EPA REFERENCE #: OR0044695

Issued in response to application #962555 received November 16, 2012 and supplemental information received on March 6, 2013 and September 12, 2013, and based on the land use compatibility statement in the permit record.



Tiffany Yelton-Bram, Manager Water Quality
Source Control Section
Northwest Region

Signature Date

April 3, 2014
Effective Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to: 1) operate a wastewater collection, treatment, control and disposal system; and 2) discharge treated wastewater to waters of the state only from the authorized discharge point or points in Schedule A in conformance with the requirements, limits, and conditions set forth in this permit.

Unless specifically authorized by this permit, by another NPDES or WPCF permit, or by Oregon statute or administrative rule, any other direct or indirect discharge of pollutants to waters of the state is prohibited.

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SCHEDULE A
Waste Discharge Limits

1. Treated Effluent Outfall 004

The permittee must comply with the limits in the following table:

Table A1: Outfall 004 Treated Effluent Limits		
Parameter	Monthly Average	Daily Maximum
Cadmium ¹	0.41 µg/L	0.83 µg/L
Chloride	3900 mg/L	7700 mg/L
Chlorobenzene	74 µg/L	150 µg/L
2-Chlorophenol	14 µg/L	28 µg/L
Chromium VI	Calculated limit is 8.0 µg/L; Compliance will be demonstrated by not exceeding the Quantitation Limit of 10 µg/L	16 µg/L
4,4'- DDD	Calculated limit is 0.000031 µg/L; Compliance will be demonstrated by not exceeding the Quantitation Limit of 0.01 µg/L ²	Calculated limit is 0.000062 µg/L; Compliance will be demonstrated by not exceeding the Quantitation Limit of 0.01 µg/L ²
4,4'- DDE	Calculated limit is 0.000022 µg/L; Compliance will be demonstrated by not exceeding the Quantitation Limit of 0.01 µg/L ²	Calculated limit is 0.000044 µg/L; Compliance will be demonstrated by not exceeding the Quantitation Limit of 0.01 µg/L ²
4,4'- DDT	Calculated limit is 0.000022 µg/L; Compliance will be demonstrated by not exceeding the Quantitation Limit of 0.01 µg/L ²	Calculated limit is 0.000044 µg/L; Compliance will be demonstrated by not exceeding the Quantitation Limit of 0.01 µg/L ²
Iron ¹	820 µg/L	1600 µg/L
Perchlorate	15 ug/L	30 ug/L
pH	Within the range of 6.5 – 8.5 S.U. at all times	
Tetrachloroethylene	Calculated limit is 0.24 µg/L; Compliance will be demonstrated by not exceeding the Quantitation Limit of 0.5 µg/L	Calculated limit is 0.48 µg/L; Compliance will be demonstrated by not exceeding the Quantitation Limit of 0.5 µg/L
<p>Table A1 notes:</p> <ol style="list-style-type: none"> Total Recoverable If the permittee demonstrates, in accordance with the methodology in 40 CFR Part 136, that a higher quantitation limit is needed due to matrix interference, DEQ may approve the change. DEQ's approval must be in writing. 		

2. Regulatory Mixing Zone

No wastes may be discharged or activities conducted that cause or contribute to a violation of water quality standards in OAR Chapter 340, Division 41 applicable to the Willamette Basin except within the following regulatory mixing zone:

The mixing zone for chloride is defined as that portion of the Willamette River within a 25-foot radius centered on the outfall's diffuser.

The zone of initial dilution for chloride is defined as that portion of the Willamette River within 2.5-foot radii centered on the outfall's individual ports.

SCHEDULE B
Minimum Monitoring and Reporting Requirements

1. Monitoring and Reporting Protocols

a. Sampling, Test Methods, and Laboratory Quality Assurance and Quality Control (QA/QC)

For all test methods used, the analyses must meet the quantitation limits specified in this schedule, unless the pollutant concentration of the sample can be quantified using a higher analytical threshold. If the permit holder demonstrates, in accordance with the methodology in 40 CFR Part 136, that a higher quantitation limit is needed due to matrix interference, DEQ may approve the change. DEQ's approval must be in writing. The permit holder may also request permission to use a different test method if the one listed in the permit is obsolete, or if a method with comparable or greater accuracy has been identified. As with changes to Quantitation Limits (QLs), DEQ's approval must be in writing. Regarding QA/QC, the permittee must develop and implement a written QA/QC program to verify the accuracy of sample analyses as specified in 40 CFR part 136. The QA/QC program must conform to the requirements of 40 CFR Part 136.7. For further instruction on proper sampling techniques, test methods and the use of laboratories with QA/QC procedures, see Schedule F, Sections B.1 and C.

b. Re-analysis and Re-sampling if QA/QC Requirements Not Met

If QA/QC requirements are not met any analysis, the results must be included in reports, but not used in calculations required by this permit. The permittee must re-analyze the sample if QA/QC requirements are not met. If the sample cannot be re-analyzed, the permittee must re-sample and analyze at the earliest opportunity.

c. Significant Figures and Rounding Conventions

The permittee must report the same number of significant digits as the permit limit for a given parameter. Regardless of the rounding conventions used by the permittee (such as, rounding 5 up for the calculated results or, in the case of laboratory results, rounding 5 to the nearest even number), the permittee must use the convention consistently, and must ensure that laboratories employed by the permittee use the same convention.

d. Reporting of Detection Levels and Quantitation Limits

When reporting sampling results, the permittee must record the laboratory detection level and quantitation limit as defined below for each analyte except pH, volume discharged, temperature and hardness.

- i. Detection Level (DL): The Method Detection Limit (MDL) or Limit of Detection (LOD) and derived using 40 CFR §136 Appendix B; and
- ii. Quantitation Limit (QL): The Method Reporting Limit (MRL) or Limit of Quantitation (LOQ). It is the lowest level at which the entire analytical system gives 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.

e. Reporting Sample Results

The permittee must follow the procedures listed below when reporting sampling results.

- i. If a sample result is at or below the DL, report the result as less than the specified DL. For example, if the DL is 1.0 µg/L and the result is non-detect, report "<1.0 µg/L" on the discharge monitoring report (DMR).
- ii. For Compliance Monitoring (Table B.1), if a sample result is below the QL, report the result as less than the specified QL (or the alternate QL approved by DEQ as noted in Schedule A, Table A1)..

- iii. For Characterization Monitoring (Table B.2), if a sample result is at or above the DL but below the QL, report the result as the DL preceded by DEQ's data code "e". For example, if the DL is 1.0 µg/l, the QL is 3.0 µg/L, and the result is estimated to be between the DL and QL, report "e1.0 µg/L" on the DMR.

Requirements e.i., e.ii, and e.iii, above do not apply to the following parameters: pH, volume discharged, temperature and hardness.

2. Outfall 004 Compliance Effluent Monitoring

The permittee must monitor effluent for Outfall 004 in accordance with the table below at a location after the treatment system, prior to mixing with any other effluent and prior to the outfall.

Table B1: Outfall 004 Compliance Monitoring Requirements					
Parameter	CAS ¹	QL ²	Minimum Frequency ³	Sample Type/Action	Report
Cadmium ⁴	7440439	0.1	1/Week, when discharging	24-hour Composite	1. Daily values 2. Monthly average Maximum daily value
Chloride	16887006	-	1/Week, when discharging	24-hour Composite	Same as above
Chlorobenzene	108907	0.5	1/Week, when discharging	24-hour Composite	Same as above
2-Chlorophenol	95578	1	1/Week, when discharging	24-hour Composite	Same as above
Chromium VI	18540299	10	1/Week, when discharging	24-hour Composite	Same as above
4,4'- DDD	72548	0.01	1/Week, when discharging	24-hour Composite	Same as above
4,4'- DDE	72559	0.01	1/Week, when discharging	24-hour Composite	Same as above
4,4'- DDT	50293	0.01	1/Week, when discharging	24-hour Composite	Same as above
Iron ⁴	7439896	100	1/Week, when discharging	24-hour Composite	Same as above
Perchlorate			1/Week, when discharging	24-hour Composite	Same as above
Tetrachloroethylene	127184	0.5	1/Week, when discharging	24-hour Composite	Same as above
pH	N/A	-	1/Week, when discharging	Grab	1. Daily min. and max. values 2. Monthly min. and max. values

Table B1 notes:

1. Chemical Abstract Service
2. Some QL's may need methods with modification allowed by EPA's Solutions for Analytical Chemistry Problems w/Clean Water Methods, March 2007. The units for the QL's shown are µg/L.
3. Monitoring is only required during weeks when discharges occur.
4. Total Recoverable

3. Outfall 004 Effluent Characterization Monitoring

The permittee must analyze effluent samples for the parameters listed in Table B2 below. The permittee must monitor effluent for Outfall 004 in accordance with the table below. Samples must be collected at a location after the treatment system, prior to mixing with any other effluent and prior to the outfall. If monitoring for a specified pollutant (and specified form) is required under compliance monitoring, the monitoring does not need to be repeated for characterization monitoring.

Table B2: Outfall 004 Characterization Monitoring Requirements					
Parameter ³	CAS ¹	QL ² (µg/L)	Minimum Frequency	Sample Type/Action	Report
Volume Discharged (MGD)	N/A	-	Daily, when discharging	Metering	1. Daily values 2. Monthly average 3. Maximum daily value
Temperature (°C)	N/A	-	Daily, when discharging	Recorder	1. Daily values 2. Maximum daily value 3. 7 day moving average of daily maxima (7 DADM) 4. Maximum 7 DADM
Outfall Pipe Condition	N/A	-	Annual	Inspection	Narrative report
Hardness (as CaCO ₃)	N/A	-	1/Quarter, when discharging	24-hour Composite	Daily Values (mg/L)
Metals ³					
Arsenic (total)	7440382	0.50	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Arsenic (Inorganic) ⁴	7440382	1.0	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Chromium (total) ⁵	7440473	0.40	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Chromium III ⁵	16065831	10	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Copper	7440508	10	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Iron	7439896	100	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Manganese	7439965	2	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Mercury	7439976	0.005	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Nickel	7440020	10	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Silver	7440224	1	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Zinc	7440666	5.0	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Volatile Organic Compounds					
Benzene	71432	0.5	1/Quarter, when discharging	24-hour Composite	Same as above
Carbon Tetrachloride	56235	0.50	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Chlorodibromomethane	124481	0.50	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Chloroform	67663	0.50	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Trichloroethylene	79016	0.50	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Acid-Extractable Compounds					
2,4-dichlorophenol	120832	1.0	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Base-Neutral Compounds					
Hexachlorobenzene	118741	1.0	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Pesticides					
Aldrin	309002	0.01	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
BHC-gamma (Lindane)	58899	0.010	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
β - BHC	319857	0.01	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)
Methoxychlor	72435	0.010	1/Quarter, when discharging	24-hour Composite	Daily Values (ug/L)

Table B2: Outfall 004 Characterization Monitoring Requirements (Continued)					
<u>Parameter</u>	<u>CAS¹</u>	<u>QL²</u> (pg/L)	<u>Minimum Frequency</u>	<u>Sample Type/Action</u>	<u>Report</u> (pg/L)
Dioxins and Furans					
2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD)	1746016	5	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,7,8-Pentachlorodibenzo-p-dioxins (PeCDD)	40321764	10	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,6,7,8-Hexachlorodibenzo-p-dioxin (HxCDD)	57653857	10	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,4,7,8-Hexachlorodibenzo-p-dioxin (HxCDD)	39227286	10	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,7,8,9-Hexachlorodibenzo-p-dioxin (HxCDD)	19408743	10	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (HpCDD)	35822469	10	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268879	20	1/Quarter, when discharging	24-hour Composite	Daily Values
2,3,7,8-Tetrachlorodibenzofuran (TCDF)	51207319	5	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,7,8-Pentachlorodibenzofuran (PeCDF)	57117416	10	1/Quarter, when discharging	24-hour Composite	Daily Values
2,3,4,7,8-Pentachlorodibenzofuran (PeCDF)	57117314	10	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,6,7,8-Hexachlorodibenzofuran (HxCDF)	57117449	10	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,7,8,9-Hexachlorodibenzofuran (HxCDF)	72918219	10	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,4,7,8-Hexachlorodibenzofuran (HxCDF)	70648269	10	1/Quarter, when discharging	24-hour Composite	Daily Values
2,3,4,6,7,8-Hexachlorodibenzofuran (HxCDF)	60851345	10	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,4,6,7,8-Heptachlorodibenzofuran (HpCDF)	67562394	10	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,4,7,8,9-Heptachlorodibenzofuran (HpCDF)	55673897	10	1/Quarter, when discharging	24-hour Composite	Daily Values
1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001020	20	1/Quarter, when discharging	24-hour Composite	Daily Values

Table B2 Notes:

1. Chemical Abstract Service
2. The units for the QL's shown are µg/L with the exception of those for dioxins and furans, which are pg/L. Some QLs may need methods with modification allowed in 40 CFR Part 136.6 or EPA's Solutions for Analytical Chemistry Problems w/Clean Water Methods, March 2007.
(url: http://water.epa.gov/scitech/methods/cwa/atp/upload/2008_02_06_methods_pumpkin.pdf)
3. All metals must be analyzed for both the total recoverable concentration and the dissolved concentrations, with the exception of arsenic, chromium (both total and Cr III), iron, and mercury – which must be analyzed only for the total recoverable concentration.
4. If the result for Total Arsenic does not exceed 1.0 µg/L, it is not necessary to monitor for Inorganic Arsenic and Arsenic III. Otherwise, Method 1632A must be used for monitor for Inorganic Arsenic and Arsenic III.
5. If the result for Total Chromium does not exceed 10 µg/L, then it is not necessary to monitor for Chromium III. If the permittee monitors for Chromium III, then it is not necessary to monitor for Total Chromium.

5. Summary Minimum Reporting Requirements

The permittee must report monitoring results as listed below.

Table B3: Reporting Requirements and Due Dates				
Reporting Requirement	Frequency	Due Date	Report Form	Submit To:
Compliance Effluent Monitoring (Table B1)	Monthly	45 th day following the completed monitoring period	DEQ-approved discharge monitoring report (DMR) form, hard copy	DEQ Northwest Regional Office
Effluent Characterization Monitoring (Table B2)	Quarterly	45 th day following the completed monitoring period	<ul style="list-style-type: none">• DEQ - approved electronic summary template• 1 hard copy	DEQ Northwest Regional Office

SCHEDULE D
Special Conditions

1. Spill/Emergency Response Plan

The permittee must develop and implement an up-to-date Spill/Emergency Response Plan to address the prevention and handling of spills and unplanned discharges. This plan must include the required elements of the "Emergency Response and Public Notification Plan" as listed in Schedule F, condition B.7 of this permit. The permittee must ensure that the plan also includes the following:

- a. A description of the reporting system and requirements that will be used to alert responsible managers, the public and legal authorities in the event of a spill. These must be consistent with the reporting and notification requirements found in Schedule F, conditions B.7 and D.5.
- b. A description of preventive measures and facilities (including an overall facility plot showing drainage patterns) to prevent, contain, or treat spills of these materials.
- c. A description of the permittee's training program to ensure that employees are properly trained at all times to be aware of, and to respond to, unplanned and emergency incidents.

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 per ORS chapter 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 residual chlorine), 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(I)(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 per ORS chapter 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 *BOD₅* means five-day biochemical oxygen demand.
- E2. *CBOD* or *CBOD₅* 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, *Escherichia coli* (*E. coli*) bacteria, and *Enterococcus* 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. *µg/l* means microgram per liter.
- E10. *kg* means kilograms.
- E11. *m³/d* means cubic meters per day.
- E12. *MGD* means million gallons per day.
- E13. *Average monthly effluent limitation* as defined at 40 CFR § 122.2 means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- E14. *Average weekly effluent limitation* as defined at 40 CFR § 122.2 means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.
- E15. *Daily discharge* as defined at 40 CFR § 122.2 means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge must be calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge must be calculated as the average measurement of the pollutant over the day.
- E16. *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*.
- E17. *Grab sample* means an individual discrete sample collected over a period of time not to exceed 15 minutes.
- E18. *Quarter* means January through March, April through June, July through September, or October through December.
- E19. *Month* means calendar month.
- E20. *Week* means a calendar week of Sunday through Saturday.