



NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM WASTE DISCHARGE PERMIT

Oregon Department of Environmental Quality
Northwest Region – Portland Office
700 NE Multnomah St., Suite 600
Portland, OR 97232
Telephone: 503-229-5263

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

ISSUED TO:

Port of Portland
5100 NE Sundial Road
Portland, OR 97203

SOURCES COVERED BY THIS PERMIT:

Type of Waste	Outfall Number	Outfall Location
Remediated groundwater, treated laboratory water, treated basin water samples, groundwater from construction dewatering	001	45.565772/122.407414

FACILITY LOCATION:

Troutdale Reynolds Industrial Park
5100 NE Sundial Road
Troutdale, OR 97060
County: Multnomah
EPA Permit Type: Minor

RECEIVING STREAM INFORMATION:

WRD Basin: Willamette
USGS Sub-Basin: Lower Willamette
Receiving Stream name: Columbia River
NHD Reach Code: 17080003038248(62.85%)
LLID: 1240483462646 – 116.8

Issued in response to Application No. 964239 received April 30, 2012. This permit is issued based on the land use findings in the permit record.

Tiffany Yelton-Bram, Water Quality
Source Control Section Manager

February 23, 2023
Issuance Date

April 1, 2023
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 and groundwater from construction dewatering 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 Water Pollution Control Facility 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. Outfall 001 – Permit Limits

During the term of this permit, the permittee must comply with the limits in the following table:

Table A1: Permit Limits Outfall 001 (Year Round)

Parameter	Units	Average Monthly	Daily Maximum
Chlorine, Total Residual (See notes a and b.)	mg/L	0.019	0.042
Cyanide, Free	mg/L	0.014	0.018
Thermal Load (June 1 – Sept. 30)	million kcal/day	227	--
Fluoride, Total (as F)	mg/L	7.8	14.9
pH	SU	Instantaneous limit between a daily minimum of 6.8 and a daily maximum of 9.0	
Notes:			
a. DEQ has established a Quantitation Limit of 0.05 mg/L for Total Residual Chlorine. Any analysis done for Total Residual Chlorine must have a quantitation limit that is either equal to or less than 0.05 mg/L. In cases where the average monthly or maximum daily limit for Total Residual Chlorine is lower than the Quantitation Limit, DEQ will use the reported Quantitation Limit as the compliance evaluation level.			
b. Chlorine may be used periodically to remove biological fouling that accumulates on well screens installed in the shallow, focused groundwater extraction wells. Chlorinated well water must be discharged through Outfall 001. Chlorine may not be used for any other purpose by the permittee. Monitoring for chlorine, per the requirements of Schedule B, shall be conducted when chlorine containing products are used to remove biological fouling.			

Flows from dewatering activities associated with the construction of subsurface infrastructure must be handled utilizing Best Management Practices (BMPs) to remove and/or reduce sediment and suspended solids.

2. Regulatory Mixing Zone

Pursuant to OAR 340-041-0053, the permittee is granted a regulatory mixing zone as described below:

The allowable mixing zone is that portion of the Columbia River within 50 feet in any direction from the outfall. The zone of initial dilution is that portion of the Columbia River within 16 feet in any direction from the outfall.

SCHEDULE B: MINIMUM MONITORING AND REPORTING REQUIREMENTS

1. Reporting Requirements

The permittee must submit to DEQ monitoring results and reports as listed below.

Table B1: Reporting Requirements and Due Dates

Reporting Requirement	Frequency	Due Date (See note a.)	Report Form (See note b.)	Submit To:
Tables B2, B3 Effluent Monitoring, Ambient Monitoring	Monthly	By the 15th of the following month	Specified in Schedule B. Section 2 of this permit	Electronic reporting as directed by DEQ
Table B4: WET Test Monitoring	Once per quarter in 2024 (See note c.)	With the first DMR submittal after receipt of the test results	Electronic copy in a DEQ-approved format	Attached via electronic reporting as directed by DEQ
Mixing Zone Study (See Schedule D)	One time	Submit by 12/15/2026	Electronic copy in a DEQ-approved format	Attached via electronic reporting as directed by DEQ
Outfall Inspection Report (See Schedule D)	Once per permit cycle	Submit by 12/15/2025	Electronic copy in a DEQ-approved format	Attached via electronic reporting as directed by DEQ
Notes:				
a. For submittals that are provided to DEQ by mail, the postmarked date must not be later than the due date.				
b. All reporting requirements are to be submitted in a DEQ-approved format, unless otherwise specified in writing.				
c. Quarters are defined as: Q1: Jan – Mar, Q2: Apr – Jun, Q3: Jul – Sept, Q4: Oct – Dec. If no discharge occurs during the quarter, continue sampling quarterly until 4 sets of samples have been collected.				

2. Monitoring and Reporting Protocols

a. Electronic Submissions

The permittee must submit to DEQ the results of monitoring indicated in Schedule B in an electronic format as specified below.

- i. The permittee must submit monitoring results required by this permit via DEQ-approved web-based Discharge Monitoring Report (DMR) forms to DEQ via electronic reporting. Any data used to calculate summary statistics must be submitted as a separate attachment approved by DEQ via electronic reporting.
- ii. The reporting period is the calendar month.
- iii. The permittee must submit monitoring data and other information required by this permit for all compliance points by the 15th day of the month following the reporting period unless specified otherwise in this permit or as specified in writing by DEQ.

b. **Test Methods**

The permittee must conduct monitoring according to test procedures in 40 CFR part 136 and 40 CFR part 503 for biosolids or other approved procedures as per Schedule F.

c. **Detection and Quantitation Limits**

- i. Detection Level (DL) – The DL is defined as the minimum measured concentration of a substance that can be distinguished from method blank results with 99% confidence. The DL is derived using the procedure in 40 CFR part 136 Appendix B and evaluated for reasonableness relative to method blank concentrations to ensure results reported above the DL are not a result of routine background contamination. The DL is also known as the Method Detection Limit (MDL) or Limit of Detection (LOD).
- ii. Quantitation Limits (QLs) – The QL is the minimum level, concentration or quantity of a target analyte that can be reported with a specified degree of confidence. It is the lowest level at which the entire analytical system gives a recognizable signal and acceptable calibration for the analyte. It is normally equivalent to the concentration of the lowest calibration standard adjusted for sample weights, volumes, preparation and cleanup procedures employed. The QL as reported by a laboratory is also sometimes referred to as the Method Reporting Limit (MRL) or Limit of Quantitation (LOQ).

d. **Sufficient Sensitivity of Quantitation Limits**

- i. The Laboratory QLs (adjusted for any dilutions) for analyses performed to demonstrate compliance with permit limits or as part of effluent characterization, must meet at least one of the requirements below:
 - (A) The QL is at or below the level of the water quality criterion for the measured parameter.
 - (B) The QL is above the water quality criterion but the amount of the pollutant in a facility's discharge is high enough that the method detects and quantifies the level of the parameter in the discharge.
 - (C) The QL has the lowest sensitivity of the analytical methods procedure specified in 40 CFR 136.
 - (D) The QL is at or below those defined in Oregon DEQ list of quantitation limits posted online at [the DEQ permitting website](#).
- ii. Matrix effects are present that prevent the attainment of QLs and these matrix effects are demonstrated according to procedures described in EPA's "*Solutions to Analytical Chemistry Problems with Clean Water Act Methods*", March 2007. If using alternative methods and taking appropriate steps to eliminate matrix effects does not eliminate the matrix problems, DEQ may authorize in writing re-sampling or allow a higher QL to be reported.

e. **Quality Assurance and Quality Control**

- i. Quality Assurance Plan – The permittee must develop and implement a written Quality Assurance Plan that details the facility sampling procedures, equipment calibration and maintenance, analytical methods, quality control activities and laboratory data handling and reporting. The QA/QC program must conform to the requirements of 40 CFR 136.7.

- ii. If QA/QC requirements are not met for any analysis, the permittee must re-analyze the sample. If the sample cannot be re-analyzed, the permittee must re-sample and analyze at the earliest opportunity. If the permittee is unable to collect a sample that meets QA/QC requirements, then the permittee must include the result in the discharge monitoring report (DMR) along with a notation (data qualifier). In addition, the permittee must explain how the sample does not meet QA/QC requirements. The permittee may not use the result that failed the QA/QC requirements in any calculation required by the permit unless authorized in writing by DEQ. If these method criteria are not met for BOD5, the permittee must: 1) report the daily BOD5 values with data qualifiers; 2) include these BOD5 values in the summary statistic calculations (e.g., weekly averages, monthly averages, % removal); and 3) report the BOD5 summary statistics with data qualifiers.
 - iii. Flow measurement, field measurement, and continuous monitoring devices - The permittee must:
 - (A) Establish verification and calibration frequency for each device or instrument in the quality assurance plan that conforms to the frequencies recommended by the manufacturer.
 - (B) Verify at least once per year that flow-monitoring devices are functioning properly according to manufacturer's recommendation. Calibrate as needed according to manufacturer's recommendations.
 - (C) Verify at least weekly that the continuous monitoring instruments are functioning properly according to manufacturer's recommendation unless the permittee demonstrates a longer period is sufficient and such longer period is approved by DEQ in writing.
 - iv. The permittee must develop a receiving water sampling and analysis plan that incorporates QA/QC prior to sampling. This plan must be kept at the facility and made available to DEQ upon request.
- f. **Reporting Sample Results**
- i. The permittee must report the laboratory DL and QL as defined above for each analyte, with the following exceptions: pH, temperature, BOD, CBOD, TSS, Oil & Grease, hardness, alkalinity, bacteriological analytes, and nitrate-nitrite. For temperature and pH, neither the QL nor the DL need to be reported. For the other parameters listed above, the permittee is only required to report the QL and only when the result is ND.
 - ii. The permittee must report the same number of significant digits as the permit limit for a given parameter.
 - iii. Chemical Abstracts Service (CAS) Numbers. CAS numbers (where available) must be reported along with monitoring results.
 - iv. (For Discharge Monitoring Reports) If a sample result is above the DL but below the QL, the permittee must 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, the permittee must report "e1.0 µg/L" on the DMR. This requirement does not apply in the case of parameters for which the DL does not have to be reported.

- v. (For Discharge Monitoring Reports) If the sample result is below the DL, the permittee must report the result as less than the specified DL. For example, if the DL is 1.0 µg/L and the result is ND, report “<1.0” on the discharge monitoring report (DMR). This requirement does not apply in the case of parameters for which the DL does not have to be reported.

3. Monitoring and Reporting Requirements

- a. The permittee must monitor effluent for Outfall 001 at building 70, after groundwater from extraction wells and production wells in thoroughly mixed, and report results in accordance with Table B1 and the table below:

Table B2: Effluent Monitoring Requirements

Item or Parameter	Units	Time Period	Minimum Frequency	Sample Type/ Required Action (See note a.)	Report Statistic (See note b.)
Flow (50050)	MGD	Year-round	Daily	Metered	1. Monthly Average 2. Daily Maximum
pH (00400)	SU	Year-round	1/Week	Grab	1. Daily Maximum 2. Daily Minimum
Chlorine, Total Residual (50060)	mg/L	Year-round	Daily when chlorine containing compounds are in use	Grab	1. Daily Maximum 2. Monthly Average
Cyanide, Free (00717) (See note c.)	mg/L	Year-round	1/Week	Grab	1. Daily Maximum 2. Monthly Average
Cyanide, Total (00720) (See notes c and d.)	mg/L	Year-round	1/Quarter	Grab	Value
Fluoride, Total (as F) (00951)	mg/L	Year-round	1/Week	24-hour composite	1. Daily Maximum 2. Monthly Average
Temperature (00010)	°C	February 1 – September 30	1/week	Grab	1. 7-day Rolling Average of Daily Maximum 2. Daily Maximum 3. Monthly Average
Thermal Load (00015)	Million kcal/day	June 1- Sept 30	Daily	Calculation (See note e.)	Monthly Average
Alkalinity as CaCO ₃ (00410)	mg/L	Year-round	1/Year	24-hour composite	Value

Item or Parameter	Units	Time Period	Minimum Frequency	Sample Type/ Required Action (See note a.)	Report Statistic (See note b.)
Chlorine used (81400)	lb/day	Year-round	Daily when chlorine containing compounds are in use	Scale reading	Daily Maximum

Notes:

- a. In the event of equipment failure or loss, the permittee must notify DEQ and deploy new equipment to minimize interruption of data collection. If new equipment cannot be immediately deployed, the permittee must perform grab measurements. If the failure or loss is for continuous temperature monitoring equipment, the permittee must perform grab measurements daily between 2 PM and 4 PM until continuous monitoring equipment is redeployed.
- b. When submitting DMRs electronically, all data used to determine summary statistics must be submitted in a DEQ-approved format as a spreadsheet via electronic reporting unless otherwise directed by DEQ.
- c. There are multiple approved methods for testing for free cyanide. For more information, refer to DEQ's analytical memo on the subject of cyanide monitoring at <https://www.oregon.gov/deq/FilterDocs/sToxiccyanide.pdf>
- d. Cyanide (free and total) must be collected as a grab sample according to 40 CFR 122. Twenty-four hour composite samples are not required for this analyte.
- e. The daily thermal load (TL) discharged must be calculated using the daily average effluent temperature and the corresponding daily average effluent flow using the formula below.

The monthly average is then calculated from the daily TLs.

The daily TL is calculated as follows: $TL = 3.785 * Q_e * T_e$

Where:

- TL = Thermal Load (million kcal/day)
- Q_e = Daily Average Effluent flow (MGD)
- T_e = Daily Average Effluent temperature (°C)

- b. When discharging, the permittee must monitor the Columbia and Sandy Rivers and report the results in accordance with Table B1 and the table below. The permittee must collect samples outside of the mixing zone.

Table B3: Ambient Monitoring (Columbia and Sandy River)

Item or Parameter	Units	Time Period	Minimum Frequency	Sample Type / Required Action	Report Statistic (See note a.)
Fluoride, Total (as F) (00951) (See note b)	mg/L	August 1-October 31	1/Week	Grab	1. Daily Maximum 2. Monthly Average
Cyanide, Free (00717) (See notes c, d, and e.)	mg/L	Year-round	2/year	Grab	Monthly Maximum
Cyanide, Total (00720) (See note c and e.)	mg/L	Year-round	2/year	Grab	Monthly Maximum

Notes:

- a. When submitting DMRs electronically, all data used to determine summary statistics must be submitted in a DEQ-approved format as a spreadsheet via electronic reporting unless otherwise directed by DEQ.
- b. Fluoride sampling is to take place at the following locations: 1) the south bank of the Columbia River downstream of the outfall, outside of the mixing zone 2) the west bank of the Sandy River at the confluence with the Columbia River, outside of the mixing zone 3) the main channel of the Sandy River. **Fluoride sampling must occur within the two hours before or after a predicted high-high or low-high tide at Washougal, WA.**
- c. Cyanide sampling is to take place in the Columbia River such that the effluent does not impact the samples (e.g. outside the mixing zone).
- d. There are multiple approved methods for testing for free cyanide. For more information, refer to DEQ's analytical memo on the subject of cyanide monitoring at <https://www.oregon.gov/deq/FilterDocs/sToxicscyanide.pdf>
- e. Cyanide (free and total) must be collected as a grab sample according to 40 CFR 122. Twenty-four hour composite samples are not required for this analyte.

4. Whole Effluent Toxicity (WET) Requirements

The permittee must monitor final effluent for whole effluent toxicity as described in the table below using the testing protocols specified in Schedule D, Whole Effluent Toxicity Testing for Freshwater for Outfall 001 must be collected at the location specified below.

Table B4: WET Test Monitoring

Parameter	Sample Type/Location	Minimum Frequency	Report
Acute toxicity	For acute toxicity: Grab, taken at building 70, after groundwater from extraction wells and production wells in thoroughly mixed	See Table B1	Report must include test results and backup information such as bench sheets sufficient to demonstrate compliance with permit requirements. Report must include a statement certifying that the results do or do not show toxicity.
Chronic toxicity	For chronic toxicity: 24-hr composite, at building 70, after groundwater from extraction wells and production wells in thoroughly mixed		

SCHEDULE C: COMPLIANCE SCHEDULE

A compliance schedule is not part of this permit.

SCHEDULE D: SPECIAL CONDITIONS

1. Mixing Zone Study

By no later than 12/15/2026, the permittee must submit a level 1 mixing zone study to DEQ. (Level 1 mixing zone study requirements are described in DEQ's Mixing Zone Internal Management Directive).

2. Emergency Response and Public Notification Plan

The permittee must develop an Emergency Response and Public Notification Plan ("plan") or ensure the facility's existing plan is current and accurate, per Schedule F, Section B, and Condition 7 within 6 months of permit effective date. The permittee must update the plan annually to ensure all information contained in the plan, including telephone and email contact information for applicable public agencies, is current and accurate. An updated copy of the plan must be kept on file at the facility for DEQ review. The latest plan revision date must be listed on the plan cover along with the reviewer's initials or signature.

3. Whole Effluent Toxicity Testing for Freshwater

- a. The permittee must conduct whole effluent toxicity (WET) tests as specified here and in Schedule B of this permit.
- b. Acute Toxicity Testing - Organisms and Protocols
 - i. The permittee must conduct 48-hour static renewal tests with *Ceriodaphnia dubia* (water flea) and 96-hour static renewal tests with *Pimephales promelas* (fathead minnow).
 - ii. All test methods and procedures must be in accordance with *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition, EPA-821-R-02-012, October 2002*, or the most recent version of this publication if such edition is available. If the permittee wants to deviate from the bioassay procedures outlined in this method, the permittee must submit a written request to DEQ for review and approval prior to use.
 - iii. Treatments to the final effluent samples (for example, dechlorination, ammonia removal), except those included as part of the methodology, may not be performed by the laboratory unless approved by DEQ in writing prior to analysis.
 - iv. WET acute testing must be conducted using a dilution series based upon the effluent percentage at the ZID (EPZID) in the following manner: 100%; 68%; 36%; 18%; and 9% and a control (0% effluent).
 - v. An acute WET test shows toxicity if there is a statistically significant difference in survival between the control and 36% effluent [insert percent effluent at edge of ZID if applicable, if no ZID, insert 100% effluent] reported as the NOEC < 36% effluent.
- c. Chronic Toxicity Testing - Organisms and Protocols
 - i. The permittee must conduct tests with *Ceriodaphnia dubia* (water flea) for reproduction and survival test endpoint, *Pimephales promelas* (fathead minnow) for growth and survival test endpoint, and *Raphidocelis subcapitata* (green alga formerly known as *Selenastrum capricornutum*) for growth test endpoint.

- ii. All test methods and procedures must be in accordance with *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, Fourth Edition, EPA-821-R-02-013, October 2002*, or the most recent version of this publication if such edition is available. If the permittee wants to deviate from the bioassay procedures outlined in the applicable method, the permittee must submit a written request to DEQ for review and approval prior to use.
 - iii. Treatments to the final effluent samples (for example, dechlorination, ammonia removal), except those included as part of the methodology, may not be performed by the laboratory unless approved by DEQ in writing prior to analysis.
 - iv. WET chronic testing must be conducted using a dilution series based upon the effluent percentage at the RMZ (EPRMZ) in the following manner: 100%; 68%; 36%; 18%; and 9% and a control (0% effluent).
 - v. A chronic WET test shows toxicity if the IC₂₅ (25% inhibition concentration) occurs at dilutions equal to or less than the dilution that is known to occur at the edge of the mixing zone, that is, $IC_{25} \leq 36\%$.
- d. **Sampling Requirements**
- At the time of WET sampling, the permittee must collect and analyze effluent samples for total residual chlorine, chloride, hardness, alkalinity, total cyanide, free cyanide, and total fluoride.
- e. **Evaluation of Causes and Exceedances**
- i. If any test exhibits toxicity as described in conditions 3.b.v. and 3.c.v. above, the permittee must conduct another toxicity test using the same species and DEQ-approved methodology within two weeks unless an extension is granted by DEQ in writing.
 - ii. If two consecutive WET test results indicate acute or chronic toxicity as described in conditions 3.b.v. and 3.c.v. above, the permittee must immediately notify DEQ of the results. DEQ will work with the permittee to determine the appropriate course of action to evaluate and address the toxicity.
- f. **Quality Assurance and Reporting**
- i. Quality assurance criteria, statistical analyses, and data reporting for the WET tests must be in accordance with the EPA documents stated in this condition.
 - ii. For each test, the permittee must provide a bioassay laboratory report according to the EPA method documents referenced in this Schedule. The report must include all QA/QC documentation, statistical analysis for each test performed, standard reference toxicant test (SRT) conducted on each species required for the toxicity tests, and completed Chain of Custody forms for the samples including time of sample collection and receipt. The permittee must submit reports to DEQ within 60 days of test completion.
 - iii. The report must include all endpoints measured in the test: NOEC (No Observed Effects Concentration), LOEC (Lowest Observed Effects Concentration), and IC₂₅ (chronic effect 25% inhibition concentration).
 - iv. The permittee must make available to DEQ upon request the written standard operating procedures they, or the laboratory performing the WET tests, use for all toxicity tests required by DEQ.

g. Reopener

DEQ may reopen and modify this permit to include new limits, monitoring requirements, and/or conditions as determined by DEQ to be appropriate, and in accordance with procedures outlined in OAR Chapter 340, Division 45 if:

- i. WET testing data indicate acute and/or chronic toxicity.
 - ii. The facility undergoes any process changes.
 - iii. Discharge monitoring data indicate a change in the reasonable potential to cause or contribute to an exceedance of a water quality standard.
- h. Circumstances not addressed in this section, or that require deviation from the requirements of this section, must be approved in writing by DEQ before changes are implemented.

4. Outfall Inspection

The permittee must inspect Outfall 001 including the submerged portion of the outfall line to document its integrity and to determine whether it is functioning as designed. The inspection must determine whether the outfall is intact, clear and fully functional. The inspection must verify the latitude and longitude of the outfall. The permittee must submit a written report to DEQ regarding the results of the outfall inspection by the date in Table B1. The report must include a description of the outfall as originally constructed, the condition of the current outfall and identify any repairs needed to return the outfall to satisfactory condition.

SCHEDULE E: PRETREATMENT ACTIVITIES

A pretreatment program is not part of this permit.

SCHEDULE F: NPDES GENERAL CONDITIONS

SCHEDULE F

NPDES GENERAL CONDITIONS – INDUSTRIAL FACILITIES

July 31, 2016 Version

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 of 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 \$25,000 per day for violation of a term, condition, or requirement of a permit.

Under ORS 468.943, unlawful water pollution in the second degree, is a Class A misdemeanor and 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.

Under ORS 468.946, unlawful water pollution in the first degree is a Class B felony and is punishable by a fine of up to \$250,000, imprisonment for not more than 10 years, or both.

The Clean Water Act provides that any person who violates permit condition, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation.

The Clean Water Act provides that any person who negligently violates any condition, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both.

In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both.

In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.

Any person who knowingly violates section any permit condition, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both.

In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both.

An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

Any person may be assessed an administrative penalty by the Administrator for violating any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act.

Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000.

Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

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. 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. Samples must be collected in accordance with requirements in 40 CFR part 122.21 and 40 CFR part 403 Appendix E.

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 (biosolids) use and disposal, approved under 40 CFR part 503 unless other test procedures have been specified in this permit.

For monitoring of recycled water with no discharge to waters of the state, monitoring must be conducted according to test procedures approved under 40 CFR part 136 or as specified in the most recent edition of Standard Methods for the Examination of Water and Wastewater unless other test procedures have been specified in this permit or approved in writing by DEQ.

C4. Penalties for 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 (biosolids) 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(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).

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

- (1) Any unanticipated bypass that exceeds any effluent limitation in this permit;
 - (2) Any upset that exceeds any effluent limitation in this permit;
 - (3) Violation of maximum daily discharge limitation for any of the pollutants listed by DEQ in this permit; and
 - (4) Any noncompliance that may endanger human health or the environment.
- b. 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:
- (1) A description of noncompliance and its cause;
 - (2) The period of noncompliance, including exact dates and times;
 - (3) The estimated time noncompliance is expected to continue if it has not been corrected;
 - (4) Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance; and
 - (5) 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 sample formed by collecting and mixing discrete samples taken periodically and based on time or flow.

- 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.