

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

Oregon Department of Environmental Quality  
Water Quality Division  
811 SW Sixth Avenue  
Portland, OR 97204  
Telephone: (503) 229-5630

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

---

**ISSUED TO:**

Owners or operators of sources covered by this permit.

---

**ACTIVITIES COVERED BY THIS PERMIT:**

This permit covers the application of acrolein, copper, and xylene-based aquatic pesticides into irrigation systems operated by districts formed under ORS 545 or by entities previously covered by an individual permit for the application of aquatic pesticides.

---

Neil Mullane, Administrator  
Water Quality Division

Issued:  
Effective:

---

**PERMITTED ACTIVITIES**

Until this permit expires or is modified or revoked, the permit registrant is authorized to apply acrolein, copper, and xylene-based pesticides in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

	<u>Page</u>
Application to Obtain General Permit Coverage .....	2
Schedule A - Waste Discharge Limitations, General Requirements, Required Management Practices, Required Gate Management Practices, Inspection and Record Keeping Requirements, Public Notice Requirements .....	3
Schedule B - Minimum Monitoring and Reporting Requirements .....	7
Schedule C - Not Applicable (reserved for compliance schedules)	
Schedule D - Special Conditions .....	8
Schedule E - Not Applicable (reserved for pretreatment programs at POTWs)	
Schedule F - General Conditions .....	11

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

## APPLICATION TO OBTAIN GENERAL PERMIT COVERAGE

### 1. Existing sources

Owners or operators of existing sources covered by this permit must:

- a. Submit a complete copy of the Department-approved application form to the Department requesting coverage under this permit within 60 days of the permit effective date, unless otherwise approved by the Department.
- b. With the application, submit a map of the irrigation system indicating gate(s) where the system connects to natural waters and where monitoring will be done to establish compliance with permit limits contained in the permit.
- c. With the application, submit a fish control evaluation that documents the presence of fish screens, structures or other management practices intended to prevent fish from entering the treatment area. These measures must be sufficient to prevent fish from entering treatment areas during aquatic pesticide applications in order to obtain permit coverage.
- d. With the application, submit the written contingency plan required by Schedule D.2.
- e. Provide payment of all fees applicable to this permit prior to obtaining coverage.

### 2. New sources

Owners or operators of new sources covered by this permit must:

- a. Submit a complete copy of the Department-approved application form to the Department requesting coverage under this permit at least 60 days prior to the planned activity that will result in the discharge to waters of the state, unless otherwise approved by the Department.
- b. With the application, submit a map of the irrigation system indicating gate(s) where the system connects to natural waters and where monitoring will be done to establish compliance with permit limits contained in the permit.
- c. With the application, submit a fish control evaluation that documents the presence of fish screens, structures or other management practices intended to prevent fish from entering the treatment area. These measures must be sufficient to prevent fish from entering treatment areas during aquatic pesticide applications in order to obtain permit coverage.
- d. With the application, submit the written contingency plan required by Schedule D.2.
- e. Provide payment of all fees applicable to this permit prior to obtaining coverage.

### 3. Notification that permit coverage has been obtained

- a. The Department will notify each applicant by mail that permit coverage has been obtained and that the applicant is authorized to operate under the conditions of this permit.
- b. If an applicant's operation cannot be approved for coverage under this permit, the applicant may apply for an individual permit.

**SCHEDULE A**  
**WASTE DISCHARGE LIMITATIONS, REQUIRED MANAGEMENT PRACTICES,**  
**AND PUBLIC NOTICE REQUIREMENTS**

**1. Waste Discharge Limitations**

a. Waste discharge limitations not to be exceeded for the discharge of tail water or overflows from the irrigation system to natural waters:

i. For systems in the Klamath Basin, following acrolein-based pesticide application:

Parameter	Limitations - Daily Maximum
Acrolein	2.3 µg/L

ii. For systems outside the Klamath Basin, following acrolein-based pesticide application:

Parameter	Limitations - Daily Maximum
Acrolein	3 µg/L

iii. Following copper-based pesticide application:

Parameter	Limitations - Daily Maximum
Copper	8 µg/L

iv. Following xylene-based pesticide application:

Parameter	Limitations - Daily Maximum
Xylene	40 µg/L

b. The points of compliance with the discharge limitations in (a) above are at monitoring points where water exits the irrigation system and enters natural waters.

c. Irrigation water is no longer considered treated if the discharge limitations in (a) above are met.

d. No acrolein, xylene or copper-based pesticide residuals may be present within the irrigation system outside of the treatment area during the treatment period or within the irrigation system and treatment area after the treatment period has elapsed that could cause or contribute to a violation of water quality standards adopted in OAR 340-041 and as provided for in OAR 340-045-0080.

**2. General Requirements**

a. **Federal and State Requirements** Compliance with this permit is not intended to relieve the permittee from compliance with other federal and state requirements, such as the Endangered Species Act (e.g., U.S. Fish and Wildlife Service Biological Opinions), FIFRA requirements, or Oregon Department of Agriculture applicator licensing requirements. The issuance of this permit does not authorize any activities inconsistent with biological opinions (BOs) or established reasonable and prudent measures developed to allow incidental take of a listed species. In the event that applicable BOs are revised or replaced, the Department reserves the right to reopen the permit or require that the permit registrant apply for an individual NPDES permit.

- b. **Fish Control** At the time of obtaining permit coverage, the permit registrant must have fish screens or other structures or management practices to prevent fish from entering treatment areas during aquatic pesticide applications.

### 3. Required Management Practices

- a. **Application into Irrigation Systems** The permit registrant may apply only acrolein, copper, and xylene-based aquatic pesticides into the irrigation system in accordance with an Integrated Aquatic Vegetation Management Plan as required in Schedule B, Section 2.c. These pesticides may not be applied to natural waters and may not be applied upstream of any delivery point for water used for potable purposes. If the irrigation system intersects with natural waterways, the permit registrant must prevent discharge of aquatic pesticides to natural waters. This may be accomplished by:
  - i. Not applying aquatic pesticides in these areas,
  - ii. Applying only when the natural watercourse outside of the irrigation system is dry with no hyporheic zone (see Schedule D.6, *Definitions*), or
  - iii. By implementing engineering controls such as siphoning the irrigation canal under the natural watercourse or physically separating the irrigation system from the watercourse.
- b. **Aquatic Pesticide Usage** To reduce the total amount of aquatic pesticides used, the permit registrant must apply aquatic pesticides only when weeds are present. Prior to applying a pesticide, the permit registrant must inspect the system for plant growth and document in its application log that plant growth has reached the levels described below:
  - i. For acrolein-based pesticide, apply only when the size of pondweed or other aquatic plants has reached an average length of 3 to 6 inches or floating or non-floating masses of algae are visible.
  - ii. For xylene-based pesticide, apply only when plant growth in the irrigation system restricts water flow to the extent that water cannot be delivered consistent with good water supply management.
- c. **Licensed Applicator** The permit registrant must ensure that all aquatic pesticide applications are performed by a licensed applicator who is familiar with application requirements and risks of aquatic pesticides.
- d. **Water Users** When requested to do so in writing by a water user, the permit registrant must stop water deliveries to that user during pesticide application.
  - i. The permit registrant must attach an easily visible tag to each water user delivery point that cannot be locked. The tag must state that the delivery point has been closed at the request of the water user and may be reopened only by the permit registrant's personnel.
  - ii. For users with their own withdrawal systems, the permit registrant must notify such users at least 24 hours before the application of aquatic pesticides. The permit registrant is not responsible for actions taken by users with their own withdrawal system; these users are responsible for determining whether to take water during the application of aquatic pesticides.
- e. **Access to Application Schedule** The permit registrant must provide a phone number to persons interested in the permit registrant's application schedule. The permit registrant must provide the caller with its most current application schedule and let the caller know if the schedule is subject to change. Permit registrants with websites must post the application schedule on their website.
- f. **Targeting Water Use Rate During Treatments** The permit registrant must reduce water flow to the extent reasonably practicable in the treatment area to match the target rate for water use during the treatment period.

### 4. Required Gate Management Practices

- a. **Closure and Locking of Gates that may Discharge to Natural Waters** The permit registrant must close and lock each gate within the treatment area that discharges to natural waters at least two hours before the aquatic

pesticide wave is expected to reach that gate. For any lateral canal that discharges to natural waters, either the point of discharge to natural waters must be closed or the turnout to the lateral canal from the main canal must be closed.

- i. To support the determination of when the gates must be closed, the permit registrant must perform a time travel study as described in Schedule B, Section 2.b.
- ii. In making the determination of when the gates must be closed, the permit registrant must consider the volume and velocity of flow in the treatment area and the distance between the point of the aquatic pesticide application and the gate to be closed. The fastest flow velocity of the channel, as averaged through the vertical water column, in a representative channel cross-section must be used. When channel configurations vary, calculations may be made on different sections of the treatment area to determine the time when the aquatic pesticide wave is expected to reach the gate.
- iii. These calculations described above must be documented in the application log.

b. **Reopening of Gates that may Discharge to Natural Waters** The permit registrant may reopen gates only when aquatic pesticide is no longer present at levels above the discharge limitations specified in Schedule A.1.a, p. 3. This determination may be made using one of the following:

- i. **Holding** When applying acrolein-based pesticide, the permit registrant can wait for expiration of the holding period sufficient to allow acrolein to dissipate to levels that will not exceed permit limits.
- ii. **Testing** For copper and xylene-based pesticides, the permit registrant must collect and analyze representative samples of water within the treatment area to demonstrate that treated water is no longer present prior to discharge.

(1) **Detention Basins** For detention basins, at least two samples must be collected as follows:

- (a) The first near the discharge gate.
- (b) The second near the inflow to the detention basin.

(2) **Other Treatment Areas** For other areas, at least two samples must be collected as follows:

- (a) The first upstream of the open delivery point farthest from the application site within the treatment area.
- (b) The second at the midpoint between the most downstream point in the treatment area and the application site.

If the treatment area consists of a main canal and laterals, sampling may be conducted in the main canal or in a lateral, whichever best fits the description of the two required sampling locations.

- iii. **Turnover** Alternatively, for acrolein, copper, and xylene-based pesticides, the permit registrant may calculate the rate at which the volume of water in the treatment area is replaced by fresh, untreated water based on the portion of the treatment area where such turnover is the slowest (the slowest velocity of flow, as averaged through the vertical water column, in a representative cross-section of the channel must be used). The permit registrant may not open the gate(s) until the water in the treatment area has turned over at least two times. Calculations must start when the aquatic pesticide application has ended. If two turnover times cannot be demonstrated, the permit registrant can use one turnover time from the time aquatic pesticide is no longer detected in the irrigation system using a field sampling kit with a method detection limit equal to or less than 10 ug/L.

- (1) The permit registrant may use turnover calculations to open gates in individual laterals that are fed from the main canal. For example, a lateral closer to the aquatic pesticide application point may turnover more quickly than the main canal or a lateral located farther away from the application point. The turnover calculations must be supported by the results of a current time travel study as described in Schedule B, section 2. b.
- (2) In making the calculation in (1) above, the permit registrant must consider the distance between the aquatic pesticide application point and the gate farthest from the application point to be reopened.
- (3) These calculations and measurements must be documented in the application log and supported by the results of the time travel study described in Schedule B, Section 2.b.

## 5. Inspection and Record Keeping Requirements

- a. **Inspection and Repair of Gates** Prior to the first application of the season in a specific treatment area, the permit registrant must assure that all gates in that treatment area are in working order. The permit registrant must document this inspection and any repairs in an inspection log.
- b. **Daily Inspection Requirements** At least once a day, during the period when pesticide levels in the irrigation system are likely to be above the discharge limitation, the permit registrant must inspect each locked gate within the treatment area and water user delivery point that has been closed as requested by a water user. The permit registrant must document this inspection in an inspection log.
- c. **Application Log** The permit registrant must maintain a log for each aquatic pesticide application with the following minimum information:
  - i. Date of application
  - ii. Location of application
  - iii. Name of applicator
  - iv. List of gates in the treatment area that may discharge to natural waters
  - v. When gates are closed, the time of closure and the time reopened (if using turnover time as specified in Schedule A.4.b.iii, include flow measurements or calculations used to determine turnover of at least two times)
  - vi. Application details (e.g., water temperature, total flow, time application started and stopped, gallons of aquatic pesticide applied, dosage rate, concentration, application rate, orifice size, and nitrogen pressure)

## 6. Public Notice Requirements

- a. **Notice of Intended Use** For every calendar year, prior to the permit registrant's first application of aquatic pesticide, the permit registrant must notify:
  - i. Each water user within its district by website (if applicable), general newsletter, special notice enclosed with a regular assessment, individual letter, or publication in one or more newspapers with a combined circulation area encompassing the area in which the irrigation system is located.
  - ii. The general public in the area served by the permit registrant's system by publication in one or more newspapers with a combined circulation area encompassing the area in which the irrigation system is located.
  - iii. Users of public or private drinking water wells where irrigation canals potentially recharge groundwater. In determining the location and contact information for such wells, the permit registrant may make use of DEQ's Drinking Water Protection Program webpage at <http://www.deq.state.or.us/wq/dwp/dwp.htm>.
- b. **Requirements for Notice** The permit registrant must include the following in the notice:
  - i. A statement of the permit registrant's intent to apply aquatic pesticide(s), name of the pesticide(s), purpose of use, general description of where aquatic pesticide(s) will be used, general time period of expected use, and any water use restrictions or precautions during treatment.
  - ii. A link to DEQ's Drinking Water Protection Program webpage.
  - iii. A phone number that interested persons may call to get more information from the permit registrant.
  - iv. A statement indicating that any affected water user may request in writing that water deliveries be stopped during aquatic pesticide application.
- c. **Notice to Farmers with Livestock** The permit registrant must provide adequate notice prior to acrolein-based pesticide application to water users with livestock. The purpose of this notice is to prevent livestock from drinking treated water and to allow water users with livestock sufficient time to move their animals away from treated areas.

**SCHEDULE B  
MINIMUM MONITORING AND REPORTING REQUIREMENTS**

**1. Monitoring Requirements**

The permit registrant must monitor all aquatic pesticide application activities allowed by this permit. Minimum monitoring must include the following items or parameters.

a. Discharges to natural waters (after gates to natural waters have been opened):

i. Following acrolein-based pesticide applications:

Item or Parameter	Minimum Frequency	Quantitation Limit	Type of Sample
Estimate of Flow	During the sampling event	N/A	Measurement or Calculation
Acrolein	See Note 1	1 µg/L	Grab

Acrolein testing must follow the procedures in 40 CFR §136 (EPA Method 624) or Solid Waste Method 8260.

ii. Following copper-based pesticide applications:

Item or Parameter	Minimum Frequency	Quantitation Limit	Type of Sample
Estimate of Flow	During the sampling event	N/A	Measurement or Calculation
Copper	See Note 1	10 µg/L	Grab

Copper testing must follow procedures in 40 CFR §136 (EPA Method 200.7) or EPA Method 200.8.

iii. Following xylene-based pesticide applications:

Item or Parameter	Minimum Frequency	Quantitation Limit	Type of Sample
Estimate of Flow	During the sampling event	N/A	Measurement or Calculation
Xylene	See Note 1	2 µg/L	Grab

Xylene testing must follow procedures in 40 CFR §136 (EPA Method 624).

Note 1: Monitoring must be conducted on the first aquatic pesticide application of the month during which an application occurs. Separate samples must be taken for each type of pesticide used. Monitoring must be performed on the discharge from the reopened gate that is nearest to natural waters within 30 minutes of opening the gate.

b. Discharges to natural waters (after gates to natural waters have been opened) when more than one pesticide is being used:

i. In addition to monitoring for the individual pesticides being used as described in the previous section, the permit holder must conduct Whole Effluent Toxicity (WET) Testing on *Pimephales promelas* (fathead minnow) not more than once a year, according to the requirements listed in Schedule D.5.

ii. If the results of the WET test indicate toxicity, the permit holder must perform follow up testing sufficient to demonstrate that the toxicity was not caused by the concentrations of pesticides present in the original sample according to the requirements listed in Schedule D.5.

- c. No monitoring is required for months in which the irrigation system does not overflow or return flow to natural waters following aquatic pesticide applications. Annual reports must list the months during which no monitoring was required due to lack of overflow or return flow to natural waters.

## 2. Reporting Requirements

### a. Monitoring Data

- i. A monthly monitoring report for the month in which aquatic pesticide applications are made must be submitted to the Department. If an irrigation system is operated in such a manner that there is no overflow or return flow to natural waters, the permit registrant must state this in the report.
- ii. Monitoring results must be reported on approved forms.
- iii. Reports must be submitted to the appropriate Department regional office by the 15th day of the following month. The Department will provide the appropriate regional office address to the permit registrant when the permit registrant is notified that permit coverage has been obtained.

### b. Time Travel Study

- i. The purpose of a time travel study is to determine the amount of time it takes the pesticide to travel from the application site to the point of compliance. It may be done via a dye study where dye is released at one or more points in the system and concentrations downstream are measured over time. It may also be done by measuring the velocity and cross-sectional area at various representative points in the system.
- ii. The permit registrant must complete a time travel study at each application site no less than once every five years.
- iii. The flow conditions during the time travel study must mimic the conditions during pesticide application.
- iv. The permit registrant must submit the results of the most recent time travel studies to DEQ with the first set of monitoring reports submitted in a given calendar year.

- c. **Integrated Aquatic Vegetation Management Plan** Within 180 days of obtaining permit coverage, the permit registrant must submit an Integrated Aquatic Vegetation Management plan or Integrated Pest Management plan that addresses aquatic vegetation required by Schedule D.3 to the appropriate Department regional office.

- d. **Annual Report** By December 31 of each year, the permit registrant must submit to the appropriate Department regional office an annual report that includes the following information for each aquatic pesticide used:

- i. Name, EPA Registration Number, and formulation information (FIFRA label or Material Safety Data Sheet).
- ii. Total amount applied during the calendar year.
- iii. The dates on which applications were made and the chemicals applied on those dates.
- iv. The months during which no monitoring was required due to lack of overflow or return flow to natural waters.
- v. A summary of the water quality monitoring data collected and WET test results.

## SCHEDULE D SPECIAL CONDITIONS

1. **Record Keeping** The permit registrant must record and maintain the following information and provide it to the Department upon request:
  - a. Flow calculations used to determine when gates are to be closed and reopened (see Schedule A.4).
  - b. Inspection and repair of gates as required in Schedule A.5.a.
  - c. Daily inspections as required in Schedule A.5.b.
  - d. Application logs as required in Schedule A.5.c.
  - e. Copy of the public notice required in Schedule A.6.
  
2. **Written Contingency Plan**

Upon obtaining permit coverage, the permit registrant must have in place and in force at all times a written contingency plan for the prevention, containment, and handling of spills and releases into the air or into or on any land or waters of the state from the application, storage and transport of pesticide.

  - a. At a minimum, the written contingency plan must contain the following:
    - i. Description of employee orientation and education program.
    - ii. Description of the reporting system that will be used to notify responsible managers and legal authorities in the event of a pesticide spill.
    - iii. A list of the reportable quantities for the aquatic pesticides with reporting thresholds in OAR 340-142.
    - iv. Procedures that will be taken to prevent, contain and clean up spills of pesticides.
    - v. Emergency phone numbers for the Department and Oregon Emergency Management Division's Oregon Emergency Response System (OERS).
    - vi. Name and telephone number of a hazardous material response contractor.
    - vii. Name, address, and telephone numbers of nearest hospital(s).
  - b. The permit registrant must also:
    - i. Ensure that the licensed applicator has a copy of the contingency plan on site during pesticide applications.
    - ii. Maintain a continuing program of employee orientation and education to ensure proper action in the event of a spill or accident.
    - iii. As required by OAR 340-142, report all spills exceeding reportable quantities to the Oregon Emergency Management Division's Oregon Emergency Response System (OERS) at 1-800-452-0311.
    - iv. Update the plan as needed and provide it to the Department upon request.
  
3. **Integrated Aquatic Vegetation Management Plan** The permit registrant must develop and follow an Integrated Aquatic Vegetation Management plan or Integrated Pest Management plan that addresses aquatic vegetation. The purpose of this plan is to examine the possibility of alternatives to reduce the need for aquatic pesticides. In developing this plan, the permit registrant must ensure that:
  - a. Pesticides are used only after the assessment of all available control technologies.
  - b. Site-specific action thresholds for aquatic plant removal are determined.
  - c. The least amount of the pesticide needed to effectively control the aquatic weeds is added to the irrigation system.
  - d. The latest chemical control technologies are considered and used if technically and economically feasible.
  - e. An evaluation of the infrastructure is performed to identify changes that could be made to reduce aquatic vegetation growth.
  - f. A schedule for implementing the plan is developed if necessary.
  
4. **Notification to Department** The permit registrant must notify the appropriate Department regional office in accordance with the response times contained in Schedule F of this permit of any malfunction so that corrective action can be coordinated between the permit registrant and the Department.
  
5. **Whole Effluent Toxicity Testing**

- a. The permit registrant must conduct whole effluent toxicity (WET) tests as specified in Schedule B of this permit.
  - b. The facility is required to sample tail water or overflows the first instance of the irrigation season in which multiple pesticides are used. If the test passes, no further testing is necessary for that calendar year as long as the pesticides and application rates remain unchanged.
  - c. Acute Toxicity Testing - Organisms and Protocols
    - i. The permit registrant must conduct 48-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. Any deviation of the bioassay procedures outlined in this method must be submitted in writing to the Department for review and approval prior to use.
    - iii. Tests must be conducted on a sample collected as a single grab sample. No treatments to the sample must be performed by the laboratory unless approved by the Department prior to analysis.
    - iv. Acute tests must be conducted on a control and at 100% sample concentration. It is recommended that the permit holder conduct tests at the following dilution series: 6.25%, 12.5%, 25%, 50%, and 100%
    - v. An acute WET test must be considered to show toxicity if there is a statistically significant difference in survival between the control and the sample.
  - d. Quality Assurance / 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. A bioassay laboratory report for each test must be prepared according to the EPA method documents referenced in this Schedule. This 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. Reports must be submitted to the Department within 45 days of test completion.
    - iii. The report must include all endpoints measured in the test as relevant, i.e. NOEC, LOEC, and IC<sub>25</sub>.
    - iv. (4)The permit registrant must make available to the Department, on request, the written standard operating procedures they, or the laboratory performing the WET tests, are using for all toxicity tests required by the Department.
  - e. Re-testing in the event that an Acute WET test demonstrates toxicity to *Pimephales promelas* (fathead minnow). The permit registrant must have the WET test performed with 100% dilution water spiked with pesticides in the same concentrations as were present in the original sample to see if it demonstrates toxicity to *Pimephales promelas* (fathead minnow).
  - f. Reopener. If WET testing data indicate acute toxicity to *Pimephales promelas* (fathead minnow) at pesticide concentrations within permi, the Department may reopen and modify this permit to include new limitations, monitoring requirements, and/or conditions as determined by the Department to be appropriate, and in accordance with procedures outlined in Oregon Administrative Rules, Chapter 340, Division 45.
6. Definitions
- a. **Hyporheic Zone** means a volume of saturated sediment beneath and beside streams and rivers where groundwater and surface waters mix.
  - b. **Irrigation System** means a controlled system consisting primarily of manmade canals, ditches and ponds designed and operated for the delivery or management of water for irrigation purposes.
  - c. **Natural Waters** means surface waters outside of the irrigation system.

- d. ***Treatment Area*** means the area within an irrigation system in which an aquatic pesticide will be applied and to which it is intended or reasonably expected to migrate.
- e. ***1 µg/L*** is equivalent to 0.001 mg/L.

**SCHEDULE F****NPDES GENERAL CONDITIONS – INDUSTRIAL FACILITIES****SECTION A. STANDARD CONDITIONS**1. Duty to Comply with Permit

The permittee must comply with all conditions of this permit. Failure to comply with any permit condition is a violation of Oregon Revised Statutes (ORS) 468B.025 and the federal Clean Water Act and is grounds for an enforcement action. Failure to comply is also grounds for the Department to terminate, modify and reissue, revoke, or deny renewal of a permit.

2. Penalties for Water Pollution and Permit Condition Violations

The permit is enforceable by DEQ or EPA, and in some circumstances also by third-parties under the citizen suit provisions 33 USC §1365. DEQ enforcement is generally based on provisions of state statutes and EQC rules, and EPA enforcement is generally based on provisions of federal statutes and EPA regulations.

ORS 468.140 allows the Department to impose civil penalties up to \$10,000 per day for violation of a term, condition, or requirement of a permit. The federal Clean Water Act provides for civil penalties not to exceed \$32,500 and administrative penalties not to exceed \$11,000 per day for each violation of any condition or limitation of this permit.

Under ORS 468.943, unlawful water pollution, if committed by a person with criminal negligence, is punishable by a fine of up to \$25,000, imprisonment for not more than one year, or both. Each day on which a violation occurs or continues is a separately punishable offense. The federal Clean Water Act provides for criminal penalties of not more than \$50,000 per day of violation, or imprisonment of not more than 2 years, or both for second or subsequent negligent violations of this permit.

Under ORS 468.946, a person who knowingly discharges, places, or causes to be placed any waste into the waters of the state or in a location where the waste is likely to escape into the waters of the state is subject to a Class B felony punishable by a fine not to exceed \$200,000 and up to 10 years in prison. The federal Clean Water Act provides for criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment of not more than 3 years, or both for knowing violations of the permit. In the case of a second or subsequent conviction for knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.

3. Duty to Mitigate

The permittee must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment. In addition, upon request of the Department, the permittee must correct any adverse impact on the environment or human health resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

4. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and have the permit renewed. The application must be submitted at least 180 days before the expiration date of this permit.

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

5. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any term, condition, or requirement of this permit, a rule, or a statute
- b. Obtaining this permit by misrepresentation or failure to disclose fully all material facts
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge
- d. The permittee is identified as a Designated Management Agency or allocated a wasteload under a Total Maximum Daily Load (TMDL)
- e. New information or regulations
- f. Modification of compliance schedules
- g. Requirements of permit reopener conditions
- h. Correction of technical mistakes made in determining permit conditions
- i. Determination that the permitted activity endangers human health or the environment
- j. Other causes as specified in 40 CFR 122.62, 122.64, and 124.5

The filing of a request by the permittee for a permit modification, revocation or reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Toxic Pollutants

The permittee must comply with any applicable effluent standards or prohibitions established under Oregon Administrative Rules (OAR) 340-041-0033 and 307(a) of the federal Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

7. Property Rights and Other Legal Requirements

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, or authorize any injury to persons or property or invasion of any other private rights, or any infringement of federal, tribal, state, or local laws or regulations.

8. Permit References

Except for effluent standards or prohibitions established under Section 307(a) of the federal Clean Water Act and OAR 340-041-0033 for toxic pollutants and standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act, all rules and statutes referred to in this permit are those in effect on the date this permit is issued.

9. Permit Fees

The permittee must pay the fees required by Oregon Administrative Rules.

## **SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS**

1. Proper Operation and Maintenance

The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Need to Halt or Reduce Activity Not a Defense

For industrial or commercial facilities, upon reduction, loss, or failure of the treatment facility, the permittee must, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost. It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass of Treatment Facilities

a. Definitions

- (1) "Bypass" means intentional diversion of waste streams from any portion of the treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, provided the diversion is to allow essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs b. and c. of this section.
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Prohibition of bypass.

- (1) Bypass is prohibited and the Department may take enforcement action against a permittee for bypass unless:
  - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance; and
  - (c) The permittee submitted notices and requests as required under General Condition B.3.c.
- (2) The Department may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when the Department determines that it will meet the three conditions listed above in General Condition B.3.b.(1).

c. Notice and request for bypass.

- (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, a written notice must be submitted to the Department at least ten days before the date of the bypass.
- (2) Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required in General Condition D.5.

4. Upset

- a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of General Condition B.4.c are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (1) An upset occurred and that the permittee can identify the causes(s) of the upset;

- (2) The permitted facility was at the time being properly operated;
  - (3) The permittee submitted notice of the upset as required in General Condition D.5, hereof (24-hour notice); and
  - (4) The permittee complied with any remedial measures required under General Condition A.3 hereof.
- d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Treatment of Single Operational Upset

For purposes of this permit, A Single Operational Upset that leads to simultaneous violations of more than one pollutant parameter will be treated as a single violation. A single operational upset is an exceptional incident that causes simultaneous, unintentional, unknowing (not the result of a knowing act or omission), temporary noncompliance with more than one Clean Water Act effluent discharge pollutant parameter. A single operational upset does not include Clean Water Act violations involving discharge without a NPDES permit or noncompliance to the extent caused by improperly designed or inadequate treatment facilities. Each day of a single operational upset is a violation.

6. Public Notification of Effluent Violation

If effluent limitations specified in this permit are exceeded or an overflow occurs that threatens public health, the permittee must take such steps as are necessary to alert the public, health agencies and other affected entities (e.g., public water systems) about the extent and nature of the discharge in accordance with the notification procedures developed in accordance with General Condition B.7. Such steps may include, but are not limited to, posting of the river at access points and other places, news releases, and paid announcements on radio and television.

7. Emergency Response and Public Notification Plan

The permittee must develop and implement an emergency response and public notification plan that identifies measures to protect public health from bypasses or upsets that may endanger public health. At a minimum the plan must include mechanisms to:

- a. Ensure that the permittee is aware (to the greatest extent possible) of such events;
- b. Ensure notification of appropriate personnel and ensure that they are immediately dispatched for investigation and response;
- c. Ensure immediate notification to the public, health agencies, and other affected entities (including public water systems). The response plan must identify the public health and other officials who will receive immediate notification;
- d. Ensure that appropriate personnel are aware of and follow the plan and are appropriately trained;
- e. Provide emergency operations; and
- f. Ensure that DEQ is notified of the public notification steps taken.

8. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters must be disposed of in such a manner as to prevent any pollutant from such materials from entering waters of the state, causing nuisance conditions, or creating a public health hazard.

## SECTION C. MONITORING AND RECORDS

1. Representative Sampling

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

2. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices must be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices must be installed, calibrated and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected must be capable of measuring flows with a maximum deviation of less than  $\pm 10$  percent from true discharge rates throughout the range of expected discharge volumes.

3. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR part 136, or in the case of sludge use and disposal, under 40 CFR part 503, unless other test procedures have been specified in this permit.

4. Penalties of Tampering

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit may, upon conviction, be punished by a fine of not more than \$10,000 per violation, imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person, punishment is a fine not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.

5. Reporting of Monitoring Results

Monitoring results must be summarized each month on a Discharge Monitoring Report form approved by the Department. The reports must be submitted monthly and are to be mailed, delivered or otherwise transmitted by the 15th day of the following month unless specifically approved otherwise in Schedule B of this permit.

6. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR part 136 or, in the case of sludge use and disposal, under 40 CFR part 503, or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report. Such increased frequency must also be indicated. For a pollutant parameter that may be sampled more than once per day (e.g., Total Chlorine Residual), only the average daily value must be recorded unless otherwise specified in this permit.

7. Averaging of Measurements

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

8. Retention of Records

Records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities shall be retained for a period of at least five years (or longer as required by 40 CFR part 503). Records of all monitoring information including all calibration and maintenance records, all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit and records of all data used to complete the application for this permit shall be retained for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Department at any time.

9. Records Contents

Records of monitoring information must include:

- a. The date, exact place, time, and methods of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and

f. The results of such analyses.

10. Inspection and Entry

The permittee must allow the Department or EPA upon the presentation of credentials, to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location.

11. Confidentiality of Information

Any information relating to this permit that is submitted to or obtained by DEQ is available to the public unless classified as confidential by the Director of DEQ under ORS 468.095. The Permittee may request that information be classified as confidential if it is a trade secret as defined by that statute. The name and address of the permittee, permit applications, permits, effluent data, and information required by NPDES application forms under 40 CFR 122.21 will not be classified as confidential. 40 CFR 122.7(b).

**SECTION D. REPORTING REQUIREMENTS**

1. Planned Changes

The permittee must comply with OAR chapter 340, division 52, "Review of Plans and Specifications" and 40 CFR Section 122.41(l) (1). Except where exempted under OAR chapter 340, division 52, no construction, installation, or modification involving disposal systems, treatment works, sewerage systems, or common sewers may be commenced until the plans and specifications are submitted to and approved by the Department. The permittee must give notice to the Department as soon as possible of any planned physical alternations or additions to the permitted facility.

2. Anticipated Noncompliance

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

3. Transfers

This permit may be transferred to a new permittee provided the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of the permit and the rules of the Commission. No permit may be transferred to a third party without prior written approval from the Department. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under 40 CFR Section 122.61. The permittee must notify the Department when a transfer of property interest takes place.

4. Compliance Schedule

Reports of compliance or noncompliance with, or any progress reports on interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date. Any reports of noncompliance must include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements.

5. Twenty-Four Hour Reporting

The permittee must report any noncompliance that may endanger health or the environment. Any information must be provided orally (by telephone) within 24 hours from the time the permittee becomes aware of the

circumstances, unless a shorter time is specified in the permit. During normal business hours, the Department's Regional office must be called. Outside of normal business hours, the Department must be contacted at 1-800-452-0311 (Oregon Emergency Response System).

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

- a. Any unanticipated bypass that exceeds any effluent limitation in this permit;
- b. Any upset that exceeds any effluent limitation in this permit;
- c. Violation of maximum daily discharge limitation for any of the pollutants listed by the Department in this permit; and
- d. Any noncompliance that may endanger human health or the environment.

A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain:

- e. A description of noncompliance and its cause;
- f. The period of noncompliance, including exact dates and times;
- g. The estimated time noncompliance is expected to continue if it has not been corrected;
- h. Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance; and
- i. Public notification steps taken, pursuant to General Condition B.7.

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

6. Other Noncompliance

The permittee must report all instances of noncompliance not reported under General Condition D.4 or D.5, at the time monitoring reports are submitted. The reports must contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times;
- c. The estimated time noncompliance is expected to continue if it has not been corrected; and
- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

7. Duty to Provide Information

The permittee must furnish to the Department within a reasonable time any information that the Department may request to determine compliance with the permit or to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit. The permittee must also furnish to the Department, upon request, copies of records required to be kept by this permit.

Other Information: When the permittee becomes aware that it has failed to submit any relevant facts or has submitted incorrect information in a permit application or any report to the Department, it must promptly submit such facts or information.

8. Signatory Requirements

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

9. Falsification of Information

Under ORS 468.953, any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, is subject to a Class C felony punishable by a fine not to exceed \$100,000 per violation and up to 5 years in prison. Additionally, according to 40 CFR 122.41(k)(2), any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit including monitoring reports or reports of compliance or

non-compliance shall, upon conviction, be punished by a federal civil penalty not to exceed \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

10. Changes to Discharges of Toxic Pollutant

The permittee must notify the Department as soon as it knows or has reason to believe the following:

- a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - (1) One hundred micrograms per liter (100 µg/l);
  - (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
  - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR Section 122.21(g)(7); or
  - (4) The level established by the Department in accordance with 40 CFR Section 122.44(f).
- b. That any activity has occurred or will occur that would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - (1) Five hundred micrograms per liter (500 µg/l);
  - (2) One milligram per liter (1 mg/l) for antimony;
  - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR Section 122.21(g)(7); or
  - (4) The level established by the Department in accordance with 40 CFR Section 122.44(f).

**SECTION E. DEFINITIONS**

1. *BOD* means five-day biochemical oxygen demand.
2. *CBOD* means five day carbonaceous biochemical oxygen demand.
3. *TSS* means total suspended solids.
4. "*Bacteria*" includes but is not limited to fecal coliform bacteria, total coliform bacteria, and *E. coli* bacteria.
5. *FC* means fecal coliform bacteria.
6. *Total residual chlorine* means combined chlorine forms plus free residual chlorine
7. *Technology based permit effluent limitations* means technology-based treatment requirements as defined in 40 CFR Section 125.3, and concentration and mass load effluent limitations that are based on minimum design criteria specified in OAR Chapter 340, Division 41.
8. *mg/l* means milligrams per liter.
9. *kg* means kilograms.
10. *m /d* means cubic meters per day.
11. *MGD* means million gallons per day.
12. *24-hour Composite sample* means a combination of at least six discrete sample aliquots of at least 100 milliliters, collected at periodic intervals from the same location, during the operating hours of the facility over a 24 hour period. Four (rather than six) aliquots should be collected for volatile organics analyses. The composite must be flow or time proportional, whichever is more appropriate. The sample aliquots must be collected and stored in accordance with procedures prescribed in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*.
13. *Grab sample* means an individual discrete sample collected over a period of time not to exceed 15 minutes.
14. *Quarter* means January through March, April through June, July through September, or October through December.
15. *Month* means calendar month.
16. *Week* means a calendar week of Sunday through Saturday.

Permit Number: 2000-J

Expiration Date:

Page 20 of 20