



**GENERAL PERMIT  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
STORMWATER DISCHARGE PERMIT**

Oregon Department of Environmental Quality  
811 SW Sixth Avenue, Portland OR 97204  
Telephone: (503) 229-5279 or 1-800-452-4011 (toll free in Oregon)

**Issued pursuant to ORS 468B.050 and Section 402 of the Federal Clean Water Act**

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**REGISTERED TO:**

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**SOURCES COVERED BY THIS PERMIT:**

The *legally authorized representative* (see Definitions) for construction activities (as defined below) that may discharge to surface waters or conveyance systems leading to surface waters of the state must register for coverage under this permit with DEQ before any land disturbance occurs, unless the construction activities are automatically covered as described in the 1200-CN permit.

- Construction activities including clearing, grading, excavation, materials or equipment staging and stockpiling that will disturb one or more acres and may discharge to surface waters or conveyance systems leading to surface waters of the state.
- Construction activities including clearing, grading, excavation, materials or equipment staging and stockpiling that will disturb less than one acre that are part of a common plan of development or sale if the larger common plan of development or sale will ultimately disturb one acre or more and may discharge to surface waters or conveyance systems leading to surface waters of the state.
- This permit also authorizes discharges from any other construction activity (including construction activity that disturbs less than one acre and is not part of a common plan of development or sale) designated by DEQ, where DEQ makes that designation based on the potential for contribution to an excursion of a water quality standard or for significant contribution of pollutants to waters of the state.

This permit does not authorize the following:

- In-water or riparian work, which is regulated by other programs and agencies including the Federal Clean Water Act Section 404 permit program, the Oregon Department of State Lands, the Oregon Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, the U.S. Army Corp of Engineers, the National Marine Fisheries Service, and the Department of Environmental Quality Section 401 certification program.
- Post-construction stormwater discharges that originate from the site after completion of construction activities and final stabilization.
- Discharges to underground injection control (UIC) systems.

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Lydia Emer, Operations Administrator

Effective: December 15, 2015  
Expiration Date: December 14, 2020

**PERMITTED ACTIVITIES**

Until this permit expires, is modified or revoked, the permit registrant is authorized to construct, install, modify, or operate erosion and sediment control measures and stormwater treatment and control facilities, and to discharge stormwater and certain specified non-stormwater discharges to surface waters of the state or conveyance systems leading to surface waters of the state only in conformance with all the requirements, limitations, and conditions set forth in the permit including attached schedules as follows:

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

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**SCHEDULE A  
CONTROLS AND LIMITATIONS**

**CONSTRUCTION ACTIVITIES REQUIRED TO REGISTER FOR PERMIT**

**1. Registering New Construction Activities**

- a. Applicants seeking registration for coverage under this permit for construction activities that will disturb one or more acres must submit a complete application to DEQ or Agent at least thirty (30) calendar days before the planned land disturbance, unless otherwise approved by DEQ or Agent (see Schedule **D** for description of Agent). The application must include:
  - i. One paper copy and one electronic copy of the following:
    - (1) A complete DEQ-approved application form;
    - (2) An Erosion and Sediment Control Plan (ESCP);
    - (3) A Land Use Compatibility Statement (LUCS) indicating that the proposed activities are compatible with the local government's acknowledged comprehensive plan; and
  - ii. Applicable permit fees.
- b. Applicants seeking registration for coverage under this permit for construction activities that will disturb less than one acre that are part of a larger common plan of development or sale must, at least thirty (30) calendar days before the planned land disturbance, submit to DEQ or Agent:
  - i. A complete DEQ-approved application form;
  - ii. One copy of an ESCP that covers the individual lot(s); and
  - iii. Applicable permit fees.
- c. Applicants seeking registration for coverage under this permit for construction activities that disturb or are likely to disturb five (5) or more acres over the life of the project, are subject to a 14-calendar day public review period before permit registration is granted. The public review period will not begin if the application form or ESCP are incomplete.
- d. DEQ or Agent will notify the applicant in writing if registration is approved or denied. Permit coverage does not begin until the applicant receives written notice that the registration is approved. If registration is denied or the applicant does not wish to be regulated by this permit, the applicant may apply for an individual permit in accordance with OAR 340-045-0030.
- e. Until termination has been approved by DEQ or Agent, permit registrants for permitted activities that disturb one acre or more must pay an annual fee.
- f. Permitted activities for projects that disturb less than one acre and utilize the small lot fee structure are covered under the permit for 2 (two) years. To continue coverage beyond 2 years, the permit registrant must submit a DEQ-approved application form and (if needed) an updated ESCP; and pay the applicable permit fee.

**2. Renewal Application for Permit Coverage**

- a. An owner or operator of construction activities registered under the 1200-C permit that expires in 2015 must submit to DEQ or Agent a complete renewal application, using a DEQ-approved renewal application form before expiration of the 1200-C permit to ensure uninterrupted permit coverage for construction stormwater discharges.
- b. If renewal is denied or the applicant does not wish to be regulated by this permit, the registrant may apply for an individual permit in accordance with OAR 340-045-0030.

### **3. Transfer of Permit Registration**

- a. To transfer permit registration, the new owner or permit registrant must submit a DEQ-approved transfer form and applicable fees prior to permit expiration and within thirty (30) calendar days of the planned transfer.
- b. If ownership changes (through sale, foreclosure or other means) and the previous owner cannot be found:
  - i. The new owner must register for coverage under the permit (Schedule A, Paragraph 1) if the site is not stabilized.
  - ii. The new owner must register for coverage under the permit (Schedule A, Paragraph 1) prior to any additional land disturbance.
  - iii. The new owner does not need to register for coverage under the permit if the site meets the conditions for termination (see Schedule B) and there is no ongoing or additional land disturbance planned.
  - iv. DEQ will attempt to contact the previous owner at the address on record. If there is no response, after sixty (60) calendar days DEQ may terminate the previous owner's permit coverage.

### **4. Authorized Stormwater Discharges**

Subject to compliance with the terms and conditions of this permit, and provided that all necessary controls are implemented to minimize sediment transport, the following stormwater discharges from construction sites are authorized (unless otherwise prohibited by local ordinances):

- a. Stormwater associated with construction activity described in the "Sources Covered" section of the permit.
- b. Stormwater from support activities at the construction site (for example, concrete or asphalt operations, equipment staging yards, material storage areas, excavated material disposal areas and borrow areas) provided:
  - i. The support activity is directly related to the construction site covered by this NPDES permit;
  - ii. The support activity is not a commercial operation serving multiple unrelated construction projects by different permit registrants;
  - iii. The support activity does not operate beyond the completion of the construction activity at the last construction project it supports; and
  - iv. Appropriate control measures are used to ensure compliance with discharge and water quality requirements.

### **5. Authorized Non-Stormwater Discharges**

If the terms and conditions of this permit are met, all necessary controls are implemented to minimize sediment transport, the discharge is not contaminated, and the discharge is not prohibited by local ordinance, the following non-stormwater discharges from construction sites are authorized:

- a. Water from emergency firefighting activities;
- b. Fire hydrant flushings;
- c. Potable water including water line flushing;
- d. Vehicle washing and external building washing that does not use solvents, detergents or hot water;
- e. Pavement wash waters where stockpiled material, spills or leaks of toxic or hazardous materials have not occurred (unless all stockpiled and spilled material has been removed) and where solvents, detergents or hot water are not used. Directing pavement wash waters into any surface water, storm drain inlet, or stormwater conveyance is prohibited, unless the conveyance is connected to a sediment basin, sediment trap, or similarly effective control;
- f. Water used to control dust;

- g. Air conditioning or compressor condensate;
- h. Construction dewatering activities (including groundwater dewatering and well drilling discharge associated with the registered construction activity), provided that:
  - i. The water is land applied in a way that results in complete infiltration with no potential to discharge to a surface water of the state, or
  - ii. Best Management Practices (BMPs) or a treatment system approved by DEQ or Agent is used to ensure compliance with discharge and water quality requirements (see 9.d);
- i. Foundation or footing drains where flows are not contaminated with process materials such as solvents; and
- j. Landscape irrigation.

For other non-stormwater discharges, a separate permit may be needed. The disposal of wastes to surface waters or on-site is not authorized by this permit.

## 6. Prohibited Discharges

Discharges of the following are not authorized by this permit:

- a. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
- b. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
- c. Soaps or solvents used in vehicle and equipment washing.
- d. Concrete truck wash-out, hydro-demolition water, and saw-cutting slurry.

## 7. Control Measures

It is the responsibility of the permit registrant to implement BMPs as needed for weather conditions.

### a. Erosion Prevention

The permit registrant must control stormwater volume and velocity within the site to minimize soil erosion. The permit registrant must prevent or minimize the disturbance of sediment.

- i. Avoid or minimize excavation and bare ground activities during wet weather.
- ii. Temporarily stabilize soils at the end of the shift before holidays and weekends, if needed. It is the permit registrant's responsibility to ensure that soils are stable during rain events at all times of the year.
- iii. Clearing and Grading.  
Phase clearing and grading to the maximum extent practical to prevent exposed inactive areas from becoming sources of erosion. Minimize the disturbance of steep slopes. Minimize erosion during and after soil disturbance using BMPs such as temporary seeding and planting, final vegetative cover, mulches, compost blankets, erosion control blankets and mats, and soil tackifiers.
- iv. Wind Erosion/Dust Control. Water or use a soil-binding agent or other dust control technique as needed to avoid wind-blown soil.
- v. Vegetative Erosion Control.
  - (1) Preserve existing vegetation and re-vegetate open areas when practical.
  - (2) Do not remove temporary sediment control practices until final vegetative cover or permanent stabilization measures are established.
  - (3) Identify the type of seed mix (percentages of the various seeds of annuals, perennials and clover) and other plantings used to establish temporary or final vegetative cover.

- b. Natural Buffer Zone
- i. If a water of the state is within the project site or within 50 feet of the project boundary, and a natural buffer exists within 50 feet of the water of the state,
    - (1) The permit registrant must:
      - (a) Maintain any existing natural buffer within the 50-foot zone for the duration of permit coverage; or
      - (b) Maintain less than the entire existing natural buffer, and provide additional erosion and sediment controls (beyond those required in other sections of this general permit). In addition to other applicable requirements of this permit, the permit registrant must implement one or more of the BMPs listed below to control and treat sediment and turbidity. The selected BMP(s) must be identified in the ESCP as addressing this condition of the permit, and the rationale for choosing the selected BMP(s) must also be provided.
        - (i) Compost berms, compost blankets, or compost socks;
        - (ii) Erosion control mats;
        - (iii) Tackifiers used in combination with perimeter sediment control BMPs;
        - (iv) Water treatment by electro-coagulation, flocculation, or filtration; and/or
        - (v) Other substantially equivalent sediment or turbidity BMP approved by DEQ or Agent.
    - (2) In addition, the permit registrant must:
      - (a) Ensure that all discharges from covered activities to the water of the state are treated by the site's erosion and sediment controls before entering the natural buffer. Use velocity dissipation devices if necessary to prevent erosion in the natural buffer.
      - (b) Delineate and clearly mark off (with flags, tape or similar marking devices) all natural buffer zones.
  - ii. Stormwater control features (for example, stormwater conveyance channels, storm drain inlets, and sediment basins) are not "waters of the state" for the purposes of triggering this requirement.
  - iii. Areas that the permit registrant does not own or that are otherwise outside the permit registrant's operational control may be considered areas of undisturbed natural buffer for purposes of this requirement. However, the permit registrant is only required to retain and protect from construction activities the portion of the buffer area that is under the permit registrant's control.
  - iv. The Natural Buffer Zone requirements do not apply if:
    - (1) No natural buffer exists due to development that occurred prior to the initiation of planning for the current project; or
    - (2) There is no discharge of stormwater to the water of the state through the area between the disturbed portions of the site and the surface water located within the project site or within 50 feet of the site. This includes situations where the permit registrant has implemented control measures, such as a berm or other barrier, that will prevent such discharges; or
    - (3) There is a CWA Section 404 permit and 401 WQC issued for the project; or
    - (4) Construction is for a water-dependent structure or water access areas (for example, pier, boat ramp, or trail).
  - v. Pre-existing conditions
    - (1) The permit registrant is not required to enhance the quality of the vegetation that already exists in the buffer, or provide vegetation if none exists.
    - (2) Any preexisting structures or impervious surfaces are allowed in the natural buffer provided the permit registrant retains and protects from disturbance any natural buffer area outside the preexisting disturbance.

c. Runoff Control

The permit registrant must control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and streambank erosion. The permit registrant must minimize sediment discharges from the site. The permit registrant must prevent or minimize scouring by means such as diverting, collecting, conveying or controlling flow. BMPs used for these purposes include diversion of run-on; trench drains, slope drains, french drains and subsurface drains; temporary diversion dikes; earthen berms; grass-lined or armored channels (such as turf reinforcement mats); drainage swales; energy dissipaters; rock outlet protection; drop inlets; and check dams. Note that any underground injection must comply with OAR Chapter 340, Division 44.

d. Sediment Control

The permit registrant must prevent or minimize sediment transport by means such as filtration and settling.

- i. Control sediment as needed along the site perimeter and at all operational internal storm drain inlets at all times during construction, both internally and at the site boundary by using BMPs such as sediment fences, buffer zones, sediment traps, rock filters, compost berms/compost socks, fiber wattles, storm drain inlet protection, and temporary or permanent sedimentation basins; and, when discharging from basins and impoundments, by utilizing outlet structures that withdraw water from the surface, unless infeasible.

- ii. Sediment Tracking and Transport Control.

The permit registrant must prevent or minimize tracking of sediment onto public or private roads using BMPs such as:

- (1) Establish graveled (or paved) exits and parking areas prior to any land disturbing activities.
- (2) Gravel all unpaved roads located onsite.
- (3) Use an exit tire wash.
- (4) Cover all sediment loads leaving the site.
- (5) When trucking saturated soils from the site, either use water-tight trucks or drain loads on site.

e. Pollution Prevention and Control.

- i. Pollution Prevention.

The permit registrant must design, implement, and maintain pollution prevention measures to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater.

- (1) Use BMPs to prevent or minimize pollution of stormwater or to treat flow from dewatering, ponded water, paving, and temporary bridges.
- (2) Use BMPs to prevent or minimize stormwater from being exposed to pollutants from spills; vehicle and equipment fueling, maintenance, and storage; other cleaning and maintenance activities; and waste handling activities. These pollutants include fuel, hydraulic fluid and other oils from vehicles and machinery; as well as debris, fertilizer, pesticides and herbicides, paints, solvents, curing compounds and adhesives.

- ii. Stockpile Erosion and Sediment Control Practices.

- (1) Both on-site stockpiles and stockpiles located away from the construction activity but still under the control of the permit registrant must be protected to prevent significant amounts of sediment or turbid water from discharging to surface waters or conveyance systems leading to surface waters.
- (2) As needed based on weather conditions, at the end of each workday soil stockpiles must be stabilized or covered, or other BMPs must be implemented to prevent discharges to surface waters or conveyance systems leading to surface waters.



- (3) In developing these practices, at a minimum the following must be considered:  
diversion of uncontaminated flows around stockpiles, use of cover over stockpiles, and installation of sediment fences (or other barriers that will prevent the discharge of sediment or turbidity) around stockpiles.
- iii. Solid Waste and Hazardous Materials Management.  
Implement the following BMPs when applicable: written spill prevention and response procedures, employee training on spill prevention and proper disposal procedures, spill kits available on site, regular maintenance schedule for vehicles and machinery, material delivery and storage controls, training and signage, and covered storage areas for waste and supplies.
- f. Additional BMP Requirements During Inactive Periods.
  - i. If all construction activities cease at the site for thirty (30) calendar days or more, the entire site must be stabilized using temporary seeding, vegetation, a heavy mulch layer, or another method.
  - ii. On any significant portion of the site, if construction activities cease for fourteen (14) calendar days or more, install temporary covering such as blown straw and a tackifier, loose straw, compost mulch, temporary vegetative cover, crushed rock or gravel base.

## 8. Implementation of Control Measures

- a. Permit registrants must implement the ESCP (Paragraph A.12). Failure to implement any of the control measures or practices described in the ESCP is a violation of the permit.
- b. Permit registrants must prevent the discharge of significant amounts of sediment to surface waters or conveyance systems leading to surface waters. The following conditions indicate that a significant amount of sediment has left or is likely to leave the site, and are prohibited:
  - i. Earth slides or mud flows;
  - ii. Concentrated flows of stormwater such as rills, rivulets or channels that cause erosion when such flows are not filtered, settled or otherwise treated to remove sediment;
  - iii. Sediment laden or turbid flows of stormwater that are not filtered or settled to remove sediments and turbidity;
  - iv. Deposits of sediment at the construction site in areas that drain to unprotected stormwater inlets or to catch basins that discharge to surface waters. Inlets and catch basins with failing sediment controls due to lack of maintenance or inadequate design are considered unprotected;
  - v. Deposits of sediment from the construction site on any property (including public and private streets) outside of the construction activity covered by this permit.
- c. Permit registrants must ensure the control measures or practices described in the ESCP are implemented according to the following sequence:
  - i. Before Construction.
    - (1) Identify, mark, and protect (with construction fencing or other means) critical riparian areas and vegetation including important trees and associated rooting zones and vegetation areas to be preserved.
    - (2) Identify, mark and protect vegetative buffer zones between the site and sensitive areas (for example, wetlands), and other areas to be preserved, especially in perimeter areas.
    - (3) Hold a pre-construction meeting of project construction personnel that includes the inspector required by condition A.12.b.iii to discuss erosion and sediment control measures and construction limits.
    - (4) Stabilize site entrances and access roads including, but not limited to construction entrances, roadways and equipment parking areas.
    - (5) Install perimeter sediment control, including storm drain inlet protection as well as all sediment basins, traps, and barriers.

- (6) For projects involving concrete, permit registrants must establish concrete truck and other concrete equipment washout areas before beginning concrete work.
- (7) Establish material and waste storage areas, and other non-stormwater controls.
- (8) Stabilize stream banks and construct the primary runoff control measures to protect areas from concentrated flows.

ii. During Construction.

- (1) Land Clearing, Grading and Roadways. Permit registrants must:
  - (a) Begin land clearing, excavation, trenching, cutting or grading only after installing applicable sediment and runoff control measures.
  - (b) Provide appropriate erosion and sediment control BMPs for all roadways including gravel roadways.
  - (c) Install additional control measures as work progresses as needed.
  - (d) Phase clearing and grading to the maximum extent practical to prevent exposed inactive areas from becoming a source of erosion.
- (2) For projects involving concrete, permit registrants must:
  - (a) Wash concrete trucks and equipment off site (in an appropriately protected area) or in designated concrete washout areas only.
  - (b) Direct all wash water into a pit or leak-proof container. The pit does not need to be lined or leak-proof, but the pit or container must be designed so that no overflows can occur due to inadequate sizing or precipitation. Concrete wash water must not adversely affect groundwater.
  - (c) Handle (for example, through disposal, reuse or recycling) wash water as waste. Do not dispose of concrete wash water or wash out concrete trucks onto the ground, or into storm drains, open ditches, streets, or streams.
  - (d) Do not dump excess concrete on site, except in designated concrete washout areas.
  - (e) Handle (for example, through disposal, reuse or recycling) hardened concrete waste consistent with handling of other construction wastes.
  - (f) Concrete spillage or concrete discharge to surface waters of the state is prohibited.
- (3) Surface Stabilization. Permit registrants must:

Apply temporary stabilization measures (for example, mulching or temporary seeding), final vegetative cover, or permanent stabilization measures immediately on all disturbed areas as work is completed. Stabilization of disturbed areas must be initiated immediately whenever any earth disturbing activities have permanently ceased on any portion of the site. However, temporary or permanent stabilization measures are not required for areas that are intended to be left unvegetated or unstabilized following construction (such as dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, or materials), provided that measures are in place to eliminate or minimize erosion.

iii. Termination. Before termination of permit coverage, permit registrants must:

- (1) Provide final vegetative cover or permanent stabilization measures on all exposed areas (see Section D.3).
- (2) Immediately after seeding or planting the area to be vegetatively stabilized, the permit registrant must select, design, and install non-vegetative erosion controls (such as mulch or rolled erosion control products) that provide cover to the area while vegetation is becoming established, to the extent necessary to prevent erosion of the seeded or planted area.
- (3) Remove and properly dispose of construction materials and waste, including sediment retained by temporary BMPs.
- (4) Remove all temporary control measures as areas are stabilized, unless doing so conflicts with local requirements.

## 9. BMP Maintenance

- a. The permit registrant must establish and promptly implement procedures for maintenance and repair of erosion and sediment control measures.
- b. General Site Maintenance.
  - i. Significant amounts of sediment that leave the site must be cleaned up within 24 hours, placed back on the site and stabilized, or disposed of properly. In addition, the source(s) of the sediment must be controlled to prevent continued discharge within 24 hours. Any in-stream cleanup of sediment must be performed according to requirements and timelines set by the Oregon Department of State Lands.
  - ii. Sediment must not be intentionally washed into storm sewers or drainage ways. Methods such as vacuuming, dry mechanical sweeping, or manual sweeping must be used to cleanup released sediments.
  - iii. Fertilizer application rates must follow manufacturer's guidelines and the application must be done in such a way to minimize discharge of nutrients to surface waters.
- c. Maintenance of Erosion and Sediment Controls. Permit registrants must:
  - i. Sediment fence: remove trapped sediment before it reaches one third of the above ground fence height.
  - ii. Other sediment barriers (such as biobags): remove sediment before it reaches two inches depth above ground height.
  - iii. Catch basins: clean before sediment retention capacity has been reduced by fifty percent.
  - iv. Sediment basins: remove trapped sediments before design capacity has been reduced by fifty percent.
- d. Treatment Systems.

If an active treatment system (for example, electro-coagulation, flocculation, filtration, etc.) for sediment or other pollutant removal is employed, the permit registrant must submit an operation and maintenance plan (including system schematic, location of system, location of inlet, location of discharge, discharge dispersion device design, and a sampling plan and frequency) to DEQ or Agent before operating the treatment system. The plan must be approved by DEQ or Agent before operating the treatment system. If approved, the treatment system must be operated and maintained according to manufacturer's specifications.

## 10. In-stream Water Quality Standards

- a. The permit registrant must not cause or contribute to a violation of in-stream water quality standards.
- b. In the absence of information demonstrating otherwise, DEQ expects that compliance with the conditions in this permit will result in stormwater discharges being controlled as necessary to meet applicable water quality standards. If at any time the permit registrant becomes aware, or DEQ determines, that a discharge from the permitted activity is not being controlled as necessary to meet applicable water quality standards, the permit registrant must take corrective actions, and document the corrective actions as required in A.13.

## 11. Water Quality Requirements for TMDL and 303(d) Listed Waterbodies

In addition to other applicable requirements of this permit, if a permit registrant's construction project has the potential to discharge to a portion of a waterbody that is listed as impaired and requiring a TMDL for turbidity or sedimentation on the most recently EPA-approved Oregon 303(d) list or that has an established Total Maximum Daily Load (TMDL) for sedimentation or turbidity (available at [www.deq.state.or.us/WQ/assessment/assessment.htm](http://www.deq.state.or.us/WQ/assessment/assessment.htm)), the permit registrant must implement one or more of the BMPs listed below to control and treat sediment and turbidity. The selected BMP(s) must

be identified in the ESCP as addressing this condition of the permit, and the rationale for choosing the selected BMP(s) must also be provided.

- a. Compost berms, compost blankets, or compost socks;
- b. Erosion control mats;
- c. Tackifiers used in combination with perimeter sediment control BMPs;
- d. Established vegetated buffers sized at 50 feet (horizontally) plus an additional 25 feet (horizontally) per 5 degrees of slope;
- e. Water treatment by electro-coagulation, flocculation, or filtration; and/or
- f. Other substantially equivalent sediment or turbidity BMP approved by DEQ or Agent.

## **12. Erosion and Sediment Control Plan (ESCP)**

- a. Preparation.
  - i. The permit registrant must ensure that an ESCP is prepared and revised as necessary to reflect site conditions for the construction activity regulated by this permit, and submit revisions to DEQ or Agent in accordance with requirements of this permit. The design, installation, and maintenance of erosion and sediment controls must be adequate to address factors such as the amount, frequency, intensity, and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site.
  - ii. Qualifications to Prepare ESCP.
    - (1) For construction activities disturbing 20 or more acres, the ESCP must be prepared and stamped by a Certified Professional in Erosion and Sediment Control, Certified Professional in Storm Water Quality, Oregon Registered Professional Engineer, Oregon Registered Landscape Architect, or Oregon Certified Engineering Geologist.
    - (2) If engineered facilities such as sedimentation basins or diversion structures for erosion and sediment control are required, the ESCP must be prepared and stamped by an Oregon Registered Professional Engineer.
- b. The ESCP must include the following elements:
  - i. Name of the site.
  - ii. Local Government Requirements. Include any procedures necessary to meet applicable local government erosion and sediment control or stormwater management requirements.
  - iii. Erosion and Sediment Control Inspector.
    - (1) Inspections must be conducted by a person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact stormwater quality, is knowledgeable in the correct installation of the erosion and sediment controls, and is able to assess the effectiveness of any sediment and erosion control measures selected to control the quality of stormwater discharges from the construction activity.
    - (2) Beginning January 1, 2017, for projects that are five or more acres, inspections must be conducted by a person certified in an erosion and sediment control program that has been approved by DEQ. DEQ has approved the following programs:
      - (a) Certified Professional in Erosion and Sediment Control,
      - (b) Certified Professional in Storm Water Quality,
      - (c) Washington State Certified Erosion and Sediment Control Lead, or
      - (d) Rogue Valley Sewer Services Erosion and Sediment Control Certification.

- (3) Inspections must be conducted by the Erosion and Sediment Control Inspector identified in the ESCP.
- (4) Provide the following for all personnel that will conduct inspections:
  - (a) Name and title;
  - (b) Contact phone number and, if available, e-mail address; and
  - (c) Description of experience and training.

iv. Narrative Site Description.

- (1) Description of the construction activity;
- (2) Proposed timetable indicating when each erosion and sediment control BMP is to be installed and the duration that it is to remain in place;
- (3) Estimates of the total area of the permitted site and the area of the site that is expected to undergo clearing, grading or excavation;
- (4) Nature of the fill material to be used, and of the site soils prior to disturbance;
- (5) Names of the receiving water(s) for stormwater runoff;
- (6) The types of pollutants that could be found in stormwater and their likely sources;
- (7) Any authorized non-stormwater discharges; and
- (8) If a surface water of the state is within 50 feet of the permitted activities,
  - (a) Description of area within 50 feet of project site (including any natural buffer), and
  - (b) Description of approach to manage the natural buffer zone, if any (for example, maintain natural buffer, reduce natural buffer and increase BMPs, or eliminate flow through natural buffer).

v. Site Map and Drawings.

- (1) The site map and drawings must be kept on site and must represent the actual BMP controls being used onsite;
- (2) The site map must show sufficient roads and features for DEQ or Agent to locate and access the site;
- (3) The site map and drawings must include (but is not limited to) the following features (as applicable):
  - (a) Total property boundary including surface area of the development;
  - (b) Areas of soil disturbance (including, but not limited to, showing cut and fill areas and pre- and post-development elevation contours);
  - (c) Drainage patterns before and after finish grading;
  - (d) Discharge points;
  - (e) Areas used for the storage of soils or wastes;
  - (f) Areas where vegetative practices are to be implemented;
  - (g) All erosion and sediment control measures or structures;
  - (h) Impervious structures after construction is completed (including buildings, roads, parking lots and outdoor storage areas);
  - (i) Springs, wetlands and other surface waters on site or adjacent to the site;
  - (j) Temporary and permanent stormwater conveyance systems;
  - (k) Onsite water disposal locations (for example, for dewatering);
  - (l) Storm drain catch basins depicting inlet protection, and a description of the type of catch basins used (for example, field inlet, curb inlet, grated drain and combination);
  - (m) Septic drain fields;
  - (n) Existing or proposed drywells or other UICs;
  - (o) Drinking water wells on site or adjacent to the site;
  - (p) Planters;
  - (q) Sediment and erosion controls including installation techniques;

- (r) Natural buffer zones and any associated BMPs for all areas within 50 feet of a water of the state; and
  - (s) Detention ponds, storm drain piping, inflow and outflow details.
- c. ESCP Revisions
- i. The ESCP must be accurate and reflect site conditions. Update the ESCP as needed to represent actual BMPs being used onsite.
  - ii. ESCP revisions must:
    - (1) Clearly identify any changes (such as type or design) to the BMPs identified in the ESCP, their location, maintenance required, and any other revisions necessary to prevent and control erosion and sediment runoff.
    - (2) Include contact information and any applicable certification, training and experience for changes in Erosion and Sediment Control Inspector.
  - iii. Approval of the revisions by DEQ or Agent prior to implementation is not required.
  - iv. Submission of all ESCP revisions is not required. ESCP revisions must be submitted only if they are made for any of the following reasons:
    - (1) Part of a Corrective Action (A.13).
    - (2) Change in address of the permit registrant. Registrant must keep their address current with DEQ or Agent. Failure to do so may be used as grounds for termination of coverage.
    - (3) Change (increase or decrease) in the size of the project.
    - (4) Change (increase or decrease) in the size or location of disturbed areas.
    - (5) Change to BMPs (for example, type, design or location).
    - (6) Change in erosion and sediment control inspector.
  - v. If submission of ESCP revisions is required, submit one paper copy and one electronic PDF to DEQ or Agent within 10 calendar days of the revision. These revisions should be submitted as revised pages of the ESCP or drawings only; it is not necessary to submit the entire ESCP. If the permit registrant does not receive a response to the revisions from DEQ or Agent within 10 calendar days of receipt, the proposed revisions are deemed accepted.
  - vi. DEQ or Agent may require the permit registrant to revise the ESCP at any time. The permit registrant must submit the revisions according to the timeframe specified by DEQ or Agent.

### 13. Corrective Actions

- a. The permit registrant must take corrective actions if any of the following occur:
  - i. Significant amounts of sediment or turbidity (as described in A.8.b) are visible downstream of the permitted activities in:
    - (1) A conveyance system leading to surface waters;
    - (2) Surface waters 50 feet or more downstream of the discharge point; or
    - (3) Surface waters at any location where more than one-half of the width of the receiving surface waters is affected.
  - ii. The construction activity causes or contributes to a violation of in-stream water quality standards (A.10.a).
  - iii. DEQ or the Agent requires the permit registrant to take corrective actions to prevent or control the discharge of significant amounts of sediment or turbidity to surface waters or to conveyance systems that discharge to surface waters.
- b. If corrective actions are required, the permit registrant must do all of the following:
  - i. Source(s) of sediment must be controlled within 24 hours to prevent continued or additional discharges. Immediately, but no later than 24 hours after initial detection, take corrective actions or implement additional effective BMPs until the significant amounts of sediment or turbidity are no longer visually detectable and to ensure that the requirements of Conditions A.8.b and A.10.a are met;

- ii. Document in the inspection records the corrective actions taken; and
- iii. Evaluate the control measures and practices to determine the cause of the noncompliance. Submit a written report to DEQ or Agent within 10 calendar days of identifying the need to take corrective action as required in condition 13.a above. This report must include:
  - (1) The site common name and DEQ file number.
  - (2) Identification of outfalls that were out of compliance.
  - (3) Names of personnel conducting inspections.
  - (4) A description of the noncompliance and its cause.
  - (5) The period of noncompliance.
  - (6) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance (such as specific BMPs that will be implemented or increased inspection frequency).
  - (7) ESCP revisions, if revisions were required to prevent and control erosion and sediment discharges.

**SCHEDULE B  
 MINIMUM MONITORING AND RECORDKEEPING  
 REQUIREMENTS**

**1. Visual Monitoring**

- a. The following must be monitored visually by a designated Erosion and Sediment Control Inspector:
  - i. All areas of the site disturbed by construction activity to ensure that BMPs are in proper working order.
  - ii. Discharge point(s) identified in the ESCP for evidence of or the potential for the discharge of pollutants (including sediment and turbidity), and to ascertain whether erosion and sediment control measures are effective in preventing significant impacts to surface waters. Where discharge points are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practical.
  - iii. BMPs identified in the current ESCP to assess whether they are functioning properly.
  - iv. Locations where vehicles enter or exit the site for evidence of off-site sediment tracking.
  - v. Areas used for storage of materials that are exposed to precipitation for evidence of spillage or other potential to contaminate stormwater runoff.
  
- b. All ESCP controls and practices must be monitored visually according to the following schedule:

Site Condition	Minimum Frequency
1. Active period	Daily when stormwater runoff, including runoff from snow melt, is occurring.  At least once every fourteen (14) calendar days, regardless of whether stormwater runoff is occurring.
2. Prior to the site becoming inactive or in anticipation of site inaccessibility	Once to ensure that erosion and sediment control measure are in working order. Any necessary maintenance and repair must be made prior to leaving the site.
3. Inactive periods greater than fourteen (14) consecutive calendar days	Once every month.
4. Periods during which the site is inaccessible due to inclement weather	If practical, inspections must occur daily at a relevant and accessible discharge point or downstream location.
5. Periods during which discharge is unlikely due to frozen conditions.	Monthly. Resume monitoring immediately upon melt, or when weather conditions make discharges likely.



c. Documentation of visual monitoring.

All visual monitoring must document the following:

- i. Visual monitoring date and inspector's name.
- ii. The construction site name as it appears on the registrant's permit.
- iii. The file or site number.
- iv. Weather conditions during the inspection, the approximate amount of precipitation since the last inspection, and approximate amount of precipitation during the last 24 hours.
- v. Observations for each discharge location. If a discharge location is inaccessible due to safety hazard, document the hazard and record the inspections noted at a relevant discharge point or downstream location if practical.
  - (1) For each discharge point, make observations:
    - (a) At the discharge location if the discharge is to a conveyance system leading to surface waters;
    - (b) From the discharge point to 50 feet downstream if the discharge is to surface waters; and
    - (c) At any location where more than one-half of the width of the receiving surface water is affected.
  - (2) For each area observed, document the following:
    - (a) For turbidity and color, describe any apparent color and the clarity of the discharge, and any apparent difference in comparison with the surface waters.
    - (b) Describe any sheen or floating material, or record that it is absent. If present, it could indicate concern about a possible spill or leakage from vehicles or materials storage.
- vi. Location(s) of BMPs in need of maintenance, inspections of all BMPs, including erosion and sediment controls, chemical and waste controls, locations where vehicles enter and exit the site, status of areas that are under temporary or final stabilization, soil stockpile areas, and non-stormwater pollution (for example, paints, oils, fuels, or adhesives) controls.
- vii. Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
- viii. Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
- ix. Corrective action required and implementation dates.
- x. All revisions and documentation of reasons for changes or modifications to the ESCP and other corrective measures.

## 2. Recordkeeping

- a. The permit registrant must keep the ESCP, all revisions to the ESCP, and all visual monitoring records on site.
- b. Upon request, the permit registrant must deliver the above records to DEQ, Agent, or the local municipality within three (3) working days of the request.
- c. During inactive periods of greater than seven (7) consecutive calendar days, the above records must be retained by the permit registrant but do not need to be at the construction site.
- d. The permit registrant must retain all visual monitoring records for at least three (3) years after termination of permit coverage.

**SCHEDULE D  
SPECIAL CONDITIONS**

**1. Schedule Precedence**

Schedule F contains General Conditions that are included in all general permits issued by DEQ. In the event of any inconsistency between Schedule F and any other schedule of the permit, the requirements in Schedules A through D take precedence.

**2. Other Requirements**

Registration under this permit does not relieve the permit registrant from all other permitting and licensing requirements. Prior to beginning construction activities, the permit registrant must obtain all other necessary approvals.

**3. Termination of Permit Registration**

- a. To terminate permit coverage, project registrants must
  - i. Complete and submit a Notice of Termination form to DEQ or Agent.
  - ii. Resolve all outstanding compliance issues.
  - iii. Pay all outstanding permit fees.
- b. If the project never started (there were no permitted activities and no soil disturbance), there are no additional requirements. For all previously-active projects, permit registrants must also:
  - i. Ensure that all final stabilization criteria are met.
  - ii. Submit photo-documentation that depicts site stabilization, unless the site has been inspected by DEQ or Agent.
  - iii. If portions of the property shown in the original ESCP have been sold, the permit registrant must submit an update of the ESCP depicting new site boundaries.
  - iv. For a common plan of development or sale, all portions of the original common plan of development or sale that have been sold must either meet final stabilization criteria (D.3.c) or be covered by the 1200-C or 1200-CN.
- c. Final stabilization is determined by satisfying the following criteria:
  - i. There is no reasonable potential for discharge of a significant amount of construction related sediment or turbidity to surface waters.
  - ii. Construction materials and waste have been removed and disposed of properly. This includes any sediment that was being retained by the temporary erosion and sediment controls.
  - iii. All temporary erosion and sediment controls have been removed and disposed of properly, unless doing so conflicts with local requirements.
  - iv. All soil disturbance activities have stopped and all stormwater discharges from construction activities that are authorized by this permit have ceased.
  - v. All disturbed or exposed areas of the site are covered by either final vegetative stabilization or permanent stabilization measures. However, temporary or permanent stabilization measures are not required for areas that are intended to be left unvegetated or unstabilized following construction (such as dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, or materials), provided that measures are in place to eliminate or minimize erosion.
- d. Permanent stabilization measures are erosion prevention materials designed to provide long-term protection to underlying soils. This may include but is not limited to buildings, paving, riprap, gabions, or geotextiles.

- e. Final vegetative stabilization means established and uniform (evenly distributed without large bare areas) perennial vegetation, which provides 70 percent or more coverage, with the following exceptions:
  - i. DEQ or Agent may approve less than 70 percent coverage if vegetation is expected to expand, and suitable interim measures (such as mulch or bark) are in place.
  - ii. For sites on which it is difficult to establish 70 percent density (for example, in arid, semiarid, and drought-stricken areas), the registrant must cover planted or seeded area with bio or photo degradable erosion controls designed to prevent erosion without active maintenance.
  - iii. Sites located on land that is currently employed for farm use as defined in ORS 308A.056 (for example, pipelines across crop or range land, or staging areas for highway construction) that are restored to their preconstruction farm use are not subject to these final vegetative stabilization criteria. Areas disturbed that were not previously employed for farm use, and areas that are not being returned to preconstruction farm use, must meet the conditions for final vegetative stabilization.

#### **4. Local Public Agencies Acting as DEQ's Agent**

DEQ authorizes local public agencies to act as its Agent in implementing this permit if they entered into a Memorandum of Agreement (MOA). The Agent may be authorized to conduct the following activities, including but not limited to: application and ESCP review, inspections, monitoring data review, stormwater monitoring and enforcement.

#### **5. Permit-Specific Definitions**

- a. *Agent* means a governmental entity that has an agreement with DEQ to administer this general permit within their jurisdictional boundaries.
- b. *Agricultural Land* means cropland, grassland, rangeland, pasture, and other land on which agricultural or forest-related products or livestock are produced. Agricultural lands include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of land used for the production of livestock.
- c. *Best Management Practices or BMPs* means schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural or managerial practices to prevent or reduce the pollution of waters of the state. BMPs include treatment systems, erosion and sediment control, source control, and operating procedures and practices to control site runoff, spillage or leaks, and waste disposal.
- d. *Borrow Area* means the area from which material is excavated to be used as fill material in another area.
- e. *Clean Water Act or CWA* means the Federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483, and 97-117; USC 1251 et seq.
- f. *Conveyance System* means, for the purposes of this permit, a sewer, ditch, pipe, channel, swale or similar component that is designed to carry water; or any combination of such components.
- g. *DEQ* means the Oregon Department of Environmental Quality.
- h. *Detention* means the temporary storage of stormwater to improve quality or reduce the volumetric flow rate of discharge or both.
- i. *Dewatering* means the removal and disposal of surface water or groundwater during site construction.
- j. *Discharge Point* means the location where stormwater leaves the site. It includes the location where stormwater is discharged to surface water or a stormwater conveyance system.
- k. *Erosion* means the movement of soil particles or rock fragments by water or wind.
- l. *Erosion and Sediment Control BMPs* means BMPs that are intended to prevent erosion and sedimentation, such as preserving natural vegetation, seeding, mulching and matting, plastic

covering, sediment fences, and sediment traps and ponds. Erosion and sediment control BMPs are synonymous with stabilization and structural BMPs.

- m. *Hazardous Materials* means the materials defined in 40 CFR part 302 Designation, Reportable Quantities, and Notification.
- n. *Legally Authorized Representative* means the following (please see 40 CFR §122.22 for more detail, if needed):
  - For a corporation - president, secretary, treasurer, vice-president, or any person who performs principal business functions; or a manager of one or more facilities that is authorized in accordance to corporate procedure to sign such documents.
  - For a partnership - general partner.
  - For a sole proprietorship - Owner(s) [each owner must sign the application].
  - For a city, county, state, federal, or other public facility - principal executive officer or ranking elected official.
  - For a Limited Liability Company - Member [articles of organization].
  - For trusts – Acting trustee.
- o. *Local Government* means any county, city, town, or service district.
- p. *National Pollutant Discharge Elimination System or NPDES* means the national program under Section 402 of the Clean Water Act for regulation of point source discharges of pollutants to waters of the United States.
- q. *Natural Buffer* means, for the purposes of this permit, an area of undisturbed natural cover surrounding surface waters within which construction activities are restricted. Natural cover includes the natural vegetation, exposed rock, and barren ground that existed prior to commencement of earth-disturbing activities.
- r. *Natural Vegetation* means vegetation that occurs spontaneously without regular management, maintenance, or species introductions or removals. For purposes of this permit, this includes invasive species.
- s. *Non-Stormwater Pollution Controls* means general site and materials management measures that directly or indirectly aid in minimizing the discharge of sediment and other construction related pollutants from the construction site.
- t. *Owner or operator* means the owner or operator of any “facility or activity” subject to regulation under the NPDES program. Owners or operators may be individuals or other legal entities.
  - i. Operator for the purposes of this permit, means any person associated with a construction project that meets either of the following two criteria:
    - (1) The person has operational control over construction plans and specifications, including the authority to make modifications to those plans and specifications; or
    - (2) The person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a ESCP for the site or other permit conditions (for example, they are authorized to direct workers at a site to carry out activities required by the ESCP or comply with other permit conditions).
  - ii. Owner for the purposes of this permit means any person with a legal interest in the permitted activities or the property on which the permitted activities occur.
- u. *Permit Registrant* means the owner or operator of the construction activity regulated by this permit that has submitted an application and received notice of registration under this general permit by DEQ or Agent.
- v. *Person* means not only individuals, but also includes, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.
- w. *Pollutant* as defined in 40 CFR §122.2 means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, domestic sewage sludge (biosolids), munitions, chemical

wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, cellar dirt and industrial, municipal, and agricultural waste discharge into water. It does not mean sewage from vessels within the meaning of section 312 of the FWPCA, nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the FWPCA.

- x. *Pollution or Water Pollution* as defined by ORS 468B.005(3) means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.
- y. *Runoff Controls* means BMPs that are designed to control the peak volume and flow rate or to prevent scour due to concentrated flows.
- z. *Sediment* means mineral or organic matter, typically deposited by water, air, or ice.
- aa. *Site* means the area where the construction activity is physically located or conducted.
- bb. *Stormwater Conveyance* means a sewer, ditch, or swale that is designed to carry stormwater; a stormwater conveyance may also be referred to as a storm drain or storm sewer.
- cc. *Stormwater as defined by 40 CFR §122.26(b)(13)* means stormwater runoff, snow melt runoff, and surface runoff and drainage.
- dd. *Surface Runoff* means that portion of stormwater that does not infiltrate into the ground or evaporate, but instead flows onto adjacent land or watercourses or is routed to stormwater conveyance systems.
- ee. *Surface Water* means all water naturally open to the atmosphere (for example, rivers, lakes, reservoirs, ponds, streams, impoundments, oceans, estuaries, springs, etc.).
- ff. *Total Maximum Daily Load or TMDL* means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet state water quality standards. It is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. Percentages of the TMDL are allocated by DEQ to the various pollutant sources.
- gg. *Turbidity* means the optical condition of waters caused by suspended or dissolved particles or colloids that scatter and absorb light rays instead of transmitting light in straight lines through the water column. Turbidity may be expressed as nephelometric turbidity units (NTUs) measured with a calibrated turbidity meter.
- hh. *Underground Injection Control* means any system, structure, or activity that is created to place fluid below the ground or sub-surface (for example, sumps, infiltration galleries, drywells, trench drains, drill holes, etc.)
- ii. *Water or Waters of the State as defined by ORS 468B.005(8)* means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

**SCHEDULE F**  
**NPDES GENERAL CONDITIONS – INDUSTRIAL FACILITIES**  
October 1, 2015 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. The federal Clean Water Act provides for civil penalties not to exceed \$37,500 and administrative penalties not to exceed \$16,000 per day for each violation of any condition or limitation of this 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. 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, unlawful water pollution in the first degree is a Class B felony and is punishable by a fine up to \$250,000, imprisonment for not more than 10 years or both. The federal Clean Water Act provides for criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment of not more than 3 years, or both for knowing violations of the permit. In the case of a second or subsequent conviction for knowing violation, a person is subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.

A3. Duty to Mitigate

The permittee must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit. 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  $\pm 10$  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).

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

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

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

- e. A description of noncompliance and its cause;
- f. The period of noncompliance, including exact dates and times;
- g. The estimated time noncompliance is expected to continue if it has not been corrected;

- h. Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance; and
- i. Public notification steps taken, pursuant to General Condition B7.

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

D6. Other Noncompliance

The permittee must report all instances of noncompliance not reported under General Condition D4 or D5, at the time monitoring reports are submitted. The reports must contain:

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

D7. Duty to Provide Information

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

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

D8. Signatory Requirements

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

D9. Falsification of Information

Under ORS 468.953, any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, is subject to a Class C felony punishable by a fine not to exceed \$125,000 per violation and up to 5 years in prison per ORS chapter 161. Additionally, according to 40 CFR § 122.41(k)(2), any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit including monitoring reports or reports of compliance or non-compliance will, upon conviction, be punished by a federal civil penalty not to exceed \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

D10. Changes to Discharges of Toxic Pollutant

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

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

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

## SECTION E. DEFINITIONS

- E1. *BOD* or *BOD<sub>5</sub>* means five-day biochemical oxygen demand.
- E2. *CBOD* or *CBOD<sub>5</sub>* 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. *m<sup>3</sup>/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.