



Public Notice

DEQ Requests Comments on Proposed Mutual Agreement and Order in Lieu of 400-J General Permit for Zip-O-Log Mills, Inc.

Date posted: 9/30/26

The Oregon Department of Environmental Quality invites the public to provide written comments on the conditions of Zip-O-Log Mills, Inc.'s proposed order in lieu of 400-J National Pollutant Discharge Elimination System general permit. These orders are known officially as Mutual Agreement and Orders in lieu of NPDES 400-J general permit for log ponds or wet storage facilities.

How to provide public comment

Facility name: Zip-O-Log Mills, Inc.

Permit type: Mutual Agreement and Order in Lieu of 400-J NPDES general permit

Comments due by: Wednesday, Nov. 4, 2026 at 5 p.m.

Submit written comments:

By mail: Trinh Hansen, Water Quality Permit Coordinator, Oregon DEQ, 4026845 Fairview Industrial Dr. SE, Salem, OR 97302

By web: [Your DEQ Online](#)
[Instructions for submitting a public comment](#)

By email: trinh.hansen@deq.oregon.gov

Summary

Subject to public review and comment, DEQ intends to issue proposed MAO in lieu of 400-J general permit that allows Zip-O-Logs to sprinkle logs during the dry season using groundwater, recirculated sprinkling water, and potentially stormwater that might drain into a recirculation pond. The order requires Zip-O-Logs Mills, Inc. to comply with DEQ's NPDES general permit 400-J. The 400-J general permit expired in 2007 and cannot be assigned to new sources; it is not scheduled for renewal in the near future. The information submitted supports that Zip-O-Log Mills' application has been reviewed by DEQ engineering staff and can operate in compliance with the requirements of the order and 400-J.

About the facility

Zip-O-Log Mills operates as a green lumber remanufacturing and storage facility. Green lumber is transported to the site via truck and rail and unloaded via forklift. Some green lumber is air dried, and some is dried in the onsite kilns. Green lumber is planed, resurfaced, sorted, stacked, wrapped, stored, and shipped. Limited fueling occurs at the site. Logs are stored on site and Zip-O-Log Mills is proposing to sprinkle the logs during dry months using groundwater, recirculated sprinkling water, and potentially stormwater that might drain into the proposed recirculation pond along with the sprinkling water.

What types of pollutants does the permit regulate?

The order sets limits for settleable solids (large particles), pH, and temperature.

Would the draft permit change the amount of pollution the facility is allowed to release?

No.

How does DEQ determine permit requirements?

This order requires Zip-O-Log to monitor pollutants discharged using approved monitoring practices and report the monitoring results per the conditions of the 400-J permit. DEQ reviews these reports for compliance with permit conditions.

How does DEQ monitor compliance with the permit requirements?

This permit will require the facility to monitor for pollutants discharged using approved monitoring practices and standards. DEQ reviews the facility's discharge monitoring reports to check for compliance with permit limits.

What happens next?

To submit comments electronically, please visit [Your DEQ Online](#). To submit a comment through Your DEQ Online, you can either set up an account by clicking "Register Account" or submit a comment without an account by clicking "Public Records and Services." If you want to attach a file with your comment, you'll need to create an account.

Once in the system, you may search for the public notice using the project name listed above or filtering the results by selecting "General NPDES Industrial" as the "Environmental Interest". Click the blue information "i" in the far-right column of the project, and then select the tab labeled "comments."

DEQ will hold a public hearing if DEQ receives written requests for public hearing during the public comment period from at least 10 people or from an organization or organizations representing at least 10 people.

For more information

Find out more and view the water quality permit at Your DEQ Online Help page for more information on how to access public notice documents and submit comments through this platform. Get information about submitting comments through Your DEQ Online, or contact DEQ Water Quality Permit Coordinator Trinh Hansen at:

Phone: 503-378-5055

Email: trinh.hansen@deq.oregon.gov

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age, sex, religion, sexual orientation, gender identity, or marital status in the administration of its programs and activities.

For translation and other formats, visit DEQ's [Civil Rights and Environmental Justice page](#).

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:	)	MUTUAL AGREEMENT
	)	AND ORDER IN LIEU OF
ZIP-O-LOG MILLS, INC.	)	PERMIT
	)	NO. WQ/M-WR-[XXXX-XXX]
	)	LANE COUNTY

WHEREAS:

1. Zip-O-Log Mills, Inc., (Zip-O-Log) is a corporation licensed to do business in Oregon.
2. Zip-O-Log generates wastewater from the sprinkling of green logs during the dry months using groundwater, recirculated sprinkling water, and potentially stormwater that drains into a recirculation pond located at 85810 OR-99, Eugene, Oregon 97405.
3. On November 12, 2025, Zip-O-Log applied to the Department of Environmental Quality (DEQ) for coverage under the National Pollutant Discharge Elimination System general permit number 400-J (400-J).
4. Pursuant to Oregon Revised Statutes (ORS) 468.050 and implementing rules, the activity specified above requires a permit issued by DEQ.
5. Zip-O-Log is unable to obtain the 400-J for this activity because it is expired and therefore cannot be assigned to new applicants.
6. Oregon Administrative Rule (OAR) 340-045-0062(1) adopted pursuant to ORS 468.020 states:

The Director may issue a mutual agreement and order (MAO) in lieu of or in addition to an NPDES permit or WPCF permit where the MAO is part of an enforcement action, for disposal of wastewater associated with the cleanup of a spill, or for an activity that does not lend itself to the normal permitting process or permit term.

7. DEQ finds that the issuance of this MAO satisfies the conditions set forth in OAR 340-045-0062(1).

8. Pursuant to OAR 340-045-0062(5), “[w]hen an MAO is used in lieu of a permit, the fee schedule for permits found in OAR 340-045-0075 will apply. On November 12, 2025, Zip-O-Log conveyed the required \$1284.40 fees to DEQ.

9. According to OAR 340-045-0062(4), this MAO is equivalent to a Class II permitting action and must be put on public notice for 30 days. The MAO was placed on public notice from Sept. 30, 2026 to Nov. 4, 2026.

10. This MAO is not an NPDES permit issued pursuant to section 402 of the federal Clean Water Act and this MAO does not assure compliance with federal law.

11. Zip-O-Log agrees that this MAO is enforceable in all ways as a permit and that any and all applications, notices, plans, records, reports, or other documents required by this MAO are required by ORS 468 and 468B and implementing rules.

NOW THEREFORE, it is stipulated and agreed that:

12. The Director shall issue a final order allowing Zip-O-Log to discharge under the conditions specified below:

- A. Requiring Zip-O-Log to comply with the 400-J (attached).
- B. Requiring Zip-O-Log to develop and maintain an up-to-date Operations and Maintenance Manual.
- C. Requiring Zip-O-Log upon receipt of a Penalty Demand Notice from DEQ, to pay a civil penalty for each day of each violation of this MAO. Penalties for violations of Paragraph 12.A shall be calculated according to OAR 340-012-0045 using the penalty matrix,

base penalty and factors that would normally apply to each violation of this MAO as if it were a violation of a permit.

13. The terms of this MAO may be amended by mutual agreement of DEQ and Zip-O-Log. DEQ may amend the conditions in this MAO without the agreement of Zip-O-Log upon finding that such modification is necessary because of changed circumstances or to protect public health or the environment. If Zip-O-Log contests the Amended MAO, the applicable procedures for conduct of contested cases in such matters will apply.

14. This MAO is not transferable. No change in ownership or corporate or partnership status relating to the facility shall in any way alter Zip-O-Log's obligations under this MAO, unless otherwise approved in writing by DEQ.

15. All reports, notices and other communications required under or relating to this MAO should be directed to Jennifer Maglinte-Timbrook, jennifer.maglinte-timbrook@deq.oregon.gov. The contact person for Zip-O-Log is Joe Honochick, P.O. Box 2130, Eugene, Oregon 97402, joeh@zipolog.com.

16. Zip-O-Log waives any and all rights and objections it may have to the form, content, manner of service, or timeliness of this MAO. Zip-O-Log acknowledges that it has actual notice of the contents and requirements of this MAO and that failure to fulfill any of the requirements hereof will constitute a violation of this MAO and subject Zip-O-Log to payment of civil penalties pursuant to Paragraph 12.C above.

17. Zip-O-Log shall allow DEQ's representatives access to the Zip-O-Log's property and pertinent records at all reasonable times for the purposes of making inspections, surveys, collecting samples, obtaining data, reviewing and copying required records and otherwise conducting all necessary functions related to this MAO in accordance with ORS 468.095.

18. Any stipulated civil penalty imposed pursuant to Paragraph 12. shall be due upon written demand. Stipulated civil penalties shall be paid by check or money order made payable to the "Oregon State Treasurer" and sent to: Business Office, Department of Environmental Quality, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232. Within 20 days of receipt of a "Demand for Payment of Stipulated Civil Penalty" Notice from DEQ, Zip-O-Log may request a hearing to contest the Penalty Demand Notice.

19. The terms of this MAO become effective on the date it is signed by DEQ's Regional Administrator on behalf of the Director and will terminate on the date Zip-O-Log discontinues the activity, obtains a permit covering the activity, or DEQ denies Zip-O-Log's permit application, whichever is soonest. However, any penalties required pursuant to a Penalty Demand Notice as described in Paragraph 18 shall remain due and owing until paid in full. Records required by this MAO must be maintained for the period specified in the MAO or for three years, whichever is longer.

ZIP-O-LOG MILLS, INC.

Date

Joe Honochick, Director of Business Strategy, Zip-O-Log Mills, Inc.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Date

Ranei Nomura, Water Quality Manager, Western Region

FINAL ORDER

IT IS SO ORDERED

DEPARTMENT OF ENVIRONMENTAL QUALITY

Date

Ranei Nomura, Water Quality Manager, Western Region
Department of Environmental Quality
Pursuant to OAR 340-045-0062(1)

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

Oregon Department of Environmental Quality
811 SW Sixth Avenue, Portland, OR 97204, (503) 229-6962
Issued pursuant to ORS 468B.050 and The Federal Clean Water Act

ISSUED TO:

All owners or operators of facilities discharging pollutants that are covered by this permit. The submittal of an approved application and payment of applicable fees are required.

SOURCES COVERED BY THIS PERMIT:

Wet storage facilities (log ponds) that do not receive domestic sewage or process wastewater and that discharge to surface waters; non-discharging evaporative pond; facilities that use cold deck sprinkling or have log yard runoff where sprinkling occurs.

Michael T. Llewelyn, Administrator
Water Quality Division

Issued: October 3, 2002
Effective: October 16, 2002

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, or operate a wastewater collection, treatment, control and/or disposal system, and discharge to public waters adequately treated wastewater only from the authorized discharge point or points established in Schedule A and only in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

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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 discharges to an underground injection control system.

SUMMARY OF APPLICATION REQUIREMENTS FOR PERMIT COVERAGE

1. New Facilities Can Obtain Coverage By The Following Steps:
 - a. Notify the Department by submitting a completed application form requesting coverage under this permit at least 180 days prior to the planned activity that will result in the discharge to waters of the state.
 - b. Submit all applicable fees with the application prior to obtaining coverage.
 - c. The Department will review the application information and will either request additional information in writing or will notify the applicant by mail that it has received coverage and is authorized to operate under the conditions of this permit. If the applicant's operation cannot be approved for coverage under the general permit, the applicant may need to obtain an individual permit.
2. Existing Facilities Requiring Renewal Can Renew Coverage By The Following Steps:
 - a. Notify the Department by submitting a complete application form 180 days prior to permit expiration.
 - b. Submit all applicable fees with the permit renewal application.
 - c. The Department will review the application for any substantial changes at the facility or any site-specific requirements such as waste load allocations that could affect coverage. The applicant will be notified if coverage cannot continue under the general permit. In that event, the applicant may need to obtain an individual permit.
 - d. The existing permit will continue to be effective through administrative extension after the permit expiration date if the permittee submits a complete renewal application.
 - e. The Department will notify the applicant by mail that it has received coverage and is authorized to operate under the conditions of the new permit.

SCHEDULE A
WASTE DISCHARGE LIMITATIONS, BENCHMARK, AND CONTROLS

1. No discharge is allowed from May 1 - October 31 from log ponds, log decks and log yards where sprinkling occurs^a.
2. Discharge is allowed from November 1 - April 30 provided that at least a 50:1 dilution is available in the receiving stream and the following effluent limitations are met^a:

Parameter	Limitation (daily maximum)
Flow	As low as practicable as necessitated by precipitation
pH	Shall be between 6.0 and 9.0
Debris	No debris shall be discharged
Oil & Grease Sheen	No visible sheen
Temperature	77°F

Note:

- a. If unseasonably wet weather or other reasons beyond the control of the permittee necessitate discharge from a log pond during the May 1 through October 31 period or at a time when a 50:1 dilution is not available, the discharge may be permitted upon prior written approval by the Department.
3. The waste discharge benchmark is a guideline concentration, not a limitation. The benchmark is designed to assist the permittee in determining whether pollution controls and/or management practices are being implemented to reduce the pollutant concentration to below levels of concern. If a benchmark is not achieved, the permittee shall review the operation of the log pond and other potential sources of the pollutant within 30 days of receiving sampling results and evaluate any additional technically and economically feasible site controls and/or management actions that can be implemented to improve the quality of the discharge. Permittee shall implement those site controls and management actions that are reasonable and prudent. Permittee shall document and keep on file a summary of the analysis, evaluation, and decisions made regarding site controls or management actions. Permittee must make those documents available to the Department upon request.

Parameter	Benchmark (daily maximum)
Total Suspended Solids	100 mg/l

4. The log pond overflow and drainage ways from log yards shall be baffled, screened, and/or otherwise controlled (e.g., absorbent materials) to prevent the discharge of bark and other woody debris, oil and grease, and floating solids.
5. No sewage or process wastewater^b shall be discharged to the log pond.

Note:

- b. Process wastewater does not include cold deck sprinkling water, yard runoff, boiler blowdown, boiler scrubber water, non-contact cooling water, or fire deluge water. When these wastestreams are discharged to the log ponds, sufficient recirculation must occur in order to prevent discharge to state waters except during the wet weather months.
6. Except as provided for in OAR 340-045-0080, no wastes may be discharged and no activities may be conducted which violate Water Quality Standards as adopted in OAR 340-041 except in the following defined mixing zone:

The allowable mixing zone shall not exceed a maximum distance of 100 feet in the downstream direction from the point of discharge and shall not exceed one-half the width of the receiving stream.

7. No discharge from the log pond is permitted during log pond dredging operations. If possible, log pond dredging should be conducted during the summer season. A log pond shall not be drained or dredged without prior written approval from the Department. All dredged material from the pond shall be disposed in a manner that will prevent a discharge to surface waters.
8. The effluent limitation and other conditions (Schedule B) in this permit related to temperature constitute the surface water temperature management plan (temperature management plan) required by OAR 340-041-0026(3)(a)(D) applicable to the permittee. Provided that the permittee complies with this temperature management plan, the permittee will be deemed to be in compliance with the state temperature water quality standard and not to be causing or contributing to a violation of the water quality standards for temperature. If a TMDL analysis or other monitoring information indicates the discharge has potential to impact the receiving water that is water quality limited for temperature, the Department may require development and implementation of an updated temperature management plan.
9. Water Quality Limited Streams - If Total Maximum Daily Loads are established and the discharge from a permitted source is determined to be a significant contributor for a stream that is water quality limited, the Department may terminate the permittee's coverage and require application for an individual permit or different general permit that would include waste load allocations.
10. Non-discharging wet storage facilities (e.g., evaporative pond) shall be managed to prevent:
- a. The creation of odors, fly and mosquito breeding or other nuisance conditions; and
 - b. Violation of the Department's groundwater quality protection rules (OAR 340-040).

SCHEDULE B
MINIMUM MONITORING AND REPORTING REQUIREMENTS

1. Effluent Discharge: During periods of discharge, facilities shall monitor at the following minimum frequency:

Item or Parameter	Minimum Frequency	Type of Sample
Effluent Flow ^a (mgd)	Weekly	Measure
Receiving Stream Flow ^a (cfs)	Weekly	Estimate/Measure
pH ^b	Weekly	Grab
Total Suspended Solids	Monthly	Grab
Temperature ^c	Weekly	Measure
Inspect for Oil & Grease Sheen	Weekly	Record observations
Inspect for Debris	Weekly	Record observations
Inspect Screen and other Effluent Quality Controls	Weekly	Record observations

Notes:

- a. Monitoring for effluent flow and receiving stream flow shall occur on the same day.
 - b. The following may be used for the measurement of pH: pH paper that has the capability of determining pH to one-tenths (0.1) standard units or a proper calibrated pH meter.
 - c. Monitoring for temperature is required during the months of November and April.
2. Records for inspection of the screen and other effluent control devices and any corrective action shall be recorded and maintained in a log book that is kept on-site and shall be made available for review when requested by the Department.
3. Monitoring results shall be reported monthly on approved forms. Reports must be submitted to the Department by the 15th day of the following month. During a month when a discharge does not occur the discharge monitoring form shall include a statement indicating that there was no discharge.

SCHEDULE C
COMPLIANCE CONDITIONS

1. Upon notice by the Department the permittee shall develop and submit for approval an updated temperature management plan.

SCHEDULE D
SPECIAL CONDITIONS

1. Any permittee not wishing to be covered or limited by this general permit may make application for an individual NPDES permit in accordance with NPDES procedures in OAR 340-045-0030.

SCHEDULE F
NPDES GENERAL CONDITIONS

SECTION A. STANDARD CONDITIONS

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of Oregon Revised Statutes (ORS) 468B.025 and is grounds for enforcement action; for permit termination, suspension, or modification; or for denial of a permit renewal application.

2. Penalties for Water Pollution and Permit Condition Violations

Oregon Law (ORS 468.140) allows the Director to impose civil penalties up to \$10,000 per day for violation of a term, condition, or requirement of a 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 or by imprisonment for not more than one year, or by both. Each day on which a violation occurs or continues is a separately punishable offense.

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.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. In addition, upon request of the Department, the permittee shall 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 to have the permit renewed. The application shall be submitted at least 180 days before the expiration date of this permit.

The Director 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, suspended, 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; or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- d. The permittee shall pay the fees required to be filed with this permit application and to be paid annually for permit compliance determination as outlined in the Oregon Administrative Rules, Chapter 340, Division 45.

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

6. Toxic Pollutants

The permittee shall comply with any applicable effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants 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

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege.

8. Permit References

Except for effluent standards or prohibitions established under Section 307(a) of the Clean Water Act 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.

SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which 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 which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Duty to Halt or Reduce Activity

For industrial or commercial facilities, upon reduction, loss, or failure of the treatment facility, the permittee shall, 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 shall not be 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 term "bypass" does not include nonuse of singular or multiple units or processes of a treatment works when the nonuse is insignificant to the quality and/or quantity of the effluent produced by the treatment works. The term "bypass" does not apply if the diversion does not cause effluent limitations to be exceeded, provided the diversion is to allow essential maintenance to assure efficient operation.
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities or treatment processes which causes them to become inoperable, or substantial and permanent loss of natural resources which 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 unless:

- (a) Bypass was necessary 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 judgement to prevent a bypass which 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 Director may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when the Director 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, it shall submit prior written notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall 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 shall 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 Event

For purposes of this permit, A Single Operational Event which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation. A single operational event is an exceptional incident which 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 event 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 event is a violation.

6. Overflows from Wastewater Conveyance Systems and Associated Pump Stations

a. Definitions

(1) "Overflow" means the diversion and discharge of waste streams from any portion of the wastewater conveyance system including pump stations, through a designed overflow device or structure, other than discharges to the wastewater treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the conveyance system or pump station which causes them to become inoperable, or substantial

and permanent loss of natural resources which can reasonably be expected to occur in the absence of an overflow.

- (3) "Uncontrolled overflow" means the diversion of waste streams other than through a designed overflow device or structure, for example to overflowing manholes or overflowing into residences, commercial establishments, or industries that may be connected to a conveyance system.

b. Prohibition of overflows. Overflows are prohibited unless:

- (1) Overflows were unavoidable to prevent an uncontrolled overflow, loss of life, personal injury, or severe property damage;
- (2) There were no feasible alternatives to the overflows, such as the use of auxiliary pumping or conveyance systems, or maximization of conveyance system storage; and
- (3) The overflows are the result of an upset as defined in General Condition B.4. and meeting all requirements of this condition.

c. Uncontrolled overflows are prohibited where wastewater is likely to escape or be carried into the waters of the State by any means.

d. Reporting required. Unless otherwise specified in writing by the Department, all overflows and uncontrolled overflows must be reported orally to the Department within 24 hours from the time the permittee becomes aware of the overflow. Reporting procedures are described in more detail in General Condition D.5.

7. Public Notification of Effluent Violation or Overflow

If effluent limitations specified in this permit are exceeded or an overflow occurs, upon request by the Department, the permittee shall take such steps as are necessary to alert the public about the extent and nature of the discharge. 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.

8. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in such a manner as to prevent any pollutant from such materials from entering public waters, 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 shall not be changed without notification to and the approval of the Director.

2. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall 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 shall be capable of measuring flows with a maximum deviation of less than ± 10 percent from true discharge rates throughout the range of expected discharge volumes.

3. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, 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 shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years, or by 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 shall be summarized each month on a Discharge Monitoring Report form approved by the Department. The reports shall 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 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report. Such increased frequency shall 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 shall be recorded unless otherwise specified in this permit.

7. Averaging of Measurements

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

8. Retention of Records

Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records of 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, 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 Director at any time.

9. Records Contents

Records of monitoring information shall 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 shall allow the Director, or an authorized representative 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.

SECTION D. REPORTING REQUIREMENTS

1. Planned Changes
The permittee shall comply with Oregon Administrative Rules (OAR) 340, Division 52, "Review of Plans and Specifications". Except where exempted under OAR 340-52, no construction, installation, or modification involving disposal systems, treatment works, sewerage systems, or common sewers shall be commenced until the plans and specifications are submitted to and approved by the Department. The permittee shall 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 shall give advance notice to the Director of any planned changes in the permitted facility or activity which 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 shall be transferred to a third party without prior written approval from the Director. The permittee shall 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 shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall 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 shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally (by telephone) within 24 hours, unless otherwise specified in this permit, from the time the permittee becomes aware of the circumstances. During normal business hours, the Department's Regional office shall be called. Outside of normal business hours, the Department shall be contacted at 1-800-452-0311 (Oregon Emergency Response System).

A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. If the permittee is establishing an affirmative defense of upset or bypass to any offense under ORS 468.922 to 468.946, and in which case if the original reporting notice was oral, delivered written notice must be made to the Department or other agency with regulatory jurisdiction within 4 (four) calendar days. The written submission shall 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;
- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and
- e. Public notification steps taken, pursuant to General Condition B.7.

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

- a. Any unanticipated bypass which exceeds any effluent limitation in this permit.
- b. Any upset which exceeds any effluent limitation in this permit.
- c. Violation of maximum daily discharge limitation for any of the pollutants listed by the Director in this permit.

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 shall report all instances of noncompliance not reported under General Condition D.4 or D.5, at the time monitoring reports are submitted. The reports shall 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 shall furnish to the Department, within a reasonable time, any information which the Department may request to determine compliance with this permit. The permittee shall 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 failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Department, it shall promptly submit such facts or information.

8. Signatory Requirements

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

9. Falsification of Reports

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.

10. Changes to Indirect Dischargers - [Applicable to Publicly Owned Treatment Works (POTW) only]

The permittee must provide adequate notice to the Department of the following:

- a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of the Clean Water Act if it were directly discharging those pollutants and;
- b. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- c. For the purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

11. Changes to Discharges of Toxic Pollutant - [Applicable to existing manufacturing, commercial, mining, and silvicultural dischargers only]

The permittee must notify the Department as soon as they know or have reason to believe of the following:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which 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 ug/l);
 - (2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/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 the Department in accordance with 40 CFR 122.44(f).

- b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which 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 ug/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 the Department in accordance with 40 CFR 122.44(f).

SECTION E. DEFINITIONS

1. BOD means five-day biochemical oxygen demand.
2. TSS means total suspended solids.
3. Mg/l means milligrams per liter.
4. Kg means kilograms.
5. M³/d means cubic meters per day.
6. MGD means million gallons per day.
7. Composite sample means a sample formed by collecting and mixing discrete samples taken periodically and based on time or flow.
8. FC means fecal coliform bacteria.
9. 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 340-41.
10. CBOD means five day carbonaceous biochemical oxygen demand.
11. Grab sample means an individual discrete sample collected over a period of time not to exceed 15 minutes.
12. Quarter means January through March, April through June, July through September, or October through December.
13. Month means calendar month.
14. Week means a calendar week of Sunday through Saturday.
15. Total residual chlorine means combined chlorine forms plus free residual chlorine.
16. The term "bacteria" includes but is not limited to fecal coliform bacteria, total coliform bacteria, and E. coli bacteria.
17. POTW means a publicly owned treatment works.