

Permit Number: 2000J
Issuance Date:
Effective Date:
Expiration Date: five years after issue date
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General Permit National Pollutant Discharge Elimination System Waste Discharge Permit

Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232
Telephone: (503) 229-5696

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

Issued To:

This National Pollutant Discharge Elimination System general permit provides coverage for the following pesticide applications for point source discharges to surface waters of the state from the application of biological pesticides or chemical pesticides that leave a residue (collectively called pesticides). Point source discharges to surface waters of the state, whether the waters are wet or dry at the time of pesticide application, are required to be covered under a NPDES permit and may be covered under this general permit. This includes point source discharges to features such as certain dry washes and ephemeral streams to control pests that may be found in these occasionally wet areas. As such, these pesticide applications may be performed using pesticides labeled for terrestrial, seasonally-dry, or aquatic sites.

Pesticide Applications That Are Covered Under The Permit:

Weed and algae control in an irrigation system or at the water's edge within irrigation system boundaries. "Weed and algae control" includes control of invasive or other nuisance weeds, algae and pathogens such as, fungi and bacteria. 'Irrigation System' is a controlled system consisting primarily of manmade canals, ditches and ponds designed and operated for delivery or management of water for irrigation purposes.

The following operators are authorized to obtain coverage under this permit for pesticide applications that result in a point source discharge to surface waters of the state.

- Irrigation Districts organized under ORS Chapter 545, Water Improvement District organized under 552 and Water Control Districts organized under ORS 553
- Entities previously assigned an individual permit or registered under the 2300A for the application of aquatic pesticides in irrigation systems.

Draft

Justin Green
Water Quality Division Administrator

Draft

Issue Date: _____

Effective Date: November 2019

Permitted Activities

Until this permit expires or is modified or revoked, an operator is authorized to apply pesticides in surface waters of the state or at water's edge only from 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 of waste is prohibited, including discharge to waters of the state or an underground injection control system.

Definitions

Action Threshold – The point at which pest populations or environmental conditions can no longer be tolerated, necessitating that pest control action must be taken based on economic, human health, aesthetics, or other effects. Detecting a single pest does not always mean pest control is needed. An action threshold may be based on current or past environmental factors that are or have been demonstrated to be conducive to pest emergence or growth, as well as past or current pest presence. Action thresholds are those conditions that indicate both the need for control actions and the proper timing of those actions.

Adverse Incident – An unusual or unexpected incident that an operator has observed upon inspection or of which the operator otherwise become aware, in which:

- (1) A person or non-target organism has likely been exposed to a pesticide residue, (e.g. direct contact or through drinking water) and
- (2) The non-target organism suffered a toxic or adverse effect.

The phrase “toxic or adverse effect” includes effects that occur within surface waters of the state on non-target plants, fish or wildlife that are unusual or unexpected (e.g., non-target organisms are those not described on the pesticide product label or otherwise not expected to be present) as a result of exposure to a pesticide residue, and may include:

- Distressed or dead juvenile and small fishes
- Washed up or floating fish
- Fish swimming abnormally or erratically
- Fish lying lethargically at water surface or in shallow water
- Fish that are listless or nonresponsive to disturbance
- Stunting, wilting, or desiccation of non-target submerged or emergent aquatic plants
- Other dead or visibly distressed non-target aquatic organisms (amphibians, turtles, invertebrates, etc.)

The phrase, “toxic or adverse effects” also includes any adverse effect to humans (e.g., skin rashes) or animals that occur either from direct contact with or as a secondary effect (e.g., sickness from consumption of plants or animals containing pesticides) from a point source discharge to surface waters of the state and that are temporally and spatially related to exposure to a pesticide residue (e.g. vomiting, lethargy).

Applicator – Any entity that performs the application of a pesticide.

Gate – A device used to control flow of irrigation water.

Irrigation System – A controlled system consisting primarily of manmade canals, ditches and ponds designed and operated for delivery or management of water for irrigation purposes.

Minimize – To reduce or eliminate pesticide point source discharges to surface waters of the state through the use of Pest Management Measures to the extent technologically available and economically practicable and achievable.

Natural Water – Surface water of the state outside of the irrigation system.

OAR – Oregon Administrative Rules

Operator – Any owner or entity with operational control over the decision to perform a pesticide application that is covered under this permit or has the day-to-day operational control of activities that are necessary to ensure compliance with the permit.

- Owner means landowner, facility owner, property owner. When the owner makes the pesticide application or hires a pesticide applicator, then the owner is making a decision and paying to perform a pesticide application on the owner's property.
- Where pesticides are applied on an owner's land by another entity and the owner does not have the legal authority to control the application and is not directly financing the application, the owner is not an operator for purposes of this permit. (This would include, for example, when a governmental entity is spraying for mosquitoes over a person's property.)
- Examples of entities are mosquito control districts, homeowners associations, local governments, and state and federal agencies that have the responsibility to perform pesticide applications to maintain properties for safety, health, and to control invasive species and nuisance pest control.
- An irrigation district that receives treated water from another irrigation district for purpose of controlling weeds or algae within its irrigation system boundaries.

Ordinary High Water – means the line on the bank or shore to which the high water ordinarily rises annually in season as defined by ORS 274.005(3).

ORS - Oregon Revised Statutes

Permittee – Reference to permittee in Schedule F means operator.

Pesticide – "Pesticide" includes:

- (a) "Defoliant" which means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant with or without causing abscission;
- (b) "Desiccant" which means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue;
- (c) "Fungicide" which means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungus;
- (d) "Herbicide" which means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed;
- (e) "Insecticide" which means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects that may be present in any environment whatsoever;
- (f) "Nematicide" which means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating nematodes;
- (g) "Plant regulator" which means any substance or mixture of substances intended, through physiological action, to accelerate or retard the rate of growth or rate of maturation or to otherwise alter the behavior of ornamental or crop plants or the produce thereof, but does not include substances to the extent that they are intended as plant nutrients, trace

elements, nutritional chemicals, plant inoculants or soil amendments; or

(h) Any substance, or mixture of substances intended to be used for defoliating plants or for preventing, destroying, repelling or mitigating all insects, plant fungi, weeds, rodents, predatory animals or any other form of plant or animal life that is, or that the department may declare to be a pest, which may infest or be detrimental to vegetation, humans, animals, or be present in any environment thereof. [ORS 634.006(8)]

Note 1: The reference to department in the definition of pesticide under (h) above refers to the State Department of Agriculture.

Note 2: Drugs used to control diseases of humans or animals (such as livestock, aquaculture, or pets) are not considered pesticides; such drugs are regulated by the Food and Drug Administration or the United States Department of Agriculture. Fertilizers, nutrients, and other substances used to promote plant survival and health are not considered plant growth regulators and thus are not pesticides.

Pesticide Discharge Management Plan (PDMP) – A tool for operators to document, among other things, how Pest Management Measures will be implemented to comply with the permit effluent limitations. For more information on the specific requirements for a PDMP and what is required of operators please refer to Schedule D.

Pest Management Area – The area of land, including any water, for which the operator has the responsibility, control, or jurisdiction for conducting pest management activities covered by this permit.

Pest Management Measure – Any practice used to meet the effluent limitations that comply with manufacturer specifications, industry standards and recommended industry practices related to the application of pesticides, relevant legal requirements and other provisions that a prudent operator would implement to reduce and/or eliminate pesticide point source discharges to surface waters of the state.

Pesticide Research and Development – Activities undertaken on a systematic basis to gain new knowledge (research) and/or the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes (experimental development).

Pesticide Residue – Includes that portion of a pesticide application that is discharged from a point source to surface waters of the state and no longer provides pesticidal benefits. It also includes any degradates of the pesticide.

Quantitation Limit (QL) – The minimum level, concentration or quantity of a target analyte that can be reported with a specified degree of confidence. It is the lowest level at which the entire analytical system gives a recognizable signal and acceptable calibration for the analyte. It is normally equivalent to the concentration of the lowest calibration standard adjusted for sample weights, volumes, preparation and cleanup procedures employed. The QL as reported by a laboratory is also sometimes referred to as the Method Reporting Limit (MRL) or Limit of Quantitation (LOQ).

Target Pest – The pest intended to be controlled.

Treatment Area – The area where a pesticide application is intended to provide pesticidal benefits within an irrigation system boundary. Multiple treatment areas may be located within an irrigation system boundary.

The pesticide application to surface waters of the state that is dry at the time of the pesticide application, such as an intermittent stream or conveyance ditch, is also considered treatment area.

Treatment Period – The time, as estimated by an operator, during which aquatic herbicide is applied and controlling weeds within the irrigation system treatment area.

Water's Edge – Pesticide applications made within three feet of surface waters of the state and conveyances at the time of pesticide application. The three-foot distance is measured horizontally from the ordinary high water mark of the waterbody.

Waters of the State – 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 that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially

within or bordering the state or within its jurisdiction. This definition is in Oregon Administrative Rules (OAR) 340-045-0010(20) and Oregon Revised Statutes 468B.005(10).

Point Source Discharges Not Authorized By This Permit

The coverage for a point source discharge provided by this general permit does not extend to all surface waters of the state. The waters where point source discharges are not authorized by the general permit are set out below. Subject to applicable laws, an operator wishing to conduct a pesticide application in these areas may apply for coverage under an individual permit.

Water Quality Limited Streams 303(d) List

1. This general permit does not authorize a point source discharge on any stream segment that is listed as water quality limited in categories 4 and 5 for that pesticide or its degradates, on the list published by DEQ pursuant to OAR 340-041-0046, unless a stream segment is subject to a total maximum daily load (TMDL) that includes a wasteload allocation for pesticide application under the 2000J permit. The 303(d) list as approved or established by EPA that is in effect as of January 1 of each year will be used to determine if initial coverage or coverage at a later date is available.

How To Register For Coverage Under This General Permit

Coverage And Eligibility

A. Obtaining and Maintaining Coverage

1. To register, submit an application, a completed Land Use Compatibility Statement (LUCS) form and fees, if applicable.
2. New operators seeking to register under this permit are authorized for point source discharge of pesticides under the permit upon the effective date of this permit and must take the following steps to continue permit coverage authorization:
 - a. Obtain a DEQ application form through the mail or in person from a DEQ regional office, or download the application from the DEQ website.
 - b. For operators identified on page one, submit a completed application to DEQ 30 days prior to the first pesticide application or 60 days after the effective date of this permit whichever is later.
3. An operator with permit coverage under an individual permit or 2300A permit general permit will be required to submit an application form 45 days prior to the first pesticide application or 60 days after the effective date of this permit whichever is later.
4. DEQ will review both new and renewal applications within 30 days and take one of the following actions:
 - a. Issue written notice of permit registration approval.
 - b. Request additional information.
 - c. Deny coverage under this permit. The applicant will be notified if the applicant's operation cannot be approved for coverage under this permit, or that the applicant may need to obtain an individual permit.
5. Permit fees are required with each new application and annual fees are required for continued coverage. Registration and annual fees for general permits are on DEQ's website and in OAR 340-045-0075 Permit Fee Schedule in Table 70G.
 - a. For new registration under this permit, an applicant must submit a new permit application fee and an annual fee with the application.
 - b. DEQ will not require a new registration fee when transferring registration to this general permit from the 2300A pesticide general permit.
 - c. To maintain registration coverage under the permit, an annual fee is due each year. The due date for the annual fee is triggered by the date of registration and can be different for each operator.
6. Failure to pay applicable fees may result in denial of an application or termination of coverage under this permit.

7. Operators seeking to renew registration before the expiration date of this permit must follow these steps:
 - a. On or before 60 days prior to permit expiration those registered under this permit must submit a complete application form to DEQ to renew permit coverage. (Note: The DEQ Director may grant permission to submit the application later than 60 days prior to the expiration but no later than the permit expiration date.)
 8. Electronic Submissions. The applicant must submit the general permit application and related documents (e.g., maps of pesticide discharge management area) in an electronic format.
 - a. Beginning after December 21, 2020 or when directed by DEQ, the registrant must submit general permit application and related documents on DEQ-approved web-based forms including pre-approved attachments.
 - b. In accordance with 40 CFR 122.41(l)(9), EPA is the initial recipient to receive electronic submissions. The registrant will use EPA's NeT for electronic reporting. EPA's NeT reporting tool is located on the webpage at: <https://netdmr.zendesk.com/home>. DEQ will notify the registrant in advance of changes to the initial recipient status and use of another electronic reporting system other than NeT.
 - c. The registrant must submit general permit application and related documents via NeT when directed by DEQ. Other required application information not entered on the NeT form must be submitted as a separate attachment to the NeT submittal. The attachment forms must be pre-approved by DEQ as integral part of the DEQ-approved application.
 - d. The registrant must sign and certify all electronic submissions in accordance with the requirements of Section D8 within Schedule F of this permit.
- B. Limitations On Coverage For All Operators (OAR 340-045-0033(10))
1. DEQ may revoke the authority to point source discharge under this general permit as it applies to any operator and require the operator to apply for and obtain an individual NPDES permit if:
 - a. The permitted source or activity is a significant contributor of pollution, causes environmental problems, or
 - b. The operator is not in compliance with the terms and conditions of this general permit, or
 - c. Circumstances have changed so that the source or activity is no longer appropriately controlled by a general permit.
 2. Coverage under this permit is not available under the following circumstances:
 - a. The point source discharges are covered by another NPDES permit.
 - b. The point source discharges were included in a permit that has been or is in the process of being denied, terminated or revoked. This does not apply to routine permit renewals every 5 years or transfer from an individual permit or 2300A general permit.
 3. Any operator not wishing to be covered by and subject to this general permit may apply for an individual NPDES permit in accordance with the procedures in OAR 340-045-0030.
- C. Permit Expiration
1. The permit expires five years after permit issuance. The date of expiration is the same for all operators covered under the permit.
 2. Public notice is provided for the renewal of a general permit under OAR 340-045-0027(1)(c).

Schedule A- Discharge Limitations

1. An operator must meet the following water quality-based effluent limits for point source discharges to surface waters of the state from the use of biological pesticides or chemical pesticides for the pest control covered under this permit. The permit considers that all pesticide applications will leave a residue.
 - a. The point source discharge of a chemical pesticide must not cause or contribute to a violation of water quality standards as adopted in OAR Chapter 340, Division 41 within the irrigation system but outside of the treatment area during the treatment period, or within the irrigation system and treatment area after the treatment period has elapsed.
 - b. The point source discharge of a biological pesticide must not cause or contribute to a violation of water quality standards (in OAR 340 Division 041) within the irrigation system.
 - c. If at any time the operator becomes aware, or is informed by DEQ, that the point source discharge causes or contributes to a violation of water quality standards, the operator must take the appropriate corrective action required in Schedule A 5.
 - d. The point source discharge must be consistent with a total maximum daily load implementation plan for temperature.
 - e. Until otherwise overturned or supplanted, a point source discharge must be consistent with the following mandatory no-spray buffer zones established by US District Court in Northwest Center for Alternatives to Pesticides v. EPA to protect endangered and threatened Pacific Salmon and steelhead in Oregon:
 - i. Operators shall not apply Carbaryl; Chlorpyrifos; Diazinon; Malathion; Methomyl; 1,3-dichloropropene; Bromoxynil; Prometryn; and Racemic metholachlor within 60 feet for ground applications and 300 feet for aerial applications of salmon or steelhead bearing streams.
 - ii. Operators applying chemical pesticides for the purposes of public health vector control administered by public entities or National Marine Fisheries Services authorized programs are exempt from the no-spray buffer zone requirements established by [1.e.i)] above.
2. For acrolein-, copper-, and xylene-based aquatic pesticides applied within an irrigation system, an operator must not exceed the numeric water quality-based effluent limitations listed below outside of the treatment area during the treatment period or within the irrigation system and treatment area, after the treatment period has elapsed.
 - a. For an operator using acrolein-based pesticide:

Table A1: Acrolein Limit

| Parameter | Limitations - Daily Maximum* | Quantitation Limit |
|-----------|------------------------------|--------------------|
| Acrolein | 0.9 µg/L | 5 µg/L |

- i. *Compliance with the daily maximum limit is based on meeting the Quantitation Limit of 5 µg/L. Any sample analyzed in accordance with the specified method and found to be at or below the quantitation limit is compliant with this permit limit as long as the best management practices associated with acrolein-based pesticide use in Schedule A: 7.b, 7.e, 7.f.i, 7.f.iii, 7.g, 7.h and 7.i are being followed.
 - b. For an operator using copper-based pesticide in each region listed below and as shown in Figure 1 below:

Table A2: Copper Limits

| Parameter | Region | Limitations - Daily Maximum | Quantitation Limit |
|-----------|-------------------|-----------------------------|--------------------|
| Copper | Cascades | 0.65 µg/L * | 2 µg/L |
| | Coastal | 2.5 µg/L | 2 µg/L |
| | Columbia River | 6.6 µg/L | 2 µg/L |
| | Eastern | 8.4 µg/L | 2 µg/L |
| | Willamette Valley | 3.4 µg/L | 2 µg/L |

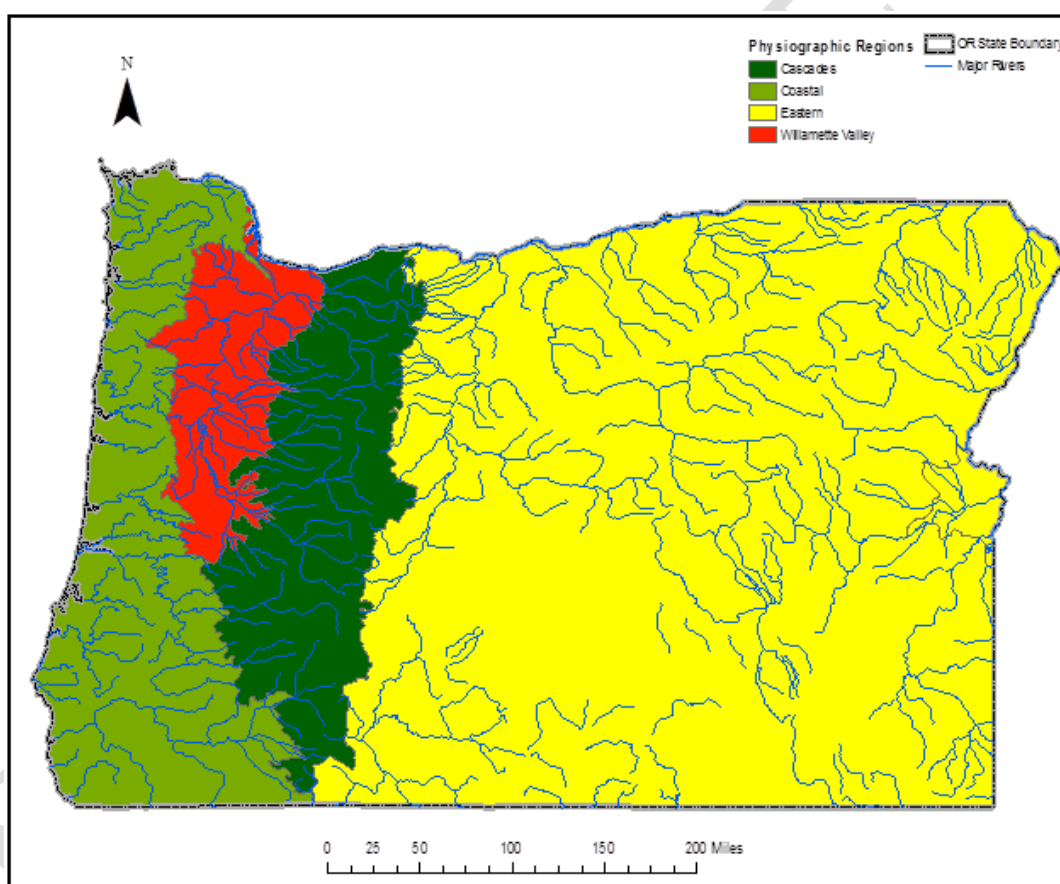


Figure 1

- i. *Compliance with the daily maximum limit in the Cascades region is based on meeting the Quantitation Limit of 2 µg/L. Any sample analyzed in accordance with the specified method and found to be at or below the quantitation limit is compliant with this permit limit as long as the best management practices associated with copper-based pesticide use in Schedule A: 7.c, 7.e, and 7.f.iii, 7.g, 7.h and 7.i are being followed. The other region limits are above the quantitation limit.

- c. For an operator using xylene-based pesticide:

Table A3: Xylene Limit

| Parameter | Limitations - Daily Maximum | Quantitation Limit |
|-----------|-----------------------------|--------------------|
| Xylene | 40µg/L | 1 µg/L |

3. Instead of meeting effluent limits in Schedule A: 2.a, 2.b, or 2.c, operator of West Extension Irrigation District (Former NPDES permit 102567) must not exceed applicable water quality criteria in OAR 340-041-0310 and 0315 that apply to the constructed channel segment of the West Division Main Canal in Umatilla Basin.
 - a. Per OAR 340-041-0315(2)(a), canal waters may not exceed 200 µg/L of copper outside of the treatment area during the treatment period or within the constructed channel segment and treatment area, after the treatment period has elapsed.
4. An operator must implement the following pest management measures as technology-based effluent limits to minimize the point source discharge of biological pesticides or chemical pesticides:
 - a. Follow mandatory Federal Insecticide Fungicide Rodenticide Act (FIFRA) label requirements that when followed may prevent or minimize pesticide residues from being discharged from a point source to surface waters of the state. These label requirements can include, but are not limited to, the following sections of a label: Directions for Use, Environmental Hazards, Spray Drift Management, Endangered Species Protection, and Buffers (vegetative and “No Spray Buffers”). Follow current label requirements that includes any implementing measures to protect listed species required by Biological Opinions published by the National Marine Fisheries Service or the U.S. Fish and Wildlife Service. Review and comply with any EPA issued Endangered Species Protection Bulletins applicable to the applied pesticide;
 - b. Use the optimal amount of pesticide to reduce the potential for development of pest resistance and to minimize the frequency of pesticide application necessary to control the target pest;
 - c. Perform regular maintenance activities to reduce leaks, spills, or other unintended point source discharges of biological pesticides or chemical pesticides associated with the application of pesticides, including mixing and loading activities;
 - d. Maintain the pesticide application equipment in proper operating condition by calibrating, cleaning and repairing the equipment as necessary to ensure effective and accurate pesticide applications;
 - e. Assess environmental conditions (e.g. air and water temperature, precipitation and wind speed if applicable to label requirement) in the treatment area to ensure application is consistent with all applicable pesticide application requirements.
5. An operator must take Corrective Action for all pesticide applications under this permit by reviewing and evaluating the pest management measures in Schedule A: 4 through 11, implementing changes and taking immediate corrective action for leaks or spills as follows:
 - a. Where appropriate, revise the pest management measures to ensure that the situations listed below are eliminated and will not be repeated
 - i. A spill, leak, or unpermitted point source discharge;
 - ii. A point source discharge that causes or contributes to a violation of water quality standards;
 - iii. A failure to follow pest management measures;
 - iv. Pest management measures that are not sufficient to meet the pest management measures and water quality-based effluent limitations in the permit; and
 - v. A reportable adverse incident.
 - b. If the operator determines that revisions to the Pest Management Measures in Schedule A: 4 through 11, are necessary for any situation that was identified above, the operator must implement changes to the pest management measures before proceeding with any subsequent pesticide applications.

- c. Upon becoming aware of a leak or spill, the operator must take immediate corrective action to stop and contain leaks or spills of pesticides.
6. An operator must implement pest management measures in the following manner in order to minimize the point source discharge of pesticides. Prior to the first pesticide application that will result in a point source discharge to surface waters of the state and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, the operator must select and implement, for each pest management area, pest management measures at a more intensive level by identifying the problem, evaluating pest management options, and minimizing pesticide use.
- a. Identify the Problem
 - i. Identify areas with pest problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g. wildlife habitat, fisheries, vegetation, and recreation; water delivery for irrigation);
 - ii. Identify the target pest or pests causing the problems;
 - iii. Identify possible factors causing or contributing to the pest problem (e.g., nutrients, invasive species, etc);
 - iv. Establish any pest- and site-specific action threshold to serve as action thresholds for implementing pest management options in 6.b below, and
 - v. In the event there are no data for the pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in 6.a.
 - b. Evaluate Pest Management Options
The operator must evaluate the following management options, including a combination of these management options, for the target pest in the pest management area, considering impact to water quality, impact to non-target organisms, pest resistance, feasibility, and cost effectiveness:
 - i. No action;
 - ii. Prevention;
 - iii. Mechanical or physical methods;
 - iv. Cultural methods;
 - v. Biological control agents;
 - vi. Pesticides.
 - c. Determine Appropriate Pesticide Use
If a pesticide is selected as part of the pest management measure, the operator must follow these pesticide use practices:
 - i. Evaluate using pesticides against the most susceptible developmental stage;
 - ii. Conduct surveillance, in an area that is representative of the pest problem prior to each application to assess the pest management area and to determine when the pest action threshold is met;
 - iii. Reduce the impact on the environment and non-target organisms by evaluating the restrictions, application timing, and application methods in addition to applying the pesticide only when the action thresholds have been met.
7. Operators must follow the pesticide use practices below for acrolein-, copper- and xylene-based aquatic pesticide applications within an irrigation system:
- a. Do not allow acrolein-, copper- and xylene-based aquatic pesticide treated water to enter a delivery point for water used for potable purposes.
 - b. For acrolein-based pesticide, apply only when the size of pondweed or other aquatic plants has reached an average length of 3 to 6 inches or floating or non-floating masses of algae are visible.
 - c. For copper-based pesticide, apply only when aquatic weeds or algae are present.
 - d. When requested to do so in writing by a water user before a pesticide is applied, stop water deliveries to that user during pesticide application.

- i. Attach an easily visible tag to each water user delivery point that cannot be locked. The tag must state that the delivery point has been closed at the request of the water user and may be reopened only by the operator's personnel.
- e. Required Gate Management Practices for Irrigation Systems with Gates:
 - i. Prior to the first application of the calendar year in a specific treatment area, operators must ensure that all gates in that treatment area are in working order. Document this inspection and any repairs.
 - ii. Close and lock each gate within the treatment area that discharges to natural waters at least two hours before the aquatic pesticide wave is expected to reach that gate. For any lateral canal that discharges to natural waters, either the point of discharge to natural waters must be closed or the turnout to the lateral canal from the main canal must be closed.
 - iii. To support the determination of when the gates must be closed, an operator must perform a time of travel study as described in Schedule D 6.
 - iv. In making the determination of when the gates must be closed, consider the volume and velocity of flow in the treatment area and the distance between the point of the aquatic pesticide application and the gate to be closed. The fastest flow velocity of the channel, as averaged through the vertical water column, in a representative channel cross-section must be used. When channel configurations vary, calculations may be made on different sections of the treatment area to determine the time when the aquatic pesticide wave is expected to reach the gate.
 - v. The calculations described above must be documented in the application log.
- f. Reopening of Gates for Irrigation Systems with Gates: Operators may reopen gates only when acrolein-, copper- or xylene-based pesticides are no longer present at levels above the effluent limitations specified in Schedule A: 2.a, 2.b, or 2.c, or 3. This determination may be made using one of the following:
 - i. Holding: When applying acrolein- or xylene-based pesticide, wait for the expiration of the holding period as specified in the EPA-approved FIFRA label.
 - ii. Testing: For copper and xylene-based pesticides, collect and analyze representative samples of water, as described below within the treatment area to demonstrate that treated water is no longer present prior to re-opening gates:
 - 1. Detention Basins
For detention basins, at least two samples must be collected as follows:
 - a. The first sample must be collected near the discharge gate.
 - b. The second sample must be collected near the inflow to the detention basin.
 - 2. Other Treatment Areas
For other areas, at least two samples must be collected as follows:
 - a. The first sample must be collected upstream of the open delivery point farthest from the application site within the treatment area.
 - b. The second sample must be collected halfway between the most downstream point in the treatment area and the application site.

If the treatment area consists of a main canal and laterals, sampling may be conducted in the main canal or in a lateral, whichever best fits the description of the two required sampling locations described above.
 - iii. Turnover: For acrolein-, copper- and xylene-based pesticides, calculate the rate at which the volume of water in the treatment area is replaced by fresh, untreated water, based on the portion of the treatment area where such turnover is the slowest (the slowest velocity of flow, as averaged through the vertical water column, in a representative cross-section of the channel must be used). All operators, except Klamath Irrigation District (former NPDES permit number 102541), must not open the gate(s) until the water in the treatment area has turned over at least two times. The operator of Klamath Irrigation District (former NPDES permit number 102541) must not open the gate(s) until the water in the treatment area has turned over at least once.
 - 1. The operator may use turnover calculations to open gates in individual laterals that are fed from the main canal. For example, a lateral closer to the aquatic herbicide application

point may turn over more quickly than the main canal or a lateral located farther away from the application point.

2. In making this calculation, the operator must consider the distance between the aquatic pesticide application point and the gate farthest from the application point to be reopened. When channel configurations vary, calculations may be made on different sections of the treatment area to determine turnover time for the treatment area.
 3. The turnover period begins when an aquatic herbicide is no longer being applied within the irrigation ditch and water treated with aquatic pesticide is being replaced with fresh, untreated water.
 4. These calculations and measurements must be documented as required in Schedule B 16.i.iii.
- g. Daily Inspection Requirements for Irrigation Systems with Gates: At least once a day, during the period when pesticide levels in the irrigation system are likely to be above the effluent limitation for acrolein-, copper-, or xylene-based pesticides, operator must inspect each locked gate within the treatment area and water user delivery point that has been closed as requested by a water user. Document the inspection and any repair.
- h. The operator must reduce water flow to the extent reasonably practicable in the treatment area to match the target rate for water use during the treatment period.
- i. Use a licensed pesticide applicator familiar with application requirements and risks of aquatic pesticide applications.
- j. Ensure the licensed applicator has a copy of the contingency plan section of the Pest Management Plan, as required by Schedule D 2.e and Schedule D 4.c on site during pesticide applications.
- k. Maintain a continuing program of employee orientation and education to ensure proper action in the event of a spill or accident.
8. Operators of Owhyee Irrigation District (former NPDES permit number 102606) and Old Owhyee Ditch Improvement District (former NPDES permit number 102607) must only apply a xylene-based pesticide when plant growth in the irrigation system restricts water flow to the extent that water cannot be delivered consistent with good water supply management.
 9. Operators of Owhyee Irrigation District (former NPDES permit number 102606), Old Owhyee Ditch Improvement District (former NPDES permit number 102607), Klamath Irrigation District (former NPDES permit number 102541), and Ochoco Irrigation District (former NPDES permit number 102627) must verify fish screen or other structure or fish control management practices are in place prior to the first pesticide application of the year. For irrigation systems with fish screens or by-pass systems, pesticide applications may occur downstream of fish screens or by-pass areas but not in the fish screen or by-pass area.
 10. Compliance with this permit is not intended to relieve the operator of Klamath Irrigation District (former NPDES permit number 102541) from compliance with applicable portions of the biological opinions dated February 9, 1995 and February 2, 1996, or to relieve the operator of Klamath Irrigation District from compliance with applicable portions of biological opinions issued to revise or replace the February 9, 1995 and February 2, 1996 opinions.
 11. Operator of Klamath Irrigation District (former NPDES permit number 102541) must not treat the entire irrigation district with acrolein-based pesticide at one time.
 12. Operators discharging pesticides to surface waters of the state solely from pesticide research and development activities must use the pesticide consistent with any applicable research plan and experimental use permit and are exempt from the pest management measures in Schedule A 6 through 10, to the extent that such measures may compromise the research design.

Schedule B- Minimum Monitoring, Reporting, and Recordkeeping Requirements

Monitoring

1. An operator must conduct visual assessments of application sites. Visual assessments consist of spot checks in and around the treatment area for possible and observable adverse impacts caused by an application of pesticides subject to this permit. Possible and observable adverse impacts include, but are not limited to, the unanticipated death or distress of non-target organisms, disruption of fish or wildlife habitat, and disruption of recreational or municipal water use.
2. An operator must perform visual assessments as follows:
 - a. During the application of pesticides when considerations for safety and feasibility allow; and
 - b. During any post-application surveillance or efficacy check that is conducted.
3. The operator must inspect the gates prior to the first pesticide application of the calendar year as required in Schedule A 7.e.i and record the results of those inspections.
4. The operator must check to ensure that fish control structures or other management practices are in place prior to the first pesticide application of the calendar year as required in Schedule A 9. and record the results.
5. The operator must take a sample that is representative of the first release in a calendar year from the irrigation system to natural water from a first point of discharge that is nearest to natural water in a treatment area following an application of acrolein-based, copper-based or xylene-based pesticide. Each first point of discharge to natural water from a gate or connection to natural waters must be sampled at least once following an application of acrolein-based, copper-based or xylene-based pesticide. Sampling of return flow, e.g. treated water used for crop irrigation that returns to a ditch or canal, is not required.
 - a. A sample must be representative of each pesticide used: a separate sample must be taken for acrolein, (following an acrolein-based pesticide) copper (following a copper-based pesticide) or xylene (following a xylene-based pesticide).
 - b. A sample must be representative of a first point of discharge nearest to natural water in a treatment area.
 - c. Repeated sampling may be reduced as provided in Schedule B 6.f.
 - d. The laboratory used to analyze samples must have a quality assurance/quality control (QA/QC) program to document the accuracy of sample analysis and meet the quantitation limits specified below. Definition of quantitation limit is on page 4.
 - e. The laboratory quantitation limits (adjusted for any dilutions) for analyses performed to demonstrate compliance with permit limits or as part of effluent characterization, must be at or below the quantitation limits specified in the permit unless one of the conditions below is met.
 - i. The monitoring result shows a detect above the laboratory reported quantitation limit.
 - ii. The monitoring result indicates nondetect at a detection level which is less than the quantitation limit.
 - iii. Matrix effects are present that prevent the attainment of quantitation limit and these matrix effects are demonstrated according to procedures described in EPA's "Solutions to Analytical Chemistry Problems with Clean Water Act Methods", March 2007. If using alternative methods and taking appropriate steps to eliminate matrix effects does not eliminate the matrix problems, DEQ may authorize re-sampling or allow a higher QL to be reported.
6. Sample Location and Parameters: The operator must monitor and record the parameters below from a reopened gate nearest to natural water within 30 minutes of opening the gate that releases to natural water. A grab sample is collected at a point where the discharge from the gate enters natural waters or at the gate. If there is no gate, then sampling for the parameters below must be performed at a point nearest to natural water after treatment is complete and within 30 minutes of the pesticide wave reaching that point.
 - a. Following an acrolein-based pesticide application:

Table B1: Acrolein Monitoring

| Item or Parameter | Location and Minimum Frequency | Quantitation Limit | Type of Sample/Action |
|---|--|--------------------|--|
| Estimate of Flow during the sample | With each acrolein sample | N/A | Measurement or Calculation |
| Acrolein | At a first point of release nearest to natural after the first treatment to a section in a calendar year. At least one sample is required.. Sampling may be reduced per Schedule B 6.f. | 5 µg/L | Grab sample Acrolein sampling and analysis must follow the procedures in 40 CFR §136. |
| Sample location | With each acrolein sample | NA | Record location |
| Pesticide use practice in Schedule A 7.f.i (holding) and 7.f.iii (turnover) | With each acrolein sample | NA | When applicable, record the pesticide use practice used before discharge to natural water. |

b. Following a copper-based pesticide application:

Table B2: Copper Monitoring

| Item or Parameter | Minimum Frequency | Quantitation Limit | Type of Sample/Action |
|--|--|--------------------|--|
| Estimate of Flow during the sample | With each copper sample | N/A | Measurement or Calculation |
| Copper (total dissolved) | Per Schedule A 7.f.ii. or at a first point of release nearest to natural after the first treatment to a section in a calendar year. At least one sample is required. Sampling may be reduced per Schedule B 6.f | 2 µg/L | Grab sample Copper sampling and analysis must follow procedures in 40 CFR §136. |
| Sample location | With each copper sample | NA | Record location |
| Pesticide use practice in Schedule A 7.f.iii (turnover). | With each copper sample | NA | When applicable, record the pesticide use practice used before discharge to natural water. |

c. Following a xylene-based pesticide application:

Table B3: Xylene Monitoring

| Item or Parameter | Minimum Frequency | Quantitation Limit | Type of Sample/Action |
|---|--|------------------------|--|
| Estimate of Flow during the sample | With each xylene sample | N/A | Measurement or Calculation |
| Xylene (total xylene) | Per Schedule A 7.f.ii or at a first point of release nearest to natural after the first treatment to a section in a calendar year. At least one sample is required. Sampling may be reduced per [6.f.] below. | 1 µg/L (0.001 mg/L) | Grab sample Xylene sampling and analysis must follow procedures in 40 CFR §136. |
| Sample location | With each xylene sample | NA | Record location |
| Pesticide use practice in Schedule A 7.f.i (holding) and 7.f.iii (turnover) | With each xylene sample | NA | When applicable, record the pesticide use practice used before discharge to natural water. |

- d. No monitoring for acrolein, copper or xylene is required when the irrigation system does not overflow or return flow to natural waters following aquatic pesticide applications.
- e. If a sample result is above an effluent limit in Schedule A: 1.a, 1.b, 1.c, or 3, an operator must take corrective action as required in Schedule A 5 and repeat the sampling requirement for that pesticide at the next application.
- f. Repeated monitoring is not required at the same point of discharge in a calendar year, when the following conditions are met:
 - i. One sample result for either acrolein, copper or xylene is at or below the effluent limit in Schedule A: 2.a, 2.b, 2.c, or 3;
 - ii. A time of travel study required in Schedule D 6. is complete for that section of treatment area; and
 - iii. Recordkeeping as required in Schedule B 6 is complete.

Notifications

7. **Notice of Intended Use:** For every calendar year, prior to the permit registrant's first application of acrolein-, copper- or xylene-based pesticide within the irrigation system, the operator must provide notification on proposed activities.
 - a. The registrant must notify the following interested parties:
 - i. Each water user served by the irrigation system by one or more of the following methods: website (if applicable), general newsletter, special notice enclosed with a regular assessment, individual letter, or publication in one or more newspapers with a combined circulation area encompassing the area in which the irrigation system is located.
 - ii. The general public in the area served by the permit registrant's system by publication in one or more newspapers with a combined circulation area encompassing the area in which the irrigation system is located.
 - iii. DEQ regional office.
 - b. The notice must include the following information:

- i. A statement of the permit registrant's intent to apply aquatic pesticide(s);
 - ii. Name of the pesticide(s);
 - iii. Purpose of use;
 - iv. General description of where aquatic pesticide(s) will be used;
 - v. General time period of expected use;
 - vi. Any water use restrictions or precautions during treatment;
 - vii. A phone number that interested persons may call to get more information; and
 - viii. A statement indicating that any affected water user may request in writing that water deliveries be stopped during aquatic pesticide application.
8. Notice to Farmers with Dairy Animals: The operator must provide adequate notice to water users with dairy animals prior to acrolein-based pesticide application. The purpose of this notice is to prevent dairy animals from drinking treated water and to allow water users with dairy animals sufficient time to move their animals away from treated areas.
9. Prior to an application of pesticides with potable water use restrictions on the label, an operator must identify and provide notification to the users of known public or private drinking water supplied from surface waters of the state where these applications may impact the drinking water source. Notification is not required if the FIFRA label requires setbacks and the setbacks are satisfied. Drinking water source information tools are available from DEQ's Drinking Water Protection Program and the Oregon Department of Water Resources, to identify downstream intake locations.
10. An operator must contact the Oregon Emergency Response System (OERS) if an operator observes or is otherwise made aware of an adverse incident that may have resulted from a point source discharge from the operator's pesticide application. The operator must contact OERS no later than 24 hours after the operator becomes aware of the adverse incident. The Oregon Emergency Response System can be reached at 800-452-0311 or Salem Area 503-378-6377.
 - a. Adverse Incident Notification to the Oregon Emergency Response System (OERS) at 800-452-0311 or Salem Area 503-378-6377 must include the following information:
 - i. Name of the person providing the notification and telephone number;
 - ii. Location address and description of the area including water bodies affected;
 - iii. Operator name and mailing address if different from above;
 - iv. The NPDES File Number, if known;
 - v. Name of a contact person if different from the person providing the notification;
 - vi. Date, time, and the way that the adverse incident was discovered;
 - vii. Description of the adverse incident including name of the affected species;
 - viii. EPA registration number of each product applied in the area of the adverse incident;
 - ix. Description of any steps taken or plan to take to correct, repair, clean up or mitigate the adverse effects; and
 - x. Reason why notification was made later than 24 hours, if applicable.
 - b. The operator is not required to report an adverse incident in the following situations:
 - i. The operator is aware of facts that clearly establish that the adverse incident was not related to toxic effects or exposure from the pesticide application;
 - ii. The operator has received notification in writing that DEQ has waived the reporting requirements for this incident or category of incidents;
 - iii. The operator receives information about the adverse incident, but that information is clearly erroneous; or
 - iv. An adverse incident occurs to pests that are similar in kind to potential target pests identified on the FIFRA label.
 - c. The operator must provide a written report within thirty (30) days of an adverse incident reported in [10.a.] above to the DEQ local regional field office.. The report must include the following information:
 - i. Date, time and the information that was provided in the initial notification in [10.a.] above;
 - ii. The DEQ or OERS employee who was contacted and any instructions received from that person;
 - iii. The effect of the adverse incident on species involved, including the type of species (if known), estimate of the number dead, estimate of the number distressed, the size of the number of dead and the size of the number distressed;

- iv. The size of the area of surface water of the state that was affected (square area or stream miles);
 - v. Pesticide application rate, where the pesticide was applied (e.g. water's edge, in surface water of the state), method of application, name of the pesticide product, description of the pesticide active ingredient(s), and EPA registration number for the product;
 - vi. Description of the circumstances under which the adverse incident occurred;
 - vii. If laboratory tests were performed, provide information on what tests were performed, when the tests were performed, who conducted the tests and a summary of the test results within 5 days after they become available;
 - viii. If applicable, explain why you believe the adverse incident could not have been caused by exposure to the pesticide;
 - ix. Actions to be taken to prevent the recurrence of the adverse incidents; and
 - x. A signature and date on report.
11. The adverse incident notification requirement in this permit is in addition to the notification and reporting requirements required by FIFRA section 6(a)(2) and its implementing regulations at 40 CFR Part 159.
12. An operator must immediately notify the Oregon Emergency Management Division's Oregon Emergency Response System (OERS) by calling 1-800-452-0311 if the amount of oil or hazardous material spilled or released, or threatening to spill or release, exceeds the reportable quantity established in ORS 466.605 or listed in OAR 340-142-0050, or will exceed a reportable quantity in any 24-hour period.

The reportable quantities in OAR 340-142-0050 include, but are not limited to, any quantity of oil that would produce a visible film, sheen, oily slick, oily solids, or coat aquatic life, habitat or property with oil, and 200 pounds (25 gallons) of pesticide residue. A release does not include a point source discharge from pesticide applications that are made in compliance with applicable pesticide application laws.

Recordkeeping Requirements

13. Within 5 days of becoming aware of a spill, leak or other unpermitted point source discharge of a pesticide to surface waters of the state, an operator must document and retain the following information in response to Schedule A 5.a.i:
- a. Information provided to the Oregon Emergency Response System;
 - b. Summary of corrective action taken or to be taken including date the corrective action was started and the date completed or expected to be completed;
 - c. Any measures taken to prevent the recurrence of such a spill or leak or other unpermitted point source discharge;
 - d. Whether Pesticide Discharge Management Plan (PDMP) modifications are required, if applicable.
14. An operator must document corrective actions taken in response to Schedule A 5.a.ii through 5.a.v, within 5 days of becoming aware of that situation and retain a copy of the documentation. The operator must document and retain the following information:
- a. Identify what triggered the need for corrective action and include a brief description;
 - b. The date the need for corrective action was identified;
 - c. How the operator became aware of the situation;
 - d. Results of any water quality sampling data;
 - e. The type of corrective action(s) taken;
 - f. Date the corrective action began and ended; and
 - g. Measures taken to prevent the recurrence, including whether PDMP modifications are required, if applicable.
15. Operators must keep the records identified in this condition at the address provided on the permit registration. Operators must document these records as soon as possible but no later than 14 days following completion of each pesticide application in a treatment area. The operator can rely on copies of the records and documents that are developed for other obligations, such as required under FIFRA, USDA, and state and local pesticide programs, provided that these separate documents satisfy the requirements of the permit and are kept at the address provided on the permit registration.
- a. A copy of the permit (either electronic copy or hardcopy);
 - b. Name of the public or private drinking water supplier identified in Schedule B 9.
 - c. A copy of the documentation required in Schedule B 10, 13 and 14;

- d. Rationale for not reporting an adverse incident as allowed in Schedule B 10.b;
- e. Up-to-date records on the acres or linear miles treated for the pesticide applications covered under this permit on an annual basis;
- f. If licensed as a pesticide applicator or pesticide consultant in Oregon, pesticide application records as required by ORS 634.146 and OAR 603-057-0130;
- g. If licensed as a private pesticide applicator in Oregon, records as required by US Department of Agriculture Agricultural Marketing Service.
- h. Records must be kept for a period of at least 3 years per Schedule F Section C8
- i. A copy of the application for permit registration submitted to DEQ;
- j. Correspondence exchanged with DEQ specific to coverage under this permit, and a copy of DEQ's acknowledgment letter assigning the file number for registration;
- k. A copy of the annual report;
- l. Information on each treatment area to which pesticides are discharged from a point source as follows:
 - i. Surveillance methods used, dates of surveillance activities, and findings of surveillance;
 - ii. Target pest(s) and explanation of the need for pest control;
 - iii. Pest or site-specific action threshold prior to pesticide application;
 - iv. Description of pest management measures(s) implemented prior to the first pesticide application;
 - v. Company name and contact information for pesticide applicator;
 - vi. Pesticide application dates and time of day of the application;
 - vii. Description of treatment area, including location and size (acres or linear feet) of treatment area and identification of any surface waters of the state, either by name or by location, to which any pesticides were discharged from a point source;
 - viii. Name of each pesticide product used including the EPA registration number;
 - ix. Quantity of pesticide applied (application rate, diluents, dilution);
 - x. Concentration (%) of active ingredient in formulation;
 - xi. For pesticide applications directly to surface waters of the state, the effective concentration of active ingredient required for control;
 - xii. Any unusual or unexpected effects identified to non-target organisms;
 - xiii. Whether or not a visual assessment was conducted. If a visual assessment was conducted was it during the pesticide application or post pesticide application, and if no visual assessment was conducted, explain why it was not conducted;
 - xiv. Assessment of application conditions relating to proper pesticide use (e.g. air and water temperature, precipitation and wind speed if applicable to label requirement).
- m. Documentation of any equipment calibration, for example date of equipment calibration; (Copies of records kept by a pesticide application equipment operator may be used.); and
- n. A copy of the PDMP along with all the supporting maps and documents, including any modifications made to the PDMP during the term of this permit.

16. Operators that use acrolein-, copper- or xylene-based pesticide must follow these additional recordkeeping requirements:

- a. Record the results of a gate inspection as required in Schedule A 7.e.i;
- b. Record the results of inspections to verify that fish screen or other control structures or other management practices are in place prior to the first pesticide application of the calendar year as required in Schedule A 9;
- c. Record parameters in Schedule B 6.a following an acrolein-based pesticide application, Schedule B 6.b, following a copper-based pesticide application and parameters in Schedule B 6.c following a xylene-based pesticide application;
- d. Keep a copy of the public notice required in Schedule B 7;
- e. Pest- or site-specific action threshold prior to pesticide application;
- f. Amount or size of plant growth prior to the pesticide application of acrolein-, copper- and xylene-based aquatic pesticides as required in Schedule A 7.b and 7.c;
- g. Date of gate inspection and note any repair to gates as required in Schedule A 7.g;
- h. Environment details (e.g., water temperature, total flow and wind speed, if applicable to label requirement), time application started and stopped, gallons of aquatic pesticide applied, dosage rate, concentration, application rate,); and
- i. Application details for acrolein-, copper- and xylene-based aquatic pesticides within an irrigation system including:
 - i. Location of gates in the treatment area that discharge to natural waters;

- ii. Flow calculations used to determine when to close the gates and when to reopen the gates (see Schedule A 7.e.iii and 7.f.iii.);
- iii. When gates are closed, the time of closure and the time reopened (if using turnover time as specified in Schedule A 7.f.iii include flow measurements or calculations used to determine turnover of at least two times);
- iv. Expected duration of the treatment period;
- v. Time application started and stopped;
- vi. Location of treatment area (e.g. location for start of treatment and where treatment is complete);
- vii. Date and time of daily inspection of locked gate and closed water delivery point as required by Schedule A 7.g;
- viii. Date and time of gate inspections as required in Schedule A 7.e.i;
- ix. Months when no sampling for acrolein-, copper- or xylene were conducted because the irrigation system did not overflow or return to natural water following aquatic pesticide applications per Schedule B 7.d; and
- x. Documentation of any equipment calibration, for example date of equipment calibration. (Copies of records kept by a pesticide application equipment operator may be used.).

Monthly Reporting Requirements

17. Operators must submit results of analysis in a monthly monitoring report.

18. Operators must follow monitoring and reporting protocols as indicated below:

- a. Paper Submissions. An Operator must submit the monthly monitoring report in in a paper format to DEQ as specified below.
 - i. An Operator must submit all monitoring results required in Schedule B 6 via DEQ-approved Discharge Monitoring Report (DMR) forms until directed by DEQ to do otherwise. The report must contain the following information:
 - 1. Whether or not acrolein-, copper- or xylene-based pesticides were applied within the irrigation system;
 - 2. Whether or not there was overflow or return flow to natural waters; and
 - 3. Results from monitoring in Schedule B 6 if there was an overflow or return flow to natural waters and acrolein-, copper- or xylene-based pesticides were applied within the irrigation system.
 - ii. The reporting period is the calendar month.
 - iii. Any monitoring results required in this permit must be submitted by the operator to DEQ by the 15th day of the month following the reporting period unless specified otherwise in this permit or as specified in writing by DEQ. For example if the time period provided in a notice of intended use begins May 1, then the first discharge monitoring report is due by June 15. DEQ will provide the appropriate regional office address to the operator when the operator is notified of permit coverage.
 - iv. The operator must sign and certify submittals of DMRs, reports, and other information in accordance with the requirements of Section D8 within Schedule F of this permit.
- b. Electronic Submissions. An operator must submit the sampling and analysis results and other required information of Schedule B 6 in an electronic format.
 - i. When directed by DEQ, the operator must submit monitoring results and other information required by this permit on DEQ-approved web-based Discharge Monitoring Report (DMR) forms including pre-approved attachments.
 - ii. In accordance with 40 CFR 122.41(l)(9), EPA is the initial recipient to receive electronic submissions. The registrant will use EPA's NetDMR for electronic reporting of DMR information. EPA's NetDMR reporting tool is located on the webpage at: <https://netdmr.zendesk.com/home>. DEQ will notify the permittee in advance of changes to the initial recipient status and use of another electronic reporting system other than NetDMR.

- iii. The permittee must report monitoring requirements listed in Schedule B 6 of this permit via NetDMR when directed by DEQ. Monitoring results of data used to calculate summary statistics, additional monitoring, and other required reporting not entered on the NetDMR form must be submitted via NetDMR as a separate attachment. The summary statistics calculations attachment form must be pre-approved by DEQ as integral part of the DEQ-approved DMR.
- iv. The permittee must submit monitoring data and other information required by this permit for all compliance points by the 15th day of the month following the reporting period unless specified otherwise in this permit or as specified in writing by DEQ.
- v. The reporting period is the calendar month.
- vi. The operator must sign and certify all electronic submissions in accordance with the requirements of Section D8 within Schedule F of this permit.

Annual Reporting

19. Prior to the availability of electronic reporting, an operator must submit an annual report to the DEQ regional field office as follows:
- a. If initial registration confirmed in the letter from DEQ is dated on or before Dec. 1, the operator must submit the first annual report no later than Feb. 15 of the following year for all pesticide activities covered under this permit that occurred during the previous calendar year. See the table below for an example.
 - b. If registration confirmed in the letter from DEQ is dated later than Dec. 1, the operator must submit the first annual report no later than Feb. 15 after the following full year. For example if the registration confirmation letter is dated Dec. 2, 2019, the first annual report is due on Feb. 15, 2021. The first annual report is required to include information for the portion of the prior calendar year and the next full year. See the table below for an example.

Table B4: Annual Report Due Date

| Examples of when an annual report is due based on registration dates: | | | |
|---|--------------------|------------------------------|-------------------------------------|
| Condition | Date of the letter | First annual report due date | Information included |
| 19.a | July 12, 2019 | Feb. 15, 2020 | July 12, 2019 through Dec. 31, 2019 |
| 19.b | Dec. 2, 2019 | Feb. 15, 2021 | Dec. 2, 2019 through Dec. 31, 2020 |

- c. After the initial registration, an annual report is due each year the permit is in effect even if there has been no pesticide application.
- d. If permit coverage is terminated, an annual report is due no later than 45 days after the termination date or Feb. 15 of the following year, whichever is earlier. The annual report must address the portion of the year the permit registration was effective.
- e. The annual report must contain the following information:
 - i. Operator's name;
 - ii. NPDES permit file number;
 - iii. Timeframe the annual report covers;
 - iv. Contact person name, title, mailing address, e-mail address (if any), and phone number;
 - v. For each pest treatment area:
 - 1. Identification of any surface waters of the state or other treatment area, including size, either by name or by location, to which you discharged any pesticide from a point source;

2. What the pesticide application was used to control (i.e., weeds and algae) and target pest;
3. Company name and contact information for each pesticide applicator, if different from the operator;
4. Total amount of each pesticide product applied for the reporting year by the EPA registration number and by application method (e.g., aerially by fixed-wing or rotary aircraft, broadcast spray, etc.);
5. Whether the pest control activity was addressed in your Pesticide Discharge Management Plan (PDMP) prior to pesticide application;
- vi. If applicable, an annual report of any adverse incidents as a result of a treatment for incidents, as described in Schedule B 9 through 13;
- vii. A description of any corrective action and the rationale for such action, including spill responses, resulting from pesticide application activities; and
- viii. A description of any modifications made to the PDMP.

20. Operators must follow monitoring and reporting protocols as indicated below.

- a. Paper Submissions. The operator must submit an annual report in a paper format to DEQ as specified below.
 - i. The operator must submit an annual report via DEQ-approved annual report forms and other required information of Schedule B 19 until directed by DEQ to do otherwise.
 - ii. The reporting period is for all pesticide activities covered under this permit that occurred during the previous calendar year.
 - iii. Any monitoring results required in this permit must be submitted by the operator to DEQ annually as required in Schedule B 19 above unless specified otherwise in this permit or as specified in writing by DEQ.
 - iv. The permittee must sign and certify submittals of annual reports, and other information in accordance with the requirements of Section D8 within Schedule F of this permit.
- b. Electronic Submissions. The operator must submit an annual report other required information of Schedule B 19. in an electronic format.
 - i. When directed by DEQ, the operator must submit an annual report and other required information of Schedule B 19. on DEQ-approved web-based annual report forms including pre-approved attachments.
 - ii. In accordance with 40 CFR 122.41(l)(9), EPA is the initial recipient to receive electronic submissions. The permittee will use EPA's NetDMR for electronic reporting of DMR information. EPA's NetDMR reporting tool is located on the webpage at: <https://netdmr.zendesk.com/home>. DEQ will notify the operator in advance of changes to the initial recipient status and use of another electronic reporting system other than NetDMR.
 - iii. The operator must report monitoring requirements listed in Schedule B 16 of this permit via NetDMR when directed by DEQ. Monitoring results of data used to calculate summary statistics, additional monitoring, and other required reporting not entered on the NetDMR form must be submitted via NetDMR as a separate attachment. The summary statistics calculations attachment form must be pre-approved by DEQ as integral part of the DEQ-approved DMR.
 - iv. The operator must submit monitoring results annually as required in Schedule B unless specified otherwise in this permit or as specified in writing by DEQ.
 - v. The reporting period is for all pesticide activities covered under this permit that occurred during the previous calendar year.
 - vi. The permittee must sign and certify all electronic submissions in accordance with the requirements of Section D8 within Schedule F of this permit.

Schedule D- Special Conditions

Pesticide Discharge Management Plan (PDMP)

1. Operators must develop and maintain a Pesticide Discharge Management Plan for their pest management area as follows:
 - a. Operators must develop the PDMP by the time the application for registration is submitted to DEQ.
 - b. Once the PDMP is developed, keep the PDMP up-to-date for the duration of registration under the general permit.
2. The PDMP required under Condition 1 above can include copies of the records and documents that are developed for other obligations, such as required by FIFRA, USDA, and state and local pesticide programs, if these separate documents satisfy the requirements for the content of the PDMP. The PDMP must contain the following elements:
 - a. Pesticide Discharge Management Team. The PDMP must identify all the persons (by name and contact information) that compose the team and each person's individual responsibilities, including:
 - i. Persons responsible for managing pests in relation to the pest management area;
 - ii. Persons responsible for developing and revising the PDMP; and
 - iii. Persons responsible for developing, revising, and implementing corrective actions and other effluent limitation requirements.
 - b. Pest Problem Identification. The operator must document the pest problem in the pest management area by including the following elements:
 - i. Pest problem description. Description of the pest problem in the pest management area, including identification of the target pest or pests, source of the pest problem, and source of data used to identify the problem in Schedule A 6.a.
 - ii. Action thresholds. Describe the action thresholds in the pest management area, including a description of how they were determined (e.g. data used in developing an action threshold and method used to determine when the action threshold has been met).
 - iii. General location map. In the plan, include a general location map (e.g., USGS quadrangle map, or a portion of a city or county map) that identifies the geographic boundaries of the pest management area to which the plan applies, the anticipated treatment areas and location of the surface waters of the state.
 - iv. Water quality limited water. Use the DEQ 303(d) list of impaired water bodies on DEQ's web site to identify surface waters of the state that are impaired for the substance discharged from a point source, including the list of pesticide(s) or degradates for which the surface water of the state is impaired.
 - c. Pest Management Options Evaluation. The PDMP must include an evaluation of pest management options including a combination of the pest management options to control the target pest for the pest management area. The operator must document the pest management options that will be implemented to comply with the effluent limitations required in Schedule A. The operator must include in the description the active ingredients evaluated for pesticide use.
 - d. Schedules and Procedures. The PDMP must include the following schedules and procedures to document the pest management measures used to comply with the effluent limitations in Schedule A:
 - i. List of proposed pesticides to be applied including brand name and EPA registration number, and a copy of the label. (Schedule A 4.a).
 - ii. Application rate and frequency. (Schedule A 4.b) Procedures for using the optimal amount of pesticide consistent with the pesticide label directions to reduce the potential for development of

pest resistance and to minimize the frequency of pesticide applications necessary to control the target pest.

- iii. Spill prevention. (Schedule A 4.c) Procedures and schedule of maintenance activities for preventing spills and leaks of pesticides associated with the application of pesticides covered under this permit.
 - iv. Pesticide application equipment. (Schedule A 4.d) Schedules and procedures for maintaining the pesticide application equipment in proper operating condition, including calibrating, cleaning, and repairing the equipment.
 - v. Pesticide monitoring. The operator must document procedures for monitoring consistent with the requirements in Schedule B 1 including:
 - 1. The process for determining the location of any monitoring;
 - 2. A schedule for monitoring; and
 - 3. The person (or position) responsible for conducting monitoring.
 - e. Response Procedures. Pertaining to Other Actions Necessary to Minimize Point Source Discharges. At a minimum, the PDMP must include the following actions necessary to minimize point source discharges:
 - i. Spill response. Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of the PDMP team.
 - ii. Adverse incident response. Procedures for responding to any adverse incident resulting from pesticide applications.
 - iii. Notification of spill and adverse incident response. Procedures for notification of appropriate facility personnel, emergency chemical responders, drinking water intake contacts and OERS, contact information for the notifications and information on the nearest emergency medical facility must be in locations that are readily accessible and available.
 - f. Supporting Documentation. Documentation of approvals for pesticide applications in sensitive areas, such as required by Oregon Department of Fish and Wildlife under ORS 452.140(1) and (2), 452.245(1) and (2), and pesticide licensing as required by Oregon Department of Agriculture under ORS chapter 634. Record of notifications to sources of public and private drinking water intakes (Schedule B 2). Copies of any portions of any documents that are incorporated by reference to satisfy the required elements of the PDMP.
 - g. Signature Requirement. The PDMP and revisions to the PDMP must be signed, dated and certified as described in Schedule F Section D8 in *Reporting Requirements*.

3. An operator must review and modify the PDMP as follows:

 - a. Review the PDMP at least once per calendar year and whenever necessary to update the pest problem identified, scope of pest management area and pest management strategies evaluated.
 - b. Modify the PDMP to address corrective actions taken in Schedule A, or
 - c. Modify the PDMP when a change in pest control activities significantly changes the type or quantity of pollutants discharged from a point source.
 - d. Make the changes to the PDMP before the next pesticide application that results in a point source discharge, if practicable, or if not, as soon as possible thereafter.

4. Operators must include the following elements in a pesticide discharge management plan when using acrolein-, xylene- and copper-based pesticides.

 - a. In Pest Problem Identification (Schedule D 2.b.ii) under action thresholds, include action thresholds for use of acrolein-, xylene- and copper-based pesticides within the irrigation system based on plant growth.
 - b. In Pest Problem Identification (Schedule D 2.b.iii) under general location map, include a map that indicates sampling locations at gates or where there are system connections to natural water within the

- irrigation system for sampling after pesticide application of acrolein-, copper- or xylene-based pesticides as required in Schedule B 5.b. and 15.1.vii.
- c. In Response Procedures (Schedule D 2.e.i), include procedures for prevention, containment, and handling of spills and releases into the air or into or on any land or surface waters of the state from the application, storage and transport of acrolein-, xylene- or copper-based pesticides, including:
 - i. Description of employee orientation and education program; and
 - ii. A list of the reportable quantities for the aquatic pesticides with reporting thresholds in OAR Chapter 340 Division 142.
 5. In Supporting Documentation (Schedule D 2.f), Operators of Owhyee Irrigation District (former NPDES permit number 102606) and Old Owhyee Ditch Improvement District (former NPDES permit number 102607), Klamath Irrigation District (former NPDES permit number 102541), Ochoco Irrigation District (former NPDES permit number 102627) must include the fish control evaluation that documents the presence of fish screens, structures or other management practices intended to the extent practicable to discourage fish from entering the treatment area. An operator that is required to complete a time of travel study may include the results in this section of the PDMP.
 6. Prior to the application of acrolein-, copper- or xylene-based pesticides to a treatment area within the irrigation system, an operator must conduct a time of travel study under the following methods or conditions to support turnover methods and travel times used to comply with the permit. An operator must document of results of a time of travel study.
 - a. A dye study where dye is released at one or more points in the system and concentrations downstream are measured over time or measurement of velocity and cross-sectional area at various representative points in the system or combination of these two methods.
 - b. The operator must complete a time of travel study at each application site no less than once every five years.
 - c. The flow conditions during the time of travel study must mimic the conditions during pesticide application.
 - d. The operator must submit the results of the most recent time of travel studies to DEQ with the first set of monitoring reports submitted in a given calendar year.

Schedule F- NPDES General Conditions- Industrial Facilities
July 31, 2016 Version

The general conditions in this schedule apply only to the extent they do not conflict with the requirements contained in Schedules A through D. If the permit requirements in Schedule A through D conflict with these general conditions, the permit requirements in Schedule A through D will control.

Section A. Standard Conditions

A1. Duty to Comply with Permit

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

A2. Penalties for Water Pollution and Permit Condition Violations

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

ORS 468.140 allows DEQ to impose civil penalties up to \$25,000 per day for violation of a term, condition, or requirement of a permit.

Under ORS 468.943, unlawful water pollution in the second degree, is a Class A misdemeanor and is punishable by a fine of up to \$25,000, imprisonment for not more than one year, or both. Each day on which a violation occurs or continues is a separately punishable offense.

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

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

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

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

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

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

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

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

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

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

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

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

A3. Duty to Mitigate

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

A4. Duty to Reapply

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

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

A5. Permit Actions

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

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

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

A6. Toxic Pollutants

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

A7. Property Rights and Other Legal Requirements

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

A8. Permit References

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

A9. Permit Fees

The permittee must pay the fees required by OAR.

Section B. Operation and Maintenance of Pollution Controls

B1. Proper Operation and Maintenance

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

B2. Need to Halt or Reduce Activity Not a Defense

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

B3. Bypass of Treatment Facilities

a. Definitions

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

b. Prohibition of bypass.

- (1) Bypass is prohibited and DEQ may take enforcement action against a permittee for bypass unless:
 - i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance; and
 - iii. The permittee submitted notices and requests as required under General Condition B3.c.
- (2) DEQ may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when DEQ determines that it will meet the three conditions listed above in General Condition B3.b(1).

c. Notice and request for bypass.

- (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, a written notice must be submitted to DEQ at least ten days before the date of the bypass.
- (2) Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required in General Condition D5.

B4. Upset

- a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of General Condition B4.c are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and that the permittee can identify the causes(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The permittee submitted notice of the upset as required in General Condition D5, hereof (24-hour notice); and
 - (4) The permittee complied with any remedial measures required under General Condition A3 hereof.
- d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

B5. Treatment of Single Operational Upset

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

B6. Public Notification of Effluent Violation

If effluent limitations specified in this permit are exceeded or an overflow occurs that threatens public health, the permittee must take such steps as are necessary to alert the public, health agencies and other affected entities (for example, public water systems) about the extent and nature of the discharge in accordance with the notification procedures developed under General Condition B7. Such steps may include, but are not limited to, posting of the river at access points and other places, news releases, and paid announcements on radio and television.

B7. Emergency Response and Public Notification Plan

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

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

- f. Ensure that DEQ is notified of the public notification steps taken.

B8. Removed Substances

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

Section C. Monitoring and Records

C1. Representative Sampling

Sampling and measurements taken as required herein must be representative of the volume and nature of the monitored discharge. All samples must be taken at the monitoring points specified in this permit, and must be taken, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points must not be changed without notification to and the approval of DEQ. Samples must be collected in accordance with requirements in 40 CFR part 122.21 and 40 CFR part 403 Appendix E.

C2. Flow Measurements

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

C3. Monitoring Procedures

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

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

C4. Penalties for Tampering

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

C5. Reporting of Monitoring Results

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

C6. Additional Monitoring by the Permittee

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

C7. Averaging of Measurements

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

C8. Retention of Records

Records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities must be retained for a period of at least 5 years (or longer as required by 40 CFR part 503). Records of all monitoring information including all calibration and maintenance records, all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit and records of all data used to complete the application for this permit must be retained for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of DEQ at any time.

C9. Records Contents

Records of monitoring information must include:

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

C10. Inspection and Entry

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

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

C11. Confidentiality of Information

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

Section D. Reporting Requirements

D1. Planned Changes

The permittee must comply with OAR 340-052, "Review of Plans and Specifications" and 40 CFR § 122.41(l)(1). Except where exempted under OAR 340-052, no construction, installation, or modification involving disposal systems, treatment works, sewerage systems, or common sewers may be commenced until the plans and specifications are submitted to and approved by DEQ. The permittee must give notice to DEQ as soon as possible of any planned physical alternations or additions to the permitted facility.

D2. Anticipated Noncompliance

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

D3. Transfers

This permit may be transferred to a new permittee provided the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of the permit and EQC rules. No permit may be transferred to a third party without prior written approval from DEQ. DEQ may require

modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under 40 CFR § 122.61. The permittee must notify DEQ when a transfer of property interest takes place.

D4. Compliance Schedule

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

D5. Twenty-Four Hour Reporting

The permittee must report any noncompliance that may endanger health or the environment. Any information must be provided orally (by telephone) within 24 hours from the time the permittee becomes aware of the circumstances, unless a shorter time is specified in the permit. During normal business hours, the DEQ regional office must be called. Outside of normal business hours, DEQ must be contacted at 1-800-452-0311 (Oregon Emergency Response System).

- a. The following must be included as information that must be reported within 24 hours under this paragraph:
 - (1) Any unanticipated bypass that exceeds any effluent limitation in this permit;
 - (2) Any upset that exceeds any effluent limitation in this permit;
 - (3) Violation of maximum daily discharge limitation for any of the pollutants listed by DEQ in this permit; and
 - (4) Any noncompliance that may endanger human health or the environment.
- b. A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain:
 - (1) A description of noncompliance and its cause;
 - (2) The period of noncompliance, including exact dates and times;
 - (3) The estimated time noncompliance is expected to continue if it has not been corrected;
 - (4) Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance; and
 - (5) Public notification steps taken, pursuant to General Condition B7.

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

D6. Other Noncompliance

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

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

D7. Duty to Provide Information

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

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

D8. Signatory Requirements

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

D9. Falsification of Information

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

D10. Changes to Discharges of Toxic Pollutant

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

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

Section E. Definitions

- E1. *BOD or BOD₅* means five-day biochemical oxygen demand.
- E2. *CBOD or CBOD₅* means five-day carbonaceous biochemical oxygen demand.
- E3. *TSS* means total suspended solids.
- E4. *Bacteria* means but is not limited to fecal coliform bacteria, total coliform bacteria, *Escherichia coli* (*E. coli*) bacteria, and *Enterococcus* bacteria.
- E5. *FC* means fecal coliform bacteria.
- E6. *Total residual chlorine* means combined chlorine forms plus free residual chlorine
- E7. *Technology based permit effluent limitations* means technology-based treatment requirements as defined in 40 CFR § 125.3, and concentration and mass load effluent limitations that are based on minimum design criteria specified in OAR 340-041.
- E8. *mg/l* means milligrams per liter.
- E9. *µg/l* means microgram per liter.
- E10. *kg* means kilograms.
- E11. *m³/d* means cubic meters per day.
- E12. *MGD* means million gallons per day.
- E13. *Average monthly effluent limitation* as defined at 40 CFR § 122.2 means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- E14. *Average weekly effluent limitation* as defined at 40 CFR § 122.2 means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

- E15. *Daily discharge* as defined at 40 CFR § 122.2 means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge must be calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge must be calculated as the average measurement of the pollutant over the day.
- E16. *24-hour composite sample* means a sample formed by collecting and mixing discrete samples taken periodically and based on time or flow.
- E17. *Grab sample* means an individual discrete sample collected over a period of time not to exceed 15 minutes.
- E18. *Quarter* means January through March, April through June, July through September, or October through December.
- E19. *Month* means calendar month.
- E20. *Week* means a calendar week of Sunday through Saturday.