

**RECONSIDERATION AND REISSUANCE  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 WASTE DISCHARGE PERMIT**

Department of Environmental Quality  
 Western Region - Salem Office  
 750 Front St. NE, Suite 120, Salem, OR 97301-1039  
 Telephone: (503) 378-8240

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

**ISSUED TO:**

Georgia-Pacific Toledo LLC  
 1400 S.E. Butler Bridge Rd.  
 Toledo, OR 97391

**SOURCES COVERED BY THIS PERMIT:**

<u>Type of Wastewater</u>	<u>Outfall Number</u>	<u>Outfall Location</u>
Unbleached Kraft, semi-chemical, and secondary fiber paper mill wastewater, site stormwater, and woodwaste landfill leachate*.	001	Pacific Ocean
Hogged fuel boiler blowdown, Storm water drainage from hogged fuel boiler area	003	Yaquina River RM 13

**FACILITY TYPE:**

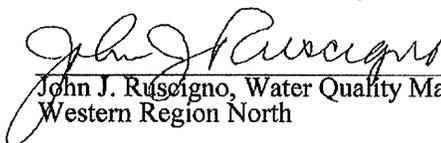
Unbleached Kraft semi-chemical  
 Secondary fiber pulp and paper  
 Mill.  
 1400 Butler Bridge Rd, Toledo, OR

**RECEIVING STREAM INFORMATION:**

Basin: Mid-Coast  
 Sub-Basin: Siletz/Yaquina  
 Stream: Pacific Ocean  
 LLID: 1240682445993-99-D  
 County: Lincoln

**EPA REFERENCE NO: OR000134-1**

Issued in response to Application No. 977727 received September 28, 2005. This permit is a reconsideration and reissuance of the permit issued on July 14, 2006 in accordance with OAR 137-0074-0080(5). This permit is issued based on the land use findings in the permit record.

  
 John J. Ruscigno, Water Quality Manager  
 Western Region North

March 9, 2009  
 Date

**PERMITTED ACTIVITIES**

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

	<u>Page</u>
Schedule A – Waste Discharge Limitations not to be Exceeded.....	2
Schedule B – Minimum Monitoring and Reporting Requirements.....	3
Schedule C – Compliance Conditions and Schedules.....	6
Schedule D – Special Conditions.....	8
Schedule F – General Conditions.....	11

\* In addition to the normal wastewater discharge, this NPDES permit authorizes discharges associated with or resulting during essential maintenance, regularly scheduled maintenance during startup and shutdown, spills and releases (whether anticipated or unanticipated) from within the permitted facility, as long as they are amenable to treatment, routed to the plant's wastewater treatment system and effluent limitations are met.

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

**SCHEDULE A**

**1. Waste Discharge Limitations not to be exceeded after permit issuance.**

a. Outfall 001, ASB Effluent

Parameter	Effluent Loadings	
	Monthly Average lbs/day	Daily Maximum lbs/day
BOD <sub>5</sub>	12,800	25,700
TSS	20,200	40,400
pH	Shall not be outside the range of 6.0 – 9.0	

b. Outfall 003, Hogged fuel boiler area drainage\*

Parameters	
pH	Shall not be outside the range of 6.0 – 9.0
Temperature	Shall not exceed 90 degrees Fahrenheit
TSS	Shall not exceed 50 mg/L

\* Discharges from outfall 003 shall only occur during times of heavy rainfall when the sump pump cannot handle the runoff. Wastewater from this source shall be pumped to the process wastewater treatment system during all other periods.

2. Except as provided for in OAR 340-045-0080, no wastes shall be discharged and no activities shall be conducted which violate Water Quality Standards as adopted in OAR 340-041 except in the following defined mixing zone and zone of initial dilution:

Outfall 001:

The allowable mixing zone shall consist of a rectangle that extends 1175 feet to both the north and south and 500 feet to both the east and west from the center point of the diffuser and from the ocean floor to the surface. The zone of initial dilution is defined as the portion of the Pacific Ocean extending laterally 45 feet from the diffuser ports and extending from the ocean bottom to 3 feet below the surface.

Outfall 003:

The allowable mixing zone shall not exceed a portion of the Yaquina River from the point of discharge extending to a radius of 25 feet. The zone of initial dilution shall not exceed a portion of the Yaquina River from the point of discharge extending to a radius of 17 feet.

**SCHEDULE B**

1. **Minimum Monitoring and Reporting Requirements to be met after permit issuance** (unless otherwise approved in writing by the Department).

The permittee shall monitor the parameters as specified below at the locations indicated. The laboratory used by the permittee to analyze samples shall have a quality assurance/quality control (QA/QC) program to verify the accuracy of sample analysis. If QA/QC requirements are not met for any analysis and cannot be re-analyzed, then the results shall be included in the report, but not used in calculations required by this permit. When the permittee cannot re-analyze the existing sample, then they shall re-sample in a timely manner for parameters failing the QA/QC requirements, analyze the samples, and report the results.

a. Outfall 001

Parameter	Minimum Frequency	Type of Sample
Flow	Daily	Continuous
BOD <sub>5</sub>	3/Week	24-hour composite
TSS	3/Week	24-hour composite
Color	3/Week	24-hour composite
Turbidity (see note 4)	3/Week	24-hour composite
Temperature	3/Week	Grab
pH	3/Week	Grab
Whole Effluent Toxicity Testing	2/Year	24-hour composite
Metals (total), cyanide and total phenols (refer to Part V.C. of EPA Form 2C for a complete list).	6/year (see note 1)	24-hour composite
Volatile compounds, acid-extractable compounds, base-neutral compounds (refer to Part V.C. of EPA Form 2C for a complete list).	3/year (see note 2)	24-hour composite (see note 3)

b. Outfall 003

Parameter	Minimum Frequency	Type of Sample
Flow	Daily, during discharge	Grab
Temperature	Daily, during discharge	Grab
pH	Daily, during discharge	Grab
Total Copper	Daily, during discharge	Grab
TSS	Daily, during discharge	Grab

c. Sludge Monitoring

Parameter	Minimum Frequency	Type of Sample
Average depth of sludge in aeration basin	1/year (approximately 12 months apart)	Calculated Estimate

Note: All sludge shall be handled in accordance with the Sludge Management Plan approved by the Department per Schedule C, Condition 1. A management plan is not required unless the facility changes its current sludge practice.

d. Production

Parameter	Minimum Frequency	Type of Sample
Pulp	Average air-dry tons/day for reporting period	Calculation
Secondary Fiber	Average air-dry tons/day, for reporting period	Calculation
Paper	Machine-dry tons/day for reporting period	Calculation

Notes:

1. For one year after permit issuance, monitoring for metals, cyanide and total phenolic compounds must be conducted on the effluent at the specified frequency spaced evenly throughout the year. Monitoring for arsenic must be conducted in accordance with EPA Method 1632 with a practical quantification level (PQL) of 5 ng/L or less. Monitoring for cadmium, silver and thallium must be conducted using a method with a PQL of 0.1 µg/L or lower. Monitoring for lead must be conducted using a method with a PQL of 0.2 µg/L or lower. Monitoring for all other toxic parameters must be performed using a method capable of achieving the PQLs in Appendix B, Table 8 of the Department's Internal Management Directive for conducting a Reasonable Potential Analysis for Toxic Pollutants. Changes in monitoring methods or PQLs must be approved in writing by the Department. For all tests, the method detection limit and method reporting limit must be reported along with the sample result. After one year of monitoring, effluent monitoring may be eliminated unless otherwise notified in writing by the Department. The Department will review the data and may require additional monitoring of the effluent or receiving stream for specific pollutants of concern or reopen the permit to incorporate permit limits. This permit was revised on reconsideration on March 9, 2009. At the time of revision, this condition had been satisfied.
2. Sampling shall be performed three times during the first year after permit issuance. Samples should be collected during the month of June, September, and January. Monitoring for all parameters must be performed using a method capable of achieving the PQLs in Appendix B, Table 8 of the Department's Internal Management Directive for conducting a Reasonable Potential Analysis for Toxic Pollutants. Changes in monitoring methods or PQLs must be approved in writing by the Department. For all tests, the method detection limit and method reporting limit must be reported along with the sample result. After the first year of monitoring, monitoring of the effluent may be eliminated unless otherwise notified in writing by the Department. The Department will review the data and may require additional monitoring of the effluent or receiving stream for specific pollutants of concern or reopen the permit to incorporate permit limits. This permit was revised on reconsideration on March 9, 2009. At the time of revision, this condition had been satisfied.
3. The effluent samples must be 24-hour daily composites, except where sampling volatile compounds. In this case, six discrete samples (not less than 40 mL) collected over the operating day are acceptable. The permittee must take special precautions in compositing the individual grab samples for the volatile organics to insure sample integrity (i.e. no exposure to the outside air). Alternately, the discrete samples collected for volatiles may be analyzed separately and averaged. This permit was revised on reconsideration on March 9, 2009. At the time of revision, this condition had been satisfied.
4. Turbidity monitoring shall begin no later than 90 days from permit issuance. This permit was revised on reconsideration on March 9, 2009. At the time of revision, this condition had been satisfied.

2. **Reporting Procedures**

- a. Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to the appropriate Department office by the 15th day of the following month.
- b. For compliance, the analytical results below the level of detection should be reported as “not detected” and the detection limit and practical quantification limit listed.
- c. The average pulp production rate for the period is defined as the total production for the reporting period divided by the number of days the pulp mill was in operation during the reporting period.

## SCHEDULE C

### Compliance Schedules and Conditions

1. If the permittee changes its current sludge practices, the permittee shall submit a Sludge Management Plan to the Department for approval. The plan shall be developed in accordance with the current DEQ guidelines and shall be submitted to the Department 60 days prior to changing sludge management practices, and initiated 30 days after Department approval.
2. The permittee shall visually inspect the area surrounding the ocean outfall within twelve months after the permit issuance date, and once again within twelve months of permit expiration. The inspection shall document the performance of the diffuser, the health of the marine environment in the area of the diffuser, and document any evidence of solids deposition. An inspection report shall be submitted to the Department within 60 days after each inspection. This permit was revised on reconsideration on March 9, 2009. At the time of revision, the first inspection had already been conducted.
3. By no later than October 31, 2006, the permittee will provide the Department with a final report containing the results of the permit-specific concentration limits (PSCL) development work-plan implementation and a list of proposed PSCLs. These results and the PSCLs will incorporate the wastewater treatment ponds on the north side of the bay and the landfill and ponds on the south side of the bay. This permit was revised on reconsideration on March 9, 2009. At the time of revision, this condition had been satisfied.
4. By no later than December 1, 2006, permittee shall submit a report to the Department with the results of the bacteria monitoring plan approved on December 1, 2005. If the results of the study indicate there is a controllable source of fecal bacteria contamination, the report shall include planned improvements necessary to correct the problem. The permittee will have twelve months after the report submittal to complete the necessary improvements at the facility. This report will also contain an appropriate bacteria monitoring schedule to verify the bacteria problem has been corrected. If there is a source of bacteria contamination that is not technically or economically feasible to control, the permittee may seek a variance from the DEQ for the discharge. This permit was revised on reconsideration on March 9, 2009. At the time of revision, this condition had been satisfied.
5. Groundwater well investigation: The permittee will conduct a study that identifies drinking water wells registered with the State Department of Water Resources that are within 300 meters of the pipeline. The study shall be submitted to the Department for approval by no later than July 1, 2008. The objectives of the study are as follows:
  - a. The survey shall extend along the pipeline route from the mill property boundary to the Pacific Ocean shoreline at Nye Beach.
  - b. Develop a map, or otherwise provide information, showing the following for each topographic section:
    - location of registered private drinking water wells and/or public drinking water systems relative to the pipeline
    - direction of surface water flow along the route of the pipeline
    - slope
    - land use
    - depth to groundwater aquifers for each well identified in (a) above.
  - c. For each registered groundwater well, or wellhead area, within 300 meters of the pipeline, the permittee will describe general stratigraphy, including presence or absence of confining layers, surface soil conditions, and vegetative cover using well logs or other publicly available information.

This permit was revised on reconsideration on March 9, 2009. At the time of revision, this condition had been satisfied.

6. The permittee is expected to meet the compliance dates which have been established in this schedule. Either prior to or no later than fourteen days following any lapsed compliance date, the permittee shall submit to the Department a notice of compliance or noncompliance with the established schedule. The Department may revise a schedule of compliance if it determines good and valid cause resulting from events over which the permittee has little or no control.

## SCHEDULE D

### Special Conditions

1. The permittee shall implement a contingency plan for prevention and handling of spills and unplanned discharges and the plan shall be in force at all times. A continuing program of employee orientation and education shall be maintained to ensure awareness of the necessity of good in-plant control and quick and proper action in the event of a spill or accident.
2. The total discharge shall be controlled to maintain a reasonable constant flow rate throughout each 24-hour operating period.
3. Sanitary wastes shall be discharged to the City of Toledo sanitary sewage system.
4. Continuing efforts shall be initiated and maintained to reduce total fresh water consumption by increased utilization of soiled waters.
5. A site contact person shall be designated to coordinate and carry out all necessary functions related to operation and maintenance of waste collection, treatment, and disposal facilities. This person must have access to all information pertaining to the generation of wastes in the various process areas.
6. Slimicides and biocides containing trichlorophenol and pentachlorophenol are prohibited from being used at the mill.
7. The permittee is required to notify the designated DEQ Western Region office of any plant malfunction that may cause an adverse impact to the environment or public health.
8. Effluent pipeline failures and maintenance: If a spill occurs resulting from a leak in the effluent pipeline, the permittee is required to notify the Department according to Schedule F.D.5. By March 1<sup>st</sup> of each year, the permittee shall submit a summary report describing any leaks that occurred in the previous year, corrections that were made, and a summary of any other maintenance performed on the pipe.
9. Whole Effluent Toxicity Testing
  - a. The permittee shall conduct whole effluent toxicity tests as specified in Schedule B of this permit.
  - b. Bioassay tests may be dual end-point tests, only for the fish tests, in which both acute and chronic end-points can be determined from the results of a single chronic test (the acute end-point shall be based upon a 48-hour time period). If a dual end-point test is conducted, the following dilution series shall be used unless otherwise approved by the Department in writing: 0.3%, 0.6%, 1.9%, 5%, and the highest effluent percentage that is practically feasible by the contract laboratory.
  - c. Acute Toxicity Testing - Organisms and Protocols
    - (1) The permittee shall conduct 48-hour static renewal tests with the *Menidia beryllina* (Inland Silverside)
    - (2) The presence of acute toxicity will be determined as specified in Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fourth Edition, EPA/600/4-90/027F, August 1993.
    - (3) An acute bioassay test shall be considered to show toxicity if there is a statistically significant difference in survival between the control and 100 percent effluent, unless the permit specifically provides for a Zone of Immediate Dilution (ZID) for toxicity. If the permit specifies such a ZID, acute toxicity shall be indicated when a statistically significant difference in survival occurs at

dilutions greater than that which is found to occur at the edge of the ZID. The acute test shall be conducted using the following dilution series, unless otherwise approved by the Department in writing: 1%, 1.9%, 5%, 10% and the highest effluent percentage that is practically feasible by the contract laboratory.

d. Chronic Toxicity Testing - Organisms and Protocols

- (1) The permittee shall conduct tests with: one of two echinoderm species, one of two bivalve species, and *Menidia beryllina* (Inland Silverside). The echinoderm species may be either *Stronglyocentrotus purpuratus* (Purple Urchin) or *Dendraster variegatus* (Sand Dollar). The bivalve may be either *Crassostrea gigas* (Pacific Oyster) or *Mytilus galloprovincialis* (mussel larval).
- (2) The presence of chronic toxicity shall be estimated as specified in Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms, First Edition, EPA/600/R-95/136, August 1995.
- (3) A chronic bioassay test shall be considered to show toxicity if a statistically significant difference in survival, growth, or reproduction occurs at dilutions greater than that which is known to occur at the edge of the mixing zone. If there is no dilution data for the edge of the mixing zone, any chronic bioassay test that shows a statistically significant effect in 100 percent effluent as compared to the control shall be considered to show toxicity. The chronic test shall be conducted using the following dilution series, unless otherwise approved by the Department in writing: 0.3%, 0.6%, 1.2%, 2.5%, and the highest effluent percentage that is practically feasible by the contract laboratory.

e. Quality Assurance

- (1) Quality assurance criteria, statistical analyses and data reporting for the bioassays shall be in accordance with the EPA documents stated in this condition and the Department's Whole Effluent Toxicity Testing Guidance Document, January 1993.

f. Evaluation of Causes and Exceedances

- (1) If toxicity is shown, as defined in sections c.(3) or d.(3) of this permit condition, another toxicity test using the same species and Department approved methodology shall be conducted within two weeks, unless otherwise approved by the Department. If the second test also indicates toxicity, the permittee shall follow the procedure described in section f.(2) of this permit condition.
- (2) If two consecutive bioassay test results indicate acute and/or chronic toxicity, as defined in sections c.(3) or d.(3) of this permit condition, the permittee shall evaluate the source of the toxicity and submit a plan and time schedule for demonstrating compliance with water quality standards. Upon approval by the Department, the permittee shall implement the plan until compliance has been achieved. Evaluations shall be completed and plans submitted to the Department within six months unless otherwise approved in writing by the Department.

g. Reporting

- (1) Along with the test results, the permittee shall include: 1. The dates of sample collection and initiation of each toxicity test; 2. The type of production; and 3. The flow rate at the time of sample collection. Effluent at the time of sampling for bioassay testing should include samples of required parameters stated under Schedule B, condition 1. of this permit.

- (2) The permittee shall make available to the Department, on request, the written standard operating procedures they, or the laboratory performing the bioassays, are using for all toxicity tests required by the Department.
- h. Reopener
  - (1) If bioassay testing indicates acute and/or chronic toxicity, the Department may reopen and modify this permit to include new limitations and/or conditions as determined by the Department to be appropriate, and in accordance with procedures outlined in Oregon Administrative Rules, Chapter 340, Division 45.
10. Filter backwash, solids, sludge, dirt, sandy, or other pollutants separated from or resulting from the treatment of intake or supply water shall not be discharged to state waters without first receiving adequate treatment (which has been approved by the Department) for removal of the pollutants; however, periodic cleaning of stream debris collected on the intake filter screens with creek water and/or air bursts is allowed.
11. The permittee shall conduct a comprehensive survey of the aquatic community in the area of the outfall. The survey should be developed to evaluate any effects (long-term) of the discharge on this receiving water over a full season. Sampling should at a minimum include sites within the regulatory mixing zone, outside the mixing zone and at a reference site. Evaluations at each site should include sediment quality, water quality, and benthic community components. The potential for contaminant bioaccumulation and sediment toxicity shall be evaluated at each site. At a minimum, focus should be on toxic parameters (including metals and any other organic parameters of concern in pulp mill effluents). Other parameters such as nutrients, dissolved oxygen, temperature, and turbidity should also be included. In addition, the area encompassed by the mixing zone as well as areas in close proximity shall be evaluated for the presence of important marine habitats (i.e. nursery / forage areas). These areas shall be documented and evaluated under this study for potential impacts.

The permittee shall submit a proposed study plan and schedule to the Department for review no later than August 7, 2009. Upon approval by the Department, the permittee must carry out the plan and schedule.
12. Wastes treated by this facility are limited to those listed on the cover page of this permit. The facility is prohibited from accepting waste from external sources.

**SCHEDULE F**  
**NPDES GENERAL CONDITIONS – INDUSTRIAL FACILITIES**

**SECTION A. STANDARD CONDITIONS**

1. Duty to Comply with Permit

The permittee must comply with all conditions of this permit. Failure to comply with any permit condition is a violation of the Clean Water Act, Oregon Revised Statutes (ORS) 468B.025, and 40 Code of Federal Regulations (CFR) Section 122.41(a), and grounds for an enforcement action. Failure to comply is also grounds for the Department to modify, revoke, or deny renewal of a permit.

2. Penalties for Water Pollution and Permit Condition Violations

ORS 468.140 allows the Department to impose civil penalties up to \$10,000 per day for violation of a term, condition, or requirement of a permit. Additionally 40 CFR 122.41 (A) provides that any person who violates any permit condition, term, or requirement may be subject to a federal civil penalty not to exceed \$25,000 per day for each violation.

Under ORS 468.943 and 40 CFR 122.41(a), unlawful water pollution, if committed by a person with criminal negligence, is punishable by a fine of up to \$25,000 imprisonment for not more than one year, or both. Each day on which a violation occurs or continues is a separately punishable offense.

Under ORS 468.946, a person who knowingly discharges, places, or causes to be placed any waste into the waters of the state or in a location where the waste is likely to escape into the waters of the state is subject to a Class B felony punishable by a fine not to exceed \$200,000 and up to 10 years in prison. Additionally, under 40 CFR 122.41(a) any person who knowingly discharges, places, or causes to be placed any waste into the waters of the state or in a location where the waste is likely to escape into the waters of the state is subject to a federal civil penalty not to exceed \$100,000 and up to 6 years in prison.

3. Duty to Mitigate

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

4. Duty to Reapply

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

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

5. Permit Actions

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

- a. Violation of any term, condition, or requirement of this permit, a rule, or a statute
- b. Obtaining this permit by misrepresentation or failure to disclose fully all material facts
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge
- d. The permittee is identified as a Designated Management Agency or allocated a wasteload under a Total Maximum Daily Load (TMDL)
- e. New information or regulations

- f. Modification of compliance schedules
- g. Requirements of permit reopener conditions
- h. Correction of technical mistakes made in determining permit conditions
- i. Determination that the permitted activity endangers human health or the environment
- j. Other causes as specified in 40 CFR 122.62, 122.64, and 124.5

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

6. Toxic Pollutants

The permittee must comply with any applicable effluent standards or prohibitions established under Oregon Administrative Rules (OAR) 340-041-0033 for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

7. Property Rights and Other Legal Requirements

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

8. Permit References

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

9. Permit Fees

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

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

1. Proper Operation and Maintenance

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

2. Need to Halt or Reduce Activity Not a Defense

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

3. Bypass of Treatment Facilities

a. Definitions

- (1) "Bypass" means intentional diversion of waste streams from any portion of the treatment facility. The term "bypass" does not apply if the diversion does not cause effluent limitations to be exceeded, provided the diversion is to allow essential maintenance to assure efficient operation or the diversion is due to nonuse of nonessential treatment units or processes at the treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities or treatment processes that 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 unless:

(a) Bypass was necessary to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance; and

(c) The permittee submitted notices and requests as required under General Condition B.3.c.

(2) The Department may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when the Department determines that it will meet the three conditions listed above in General Condition B.3.b.(1).

c. Notice and request for bypass.

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, a written notice must be submitted to the Department at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required in General Condition D.5.

4. Upset

a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of General Condition B.4.c are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the causes(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in General Condition D.5, hereof (24-hour notice); and

(4) The permittee complied with any remedial measures required under General Condition A.3 hereof.

d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Treatment of Single Operational Upset

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

6. Overflows from Wastewater Conveyance Systems

a. Definitions

- (1) "Overflow" means the diversion and discharge of waste streams from any portion of the wastewater conveyance system through a designed overflow device or structure, other than discharges to the wastewater treatment facility.
- (2) "Severe property damage" means substantial physical damage to property, damage to the conveyance system which causes it to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of an overflow.
- (3) "Uncontrolled overflow" means the diversion of waste streams other than through a designed overflow device or structure.

b. Prohibition of overflows. Overflows are prohibited unless:

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

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

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

7. Public Notification of Effluent Violation or Overflow

If effluent limitations specified in this permit are exceeded or an overflow occurs, upon request by the Department, the permittee must take such steps as are necessary to alert the public about the extent and nature of the discharge. Such steps may include, but are not limited to, posting of the river at access points and other places, news releases, and paid announcements on radio and television.

8. Removed Substances

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

## SECTION C. MONITORING AND RECORDS

1. Representative Sampling  
Sampling and measurements taken as required herein 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 shall be taken, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points may not be changed without notification to and the approval from the Department.
2. Flow Measurements  
Appropriate flow measurement devices and methods consistent with accepted scientific practices must be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices must be installed, calibrated and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected must be capable of measuring flows with a maximum deviation of less than  $\pm 10$  percent from true discharge rates throughout the range of expected discharge volumes.
3. Monitoring Procedures  
Monitoring must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in this permit.
4. Penalties of Tampering  
The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit may, upon conviction, be punished by a fine of not more than \$10,000 per violation, imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person, punishment is a fine not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.
5. Reporting of Monitoring Results  
  
Monitoring results must be summarized each month on a Discharge Monitoring Report form approved by the Department. The reports must be submitted monthly and are to be mailed, delivered or otherwise transmitted by the 15th day of the following month unless specifically approved otherwise in Schedule B of this permit.
6. Additional Monitoring by the Permittee  
If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 part CFR 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report. Such increased frequency must also be indicated. For a pollutant parameter that may be sampled more than once per day (e.g., Total Chlorine Residual), only the average daily value must be recorded unless otherwise specified in this permit.
7. Averaging of Measurements  
Calculations for all limitations that require averaging of measurements must utilize an arithmetic mean, except for bacteria which shall be averaged as specified in this permit.
8. Retention of Records  
The permittee must retain records of all monitoring information, including: all calibration, 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 for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Department at any time.

9. Records Contents

Records of monitoring information must include:

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

10. Inspection and Entry

The permittee must allow the Department or an authorized representative upon the presentation of credentials to:

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

**SECTION D. REPORTING REQUIREMENTS**

1. Planned Changes

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

2. Anticipated Noncompliance

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

3. Transfers

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

4. Compliance Schedule

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

5. Twenty-Four Hour Reporting

The permittee must report any noncompliance that may endanger health or the environment. Any information must be provided orally (by telephone) within 24 hours, unless otherwise specified in this permit, from the time

the permittee becomes aware of the circumstances. During normal business hours, the Department's Regional office must be called. Outside of normal business hours, the Department must be contacted at 1-800-452-0311 (Oregon Emergency Response System).

A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. Pursuant to ORS 468.959 (3) (a), if the permittee is establishing an affirmative defense of upset or bypass to any offense under ORS 468.922 to 468.946, delivered written notice must be made to the Department or other agency with regulatory jurisdiction within 4 (four) calendar days of the time the permittee becomes aware of the circumstances. The written submission 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;
- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and
- e. Public notification steps taken, pursuant to General Condition B.6

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

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

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

6. Other Noncompliance

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

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

7. Duty to Provide Information

The permittee must furnish to the Department within a reasonable time any information that the Department may request to determine compliance with this permit. The permittee must also furnish to the Department, upon request, copies of records required to be kept by this permit.

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

8. Signatory Requirements

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

9. Falsification of Information

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

person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a federal civil penalty not to exceed \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

10. Changes to Discharges of Toxic Pollutant

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

**SECTION E. DEFINITIONS**

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