



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

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

**REGISTERED TO:**

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Assignment Date: March 12, 2021

County/DEQ Region: Multnomah/NW Region

File No.: 127150

EPA No.: ORR10G430

Site: Village at Nehalem Bay  
HWY 101 & HEMLOCK ST

**PERMIT AREA**

This 1200-C Construction Stormwater General Permit authorizes discharges in Oregon excluding tribal trust and reservation lands.

**SOURCES COVERED BY THIS PERMIT**

Permit coverage is required under this General Permit if the following activities have the potential to discharge to surface waters or to a conveyance system that leads to surface waters of the state in Oregon and do not have coverage under another NPDES permit:

- a. Any construction activity and materials or equipment staging and stockpiling that will disturb one or more acres of land; or
- b. Any construction activity and materials or equipment staging and stockpiling that will disturb less than one acre of land but is part of a common plan of development or sale that will ultimately disturb one or more acres of land; or
- c. Any construction activity that results in the disturbance of less than one acre of land that is a necessary and required component (e.g. utilities, structure, or infrastructure) of a final project that will ultimately disturb one or more acres of land; or
- d. Any construction activity that may discharge stormwater to surface waters of the state that may be a significant contributor of pollutants to waters of the state or may cause an exceedance of a water quality standard.

  
Justin Green  
Water Quality Division Administrator

**Effective: December 15, 2020  
Expiration Date: December 14, 2025**

## LIMITATIONS OF COVERAGE

This permit does not authorize:

- a. In-water work or projects that may result in the discharge of fill or dredged material into waters of the U.S. and the state, which are regulated by other programs and agencies.
  - i. DEQ recommends applicants identify, apply for and resolve any state (Department of State Lands) or federal (US Army Corps of Engineers) and DEQ 401 water quality certification requirements before applying for 1200-C NPDES permit coverage to prevent unintended non-compliance situations with other regulatory programs. If additional regulatory requirements, such as those listed above, are deemed necessary by other regulatory jurisdictions and agencies for the construction activity identified in the 1200-C application or Erosion and Sediment Control Plan, the registrant may be required to significantly alter the project and erosion and sediment controls to accommodate other regulatory jurisdiction requirements.
- b. Stormwater discharges associated with industrial activities [as defined in 40 CFR §122.26(b)(14)] or stormwater associated with municipal separate storm sewer systems [as defined in 40 CFR §122.26(b)(8) and (b)(16)]. Such discharges are regulated through DEQ's NPDES Industrial Stormwater General Permits (1200-A/Z) or DEQ's NPDES MS4 Stormwater Permits; or another appropriate NPDES permit.
- c. Post-construction stormwater discharges that originate from the site after completion of construction activities and the site is stabilized.
- d. Stormwater discharges to underground injection control (UIC) systems.

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## **SCHEDULE A CONTROLS AND EFFLUENT LIMITATIONS**

### **1. CONSTRUCTION GENERAL PERMIT**

Until this permit expires, is modified, revoked, or terminated the permit registrant is authorized to construct, install, modify, and operate erosion and sediment control measures and stormwater treatment and control facilities. The registrant may discharge stormwater and authorized non-stormwater discharges to surface waters of the state or conveyance systems leading to surface waters of the state only in conformance with all requirements, limitations, and conditions set forth in this permit.

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

To register for this permit, the eligibility conditions and permit coverage requirements must be met.

#### **1.1 ELIGIBILITY CONDITIONS**

##### **1.1.1 Responsible person that must obtain coverage under this general permit**

The following is considered a responsible person and must register with DEQ or Agent for coverage under this general permit if either of the following criterion are met:

- a. The responsible person has operational control over construction plans and specifications, including the ability to make or approve modifications to those plans and specifications (e.g. in most cases this is the owner of the site, agent of owner, engineer); **or**
- b. The responsible person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g. in most cases this is the general contractor).

The responsible person must register with DEQ or Agent for coverage under this permit before any land disturbance occurs.

#### **1.2 APPLICATION REQUIREMENTS FOR PERMIT COVERAGE**

A complete and accurate application must be submitted to DEQ or Agent at least thirty (30) days prior to the planned land disturbing construction activities. Construction activities are not authorized until DEQ or Agent issues discharge authorization.

##### **1.2.1 Application submittal**

The responsible person must ensure the application materials are submitted, and is hereafter referred to as the Permit Registrant (also referred to as Registrant, see Definitions). The registrant must sign the application in accordance with the signatory requirements of Schedule F Section D8.

### **1.2.2 Application**

The application must include the items below and be submitted to DEQ or Agent in the format required per Section 1.2.13:

- a. A complete and accurate DEQ or Agent approved application form;
- b. The Erosion and Sediment Control Plan (ESCP) developed for the project area that necessitates permit coverage;
- c. A Land Use Compatibility Statement (LUCS) indicating that the proposed activities are compatible with the local government's acknowledged comprehensive plan; and
- d. The application fee and annual fee for the first year of permit coverage according to OAR 340-045-0075, Table 70G.

### **1.2.3 Multi-Phase developments (e.g. residential subdivisions)**

A map and description of each phase of the multi-phase development must be in the ESCP and submitted with the permit application. All phases of the development for which land use approvals are approved must be included in the ESCP. The addition of post-coverage phases within the proposed development will require separate 1200-C permit coverage. Construction activities, including stockpiling and staging, cannot commence within a phase unless that phase has a DEQ or Agent approved ESCP.

### **1.2.4 Construction projects that disturb five or more acres**

Registrants seeking coverage under this permit for construction activities that disturb or are likely to disturb five or more acres after permit coverage is issued, are subject to a 14 calendar day public review period before permit registration is granted. The public review period will begin after DEQ or Agent determines that the application and ESCP are complete. If construction activities expand beyond five acres after permit coverage was originally assigned, a 14 calendar day public review period will be required. During the 14 calendar day public review period, registrants are not authorized to conduct construction activities in accordance with 340-045-0033(6)(b) until and unless permit coverage is approved by DEQ or Agent.

### **1.2.5 Discharge authorization**

Permit coverage begins when the registrant receives documented notice from DEQ or Agent that the registration is approved.

### **1.2.6 Annual fee**

Registrants must pay the annual fee, if applicable, until DEQ approves termination of permit coverage.

### **1.2.7 Changes to application information**

Registrants must notify DEQ or Agent regarding any changes to the information provided on the 1200-C application by submitting the following within 30 days of occurring:

- a. Changes to the registrant's mailing address, email address, and phone number;
- b. Changes to the on-site contact person information; and
- c. Changes to the area/acreage affected by construction activity from the originally submitted LUCS requires a LUCS reflective of the project site.

### 1.2.8 Transfer of permit registration

Permit coverage may not be transferred to a third party without prior written approval from DEQ or Agent.

- a. If the registrant intends to transfer permit registration to a new registrant:
  - i. The current registrant must resolve all outstanding compliance and enforcement issues;
  - ii. Pay all outstanding permit fees; and
  - iii. Submit permit transfer form with the applicable fees prior to permit expiration and within 30 calendar days of the planned transfer.
- b. If ownership changes (through sale, foreclosure or other means) and the previous registrant cannot be found:
  - i. The new responsible person for the discharge source must:
    - a) Register for coverage under the permit if the site is not stabilized; and
    - b) Register for coverage under the permit prior to any additional land disturbance.
  - ii. The new responsible person does not need to register for coverage under the permit if the site meets the conditions for termination (see Section 7.1) and there is no ongoing or additional land disturbance planned.

DEQ or Agent may terminate permit coverage after sixty (60) calendar days if the previous owner is nonresponsive and the site has not been transferred per the conditions above.

### 1.2.9 Environmental Management Plan

The registrant must complete an Environmental Management Plan (EMP, see Appendix A), pay the review fee, and submit the required documents found on DEQ's website and electronic reporting system with the 1200-C permit application when the following conditions exist or are anticipated. If these conditions are discovered after registering for permit coverage, the EMP must be approved before work at the site begins. An approved EMP becomes a component of the ESCP. An EMP must be submitted for the following:

- a. If contaminated soils, contaminated groundwater, or hazardous materials will or have the potential to be encountered during construction activities. Provide detailed information with the Contaminated Media Management Plan (CMMP) on the nature and extent of the contamination (concentration, location, and depth) as well as pollution prevention and/or treatment BMPs proposed to control the discharge of impacted soil, groundwater, or hazardous building materials debris in stormwater. In the event that undocumented contamination, underground storage tanks, or other potentially hazardous conditions are encountered that are not addressed in the Environmental Management Plan, discharges exposed to the contaminated media must cease and DEQ must be notified within 48 hours. The discharges exposed to the contaminated media may not occur until DEQ approves the CMMP.
- b. An active treatment system (e.g. electro-coagulation, flocculants, filtration, polymers, hydrochloric or sulfuric acid) for sediment, pH neutralization, or other pollutant removal is planned or implemented at the project site. When "cationic treatment chemicals" are proposed, the registrant must demonstrate to DEQ that appropriate controls and implementation procedures are used to ensure that the use of cationic treatment chemicals



will not lead to discharges that cause an exceedance of water quality standards or harm aquatic life.

DEQ may assign coverage under this permit after the registrant has included appropriate controls and implementation procedures designed to ensure that the above activities will not lead to discharges that cause an exceedance of water quality standards. In the absence of authorization, the registrant must apply for and receive coverage under an individual permit prior to discharging from the site.

### **1.2.10 Procedures for denial or revocation of coverage**

DEQ or Agent may refuse to authorize or revoke coverage under this general permit and require the responsible person to apply for an individual NPDES permit in accordance with the procedures in OAR 340-045-0033(10). If that occurs, DEQ or Agent will notify the registrant in writing that an individual permit is required.

### **1.2.11 Application considerations**

DEQ or Agent will not authorize discharges under this permit if:

- a. DEQ or Agent determines that application materials are incomplete or do not meet the permit requirements;
- b. The site is covered under a different NPDES permit for the same discharge (i.e. 1200-CN), or any other NPDES permit for a stormwater discharge associated with construction activity (NPDES wastewater and industrial permit coverage for separate discharges associated with the site are allowed); or
- c. DEQ or Agent determine that the conditions of this general permit are not adequate to achieve water quality standards or protect beneficial uses.

### **1.2.12 Renewal application for permit coverage**

If a registrant intends to continue coverage under this permit after the permit expiration date of December 14, 2025 a complete renewal application must be submitted to DEQ along with any other required documents (i.e. ESCP) at least 180 days prior to permit expiration to ensure uninterrupted permit coverage unless DEQ grants permission to submit an application less than 180 days in advance.

### **1.2.13 Electronic system use requirement**

Permit registrants must submit all required documents and payments using DEQ's electronic reporting system, available on DEQ's website, when directed to do so. Permit registrants unable to submit reports electronically (for example, those who do not have an internet connection) must contact DEQ to request a waiver. DEQ will notify the registrant if an electronic waiver request is approved or denied.

Permit registrants who obtain a waiver not to use DEQ's electronic reporting system must use the reporting forms provided to them by DEQ, if applicable, and an additional fee may be assessed. DEQ may limit the duration of approved waivers from electronic reporting.

Permit registrants reporting to an Agent of DEQ must use the DEQ electronic reporting system when directed to do so.

### **1.3 AUTHORIZED STORMWATER DISCHARGES UNDER THIS PERMIT**

The following is a list of stormwater discharges from construction sites that are authorized under this permit provided that all stormwater controls are designed, installed, and maintained (See Sections 2, 3, and 4) as required by this permit:

#### **1.3.1 Stormwater discharges including stormwater runoff, snowmelt runoff, and surface water**

These stormwater discharges also include drainage associated with construction activity described in the Sources Covered section of this permit.

#### **1.3.2 Stormwater discharges from construction support activities at the construction site when:**

- a. The support activity is directly related to the construction site covered by this NPDES permit.
- b. The support activity is not a commercial operation, nor does it serve multiple unrelated construction projects.
- c. The support activity does not operate beyond the completion of the construction activity at the last construction project it supports; and
- d. The appropriate control measures are implemented to ensure compliance with the discharge and water quality requirements of Sections 2 and 3 of this permit.

### **1.4 AUTHORIZED NON-STORMWATER DISCHARGES**

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

- a. Water and associated discharges from emergency firefighting activities;
- b. Fire hydrant flushing;
- c. Properly managed landscape irrigation;
- d. Water used to wash equipment and vehicles (excluding the engine, undercarriage, and wheels/tires) provided there is no discharge of soaps, solvents, or detergents used;
- e. Water used to control dust;
- f. Potable water including uncontaminated water line flushings;
- g. External building washdown, provided soaps, solvents, and detergents are not used, and external surfaces do not contain hazardous substances;
- h. Pavement wash waters, provided spills or leaks of toxic or hazardous substances have not occurred (unless all spill material has been removed) and where soaps, solvents, and detergents are not used. Directing pavement wash waters into any surface water, storm drain inlet, or stormwater conveyance is prohibited, unless the conveyance is connected to a sediment basin, sediment trap, or similarly effective control for the pollutants present. Per 2.2.19.b, hosing of accumulated sediments on pavement into any stormwater conveyance is prohibited;
- i. Uncontaminated air conditioning or compressor condensate;
- j. Uncontaminated, non-turbid discharges of groundwater or spring water;
- k. Foundation or footing drains where flows are not contaminated with process materials such as solvents or contaminated groundwater; and

- l. Construction dewatering activities (including groundwater dewatering and well drilling discharge associated with the registered construction activity), provided that:
  - a) The water is land applied in a way that results in complete infiltration with no potential to discharge to a surface water of the state, or the use of a sanitary or combined sewer discharge is authorized with local sewer district approval; or
  - b) Best Management Practices and a treatment system approved by DEQ or Agent (see Section 1.2.9) are used to ensure compliance with discharge and water quality requirements in Section 2.4.

#### **1.4.1 Combined discharges**

Authorized stormwater discharges listed above in Sections 1.3.1 and 1.3.2 and authorized non-stormwater discharges in Section 1.4 combined in a common conveyance system are authorized under this permit.

### **1.5 PROHIBITED DISCHARGES**

The following discharges are prohibited discharges and are not authorized by this permit:

- a. Visually turbid discharge or discharge of sediment (see Section 2.2.11) from the construction site to surface waters or a conveyance system that leads to waters of the state;
- b. Causing or contributing to an exceedance of any applicable water quality standard;
- c. Concrete wastewater from washing tools and vehicles after pouring, prepping, or finishing concrete;
- d. Wastewater from washing and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
- e. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
- f. Soaps, solvents, or detergents used in vehicle and equipment washing or external building washdown;
- g. Wheel/tire wash wastewater, unless the discharge of wheel wash or tire bath wastewater is to a separate treatment system that prevents discharge to surface water, such as closed-loop recirculation or upland land application, or to the sanitary sewer with approval from the local jurisdiction;
- h. Hydro-demolition water, and saw-cutting slurry; and
- i. Toxics or hazardous substances from a spill or other release.

To prevent the above-listed prohibited non-stormwater discharges, registrants must comply with the applicable Pollution Prevention requirements in Section 2.3.

## **2 TECHNOLOGY BASED EFFLUENT LIMITATIONS/CONTROL MEASURES**

The control measures in this section are technology-based effluent limitations (TBELs).

## **2.1 GENERAL STORMWATER CONTROL DESIGN, INSTALLATION, AND MAINTENANCE REQUIREMENTS**

Prior to and during the discharge of stormwater and authorized non-stormwater discharges to surface waters of the state, the registrant must design, install, and maintain effective stormwater control and treatment methods required in this section to prevent the discharge of pollutants in stormwater from construction activities that may cause or contribute to a violation of water quality standards. To meet this requirement, the registrant must:

### **2.1.1 Factors to consider when designing stormwater controls**

Consider the following factors when designing stormwater controls:

- a. The expected amount, frequency, intensity, and duration of precipitation;
- b. The nature of stormwater runoff and run-on (See definitions) at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features; and
- c. The soil type and range of soil particle sizes expected to be present on the site.

The stormwater controls must be designed to control stormwater volume, velocity, and peak flow rates to prevent discharges of pollutants in stormwater and to prevent channel and streambank erosion and scour (i.e. hydromodification) in the immediate vicinity of discharge points.

### **2.1.2 Design and install all stormwater controls in accordance with engineering and professional practices**

Design and install all stormwater controls in accordance with appropriate, recognized and generally accepted engineering and professional practices, including applicable design specifications and manufacturer's instructions.

### **2.1.3 Installation of stormwater controls**

Permit registrant must complete the installation of stormwater controls before each phase of construction activities begin as follows:

- a. Install and implement any downgradient sediment controls (e.g. buffers, perimeter controls, discharge point controls, storm drain inlet protection) before construction activity in any portion of the site begins;
- b. Install erosion prevention measures (e.g. matting, straw mulch, compost blankets) on cleared areas that will not be worked for 14 days; and
- c. Following the installation of stormwater controls for initial construction activities the registrant must adjust stormwater controls and management strategies throughout the project site to meet and match the needs of each phase of construction as the project is implemented.

### **2.1.4 Ensure that all stormwater controls are maintained and remain effective**

Permit registrant must ensure that all stormwater controls are maintained and remain effective during permit coverage and are protected from activities that would reduce their effectiveness including:

- a. Follow maintenance recommendations from the manufacturer and utilize appropriate, recognized and generally accepted engineering and professional practices based on site

conditions. The registrant must document deviations from manufacturer recommendations in the inspection report.

- b. Comply with any specific maintenance requirements for the stormwater controls implemented as required in this permit and in the ESCP. Regular maintenance is required and is not limited to response actions that result from inspections or identified problems.
- c. Initiate repairs and replacements of stormwater controls when maintenance issues are discovered;
- d. Record any stormwater controls installed (where none had previously been), repaired, replaced, or removed, as required in sections 5.2 and 6.5.

### **2.1.5 Maintaining erosion and sediment controls**

Maintain specific erosion and sediment controls as follows:

- a. Inspect and maintain erosion control measures (e.g. reseed, apply additional mulch, address blanket malformation and soil sloughing underneath).
- b. Remove trapped sediment from sediment fence before it reaches one third of the above ground fence height.
- c. Remove sediment before it reaches two inches above ground for sediment barriers such as straw wattles and biobags.
- d. Clean catch basins before sediment retention capacity is reduced by 50 percent.
- e. Remove sediments from sediment basins before design capacity is reduced by 50 percent.

## **2.2 EROSION PREVENTION AND SEDIMENT CONTROL AND TREATMENT REQUIREMENTS**

The registrant must implement erosion prevention and sediment control, and treatment methods in accordance with the following requirements to prevent the discharge of pollutants in stormwater from construction activities. Registrant must ensure that soils are stable during all rain events throughout the year.

### **2.2.1 Activities before construction commences**

Before construction activities commence the permit registrant must identify and protect any:

- a. Riparian areas and vegetation including trees and associated root zones, and vegetation areas to be preserved;
- b. Vegetated buffer zones between the site and sensitive areas (e.g. wetlands, springs, groundwater seeps, etc.), and other areas required to be preserved, especially in perimeter areas; and
- c. Post-construction stormwater facilities designed and engineered to infiltrate or filter stormwater.

### **2.2.2 Sequence clearing, grading and other land disturbing activities**

Permit registrant must sequence clearing, grading and other land disturbing activities to the maximum extent practicable to prevent exposed inactive areas from causing erosion as per Section 2.2.20.

### **2.2.3 Prevent bypass and ponding**

Create smooth surfaces between the soil surface and erosion and sediment controls when possible to prevent stormwater from bypassing controls or ponding.

### **2.2.4 Establish and maintain natural buffer zones and/or equivalent erosion and sediment controls**

When a surface water of the state is located within 50 feet of the site's land disturbances:

- a. The registrant must comply with local natural buffer zone requirements before proposing the following compliance alternatives. For any discharges to surface waters of the state located within 50 feet of the site's land disturbances, the registrant must comply with one of the following alternatives:
  - i. Maintain a 50-foot undisturbed natural buffer zone; or
  - ii. Maintain an undisturbed natural buffer that is less than 50 feet and is supplemented by erosion and sediment controls that achieve, in combination, the sediment load reduction equivalent to a 50-foot undisturbed natural buffer (see Appendix B); or
  - iii. If infeasible to provide and maintain an undisturbed natural buffer zone of any size, implement erosion and sediment controls to achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer zone.
- b. If DEQ determines that the project requires a 401 water quality certification or impacts waters of the state, construction activities, including stockpiling and staging of materials, are prohibited from encroaching into the existing 50 foot natural buffer zone of any water of the state, unless otherwise authorized in the 401 water quality certification or any other applicable agency authorization; and the project may not claim the natural buffer zone alternatives of 2.2.4.a.
- c. If a registrant's project has the potential to discharge to a waterbody that is listed as impaired and requiring a Total Daily Maximum Load (TMDL) for turbidity or sedimentation on the most recently approved Oregon 303(d) list (found on the "Water Quality Assessment" page of DEQ's website), or has an established TMDL for turbidity or sedimentation, the registrant must maintain established vegetated buffers that are sized at 50 feet (horizontally) plus an additional 25 feet (horizontally) per five degrees of slope, or propose control measures of equal effectiveness to DEQ or Agent for approval (when the discharge enters an impaired watershed unit, the listing will only be applied if there is a hydrologic connection between the receiving water and assessment water body causing the impairment).
- d. Sediment and erosion control measures installed for any natural buffer zone requirement must be maintained and disposed of appropriately before project completion.

See Appendix B for natural buffer zone guidance, additional conditions applicable to each compliance alternative, and for exceptions to the compliance alternatives.

For permit registrants that received permit coverage prior to December 14, 2020, the approved natural buffer zone width and approved erosion and sediment controls are deemed appropriate.

### **2.2.5 Vegetation**

- a. When possible preserve existing vegetation;
- b. Direct stormwater to vegetated areas to maximize stormwater infiltration and filtering to reduce pollutant discharges where feasible;
- c. Re-vegetate open areas as soon as the site is no longer active; and
- d. Identify the composition of seed mix (percentage of annuals, perennials, and clover) and other plantings used to establish temporary cover in the ESCP.

### **2.2.6 Install sediment controls along all perimeter areas of the site that will receive stormwater runoff**

For areas at “linear construction sites” (See Definitions) where perimeter controls are infeasible (e.g., due to a limited or restricted right-of-way), implement other practices to prevent pollutant discharges to perimeter areas of the site.

### **2.2.7 Prevent sediment track-out**

To prevent sediment track-out onto public or private roads do the following:

- a. Establish graveled or paved exits and parking areas prior to any land disturbance;
- b. Restrict vehicle use to properly designated entry and exit points. Use appropriate stabilization techniques at all points that exit onto paved roads (e.g. aggregate stone with an underlying geotextile or non-woven filter fabric; and turf mats);
  - i. Exception: Stabilization is not required for exit points at linear utility construction sites that are used only episodically and for very short durations over the life of the project, provided other exit point controls are implemented to prevent sediment track-out;
- c. Implement additional track-out controls as necessary to ensure that sediment removal occurs prior to vehicle exit (e.g. wheel and tire washing, rumble strips, and rattle plates);
- d. Gravel all unpaved roads located onsite unless temporary or permanent stabilization measures are not required (see section 2.2.20) ;
- e. Cover all sediment loads leaving the site;
- f. When trucking saturated soils from the site, use water-tight trucks or drain loads on site;
- g. Where sediment has been tracked-out from the site onto paved roads, sidewalks, or other paved areas outside of the site, remove the sediment by the end of the same business day that the track-out occurs or by the end of the next business day if track-out occurs on a non-business day. Track-out must be removed by sweeping, shoveling, or vacuuming these surfaces, or by using other similarly effective means of sediment removal; and
- h. Hosing or sweeping tracked-out sediment into any stormwater conveyance, storm drain inlet, or water of the state is prohibited.

### **2.2.8 Locate stockpiles away from construction activities that contain sediment or soil**

Manage stockpiles and locate them away from construction activities, and land clearing debris piles that contain sediment or soil as follows:

- a. Locate the piles outside of any natural buffers established under Section 2.2.1 and away from any stormwater conveyances, drain inlets, and areas where stormwater flow is concentrated;
- b. Install a sediment barrier (e.g. berms, dikes, fiber rolls, silt fences, sandbags, gravel bags, or straw bale) along all downgradient perimeter areas;

- c. Soil stockpiles must be stabilized or covered at the end of each workday, and before weekends, holidays, or extended breaks in construction activities if needed based on weather forecasts;
- d. Provide cover (e.g. tarps, blown straw or hydroseed) or appropriate temporary stabilization consistent with Section 2.2.20) for any piles not in use; and
- e. Hosing down or sweeping soil or sediment accumulated on pavement or other impervious surfaces into any stormwater conveyance, storm drain inlet, or water of the state is prohibited.

### **2.2.9 Prevent wind erosion and control dust**

Prevent wind-blown soil and dust from areas with exposed soil through the appropriate application of water or other dust suppression techniques to control the generation of pollutants that could be discharged in stormwater from the site. Federal regulation 40 CFR Part 279 prohibits the use of used oil as a dust suppressant.

### **2.2.10 Steep slope (see Definitions) disturbances in areas where construction activities are not occurring or projected are prohibited**

### **2.2.11 Prevent the discharge of sediment to surface waters or conveyance systems leading to surface waters of the state.**

The following conditions indicate that sediment has left or is likely to leave the site and are prohibited:

- a. Required stabilization has not been initiated or completed;
- b. Earth slides or mud flows;
- c. Concentrated flows of stormwater such as rills, rivulets, gullies or channels that cause erosion when such flows are not filtered, settled, or otherwise treated to remove sediment;
- d. Sediment laden or turbid flows of stormwater that are not filtered or settled to remove sediment and turbidity;
- e. Deposits of sediment at the construction site in areas that drain to unprotected stormwater inlets or to catch basins that discharge to surface waters. Inlets and catch basins with failing sediment controls due to a lack of maintenance or inadequate design are considered unprotected;
- f. Sediment basins or traps without adequate wet or dry storage volume or sediment basins or traps that allow discharge of stormwater from below the surface of the wet storage portion of the basin or trap;
- g. Deposits of sediment from the project site on any property (including public and private streets) outside of the construction activity covered by this general permit; and
- h. Deposits of sediment from the project site at discharge locations or the banks of any waters flowing within or immediately adjacent to the site.

### **2.2.12 Prevent soil compaction**

In areas of the site where final vegetative stabilization will occur or where post-construction infiltration practices will be installed (See Section 2.2.1.c) the registrant must:

- a. Preserve native topsoil by stockpiling or transferring to other locations, unless infeasible;
- b. Restrict vehicle and equipment use in these locations to avoid soil compaction; and



- c. Before seeding or planting areas of exposed soil that have been compacted, use techniques that rehabilitate and condition the soils as necessary to support vegetative growth.

### **2.2.13 Protect storm drain inlets**

The following storm drain inlet protection measures are required:

- a. Install inlet protection measures that remove sediment from discharges prior to entry into any storm drain inlet that conveys stormwater flow, provided the registrant has authority to access the storm drain inlet; and
- b. Clean, or remove and replace, the protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised. Where there is evidence of sediment accumulation adjacent to the inlet protection measure, remove the deposited sediment by the end of the same business day in which it is found or by the end of the following business day if removal by the same business day is not feasible.

### **2.2.14 For projects involving concrete, establish concrete truck and other concrete equipment washout areas before beginning concrete work.**

In addition, registrants must:

- a. Wash concrete trucks and equipment in an appropriately protected area or in designated concrete washout areas only.
- b. Direct all concrete wash water into an impermeable-lined pit or leak-proof container designed so that overflows will not occur due to inadequate sizing or precipitation.
- c. Locate activities away from waters of the state and stormwater inlets or conveyances so that stormwater coming into contact with these activities cannot reach waters of the state.
- d. Concrete wash may not adversely affect groundwater.
- e. Concrete washout and waste concrete management areas must be maintained and functional.
- f. Handle (e.g. through disposal, reuse or recycle) wash water as waste. Do not dispose of concrete wash water or wash out concrete trucks onto the ground, or into storm drains, open ditches, streets, or streams.
- g. Not dump excess concrete on site, except in designated concrete washout areas.
- h. Handle (e.g. through disposal, reuse or recycle) hardened concrete waste consistent with handling of other construction wastes.
- i. Concrete spillage or concrete discharge to surface waters of the state is prohibited.

### **2.2.15 Establish material and waste storage areas, and other non-stormwater controls before construction activities commence**

### **2.2.16 Control stormwater discharges**

Control all stormwater discharges, including both peak flowrates and total stormwater volume, to prevent channel and streambank erosion and scour in the immediate vicinity of discharge points as follows:

- a. Use erosion controls and velocity dissipation devices within and along the length of any stormwater conveyance channel and at any outlet to slow down runoff to prevent erosion.

- b. Protect stream banks from concentrated flows by constructing runoff control measures (e.g. check dams, outlet protection (riprap), pipe slope drains, swales/dikes, surface roughening).

### **2.2.17 Engineered sediment basin or similar impoundment installed**

If an engineered sediment basin or similar impoundment is installed the following must take place:

- a. The design must be prepared and stamped by an Oregon Registered Professional Engineer per Section 4.1.b;
- b. The basin or impoundment must be situated outside of any water of the state, any natural water quality buffers, and any post-construction stormwater facility designed and engineered to infiltrate established under Section 2.2.1;
- c. The basin or impoundment must be designed to avoid collecting water from wetlands;
- d. The basin or impoundment must be designed to provide storage for either of the following:
  - i. Find the site's estimated 2-year, 24-hour precipitation. The 2-year, 24 hour precipitation can be found using the Precipitation Frequency Data Server (PFDS) developed by the National Oceanic and Atmospheric Administration's (NOAA) National Weather Service (NWS) or the Oregon Department of Transportation (ODOT) Precipitation Data Viewer; or
  - ii. 3,600 cubic feet per acre drained.
- e. The design must utilize outlet structures that withdraw water from the surface of the sediment basin or similar impoundment, unless infeasible;
- f. The design must use erosion controls and velocity dissipation devices to prevent erosion at inlets and outlets; and
- g. Follow maintenance requirements per Sections 2.1.4 and 2.1.5.

For permit registrants that received permit coverage prior to December 14, 2020, the approved sediment basin is deemed appropriate.

### **2.2.18 Engineered sediment basin or similar impoundment must be installed with engineered soils**

An engineered sediment basin or similar impoundment must be installed on sites with engineered soils as follows:

- a. For construction activity involving the use of engineered soils (soil amendments including, but not limited to Portland cement-treated base [CTB], cement kiln dust [CKD], or fly ash), the registrant must install an engineered sediment basin or similar impoundment in accordance with Section 2.2.17 (e.g. trap, pond) to treat high pH runoff (i.e. above 8.5 standard units) before discharge. The registrant is required to determine the acceptable pH water quality criteria range of site discharge based on criteria of the receiving waterbody according to OAR 340-041-0021. If necessary the registrant must adjust or neutralize the high pH water until it is in the range of pH Standard Units (su) using an appropriate treatment BMP such as carbon dioxide (CO<sub>2</sub>) sparging or dry ice.
- b. The permittee must obtain written approval from DEQ or Agent before using any form of chemical treatment other than CO<sub>2</sub> sparging or dry ice (see Section 1.2.9). See Section 6.6.1 for pH sampling requirements.

### **2.2.19 Maintain site**

- a. Clean up sediment that leaves the site and place sediment back on the site and stabilize, or disposed of sediment properly within 24 hours. In addition, the source(s) of the sediment must be controlled to prevent continued or additional discharge within 24 hours of being identified, and a corrective action report submitted to DEQ or Agent per section 5.3. Until the sediment or turbidity are no longer visually detectable, immediate corrective actions or the implementation of additional and appropriate BMPs is required to ensure the registrant is not causing or contributing to a violation of water quality standards. Any instream cleanup of sediment may require authorization from the Oregon Department of State Lands.
- b. Do not intentionally wash sediment into storm sewers or drainage ways. Methods such as vacuuming, dry mechanical sweeping, or manual sweeping must be used to cleanup released sediments.

### **2.2.20 Stabilize exposed portions of the site**

Implement and maintain stabilization measures (e.g., seeding protected by erosion controls until vegetation is established, sodding, mulching, erosion control blankets, hydromulch, gravel) that prevent erosion from exposed portions of the site. Initiate the installation of temporary stabilization measures (e.g. blown straw and a tackifier, loose straw, compost mulch, temporary vegetative cover, crushed rock or gravel base), final vegetation cover, or permanent stabilization measures immediately whenever any land disturbing activities have permanently ceased or will be temporarily inactive on any portion of the site for 14 or more calendar days. Document the day the activities cease and the location on site in the visual monitoring report (see Section 6.5.e). Complete the installation of stabilization measures as soon as practicable, but no later than seven calendar days after stabilization has been initiated.

### **2.2.21 Final Stabilization Criteria (for any areas not covered by permanent structures). Prior to permit termination, registrants must:**

Prior to permit termination, registrants must:

- a. Establish uniform (i.e., evenly distributed, without large bare areas) perennial vegetation that provides 70 percent or more cover on all exposed areas. Limited allowable exceptions include:
  - i. For sites where it is difficult to establish 70 percent coverage (e.g. arid, semiarid, or drought stricken areas), the registrant must cover exposed soil between planted or seeded areas with bio or photo degradable controls designed to prevent erosion without active maintenance, or propose a site-specific plan to DEQ for approval.
  - ii. Disturbed areas on farm use land as defined in ORS 308A.056 (e.g. pipelines across crop or range land, or staging areas for highway construction) that are restored to their preconstruction farm use are not subject to final vegetative stabilization criteria.
  - iii. Stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed, and only the minimum area needed remains disturbed (e.g., dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, materials);

- b. Implement temporary bio or photo-degradable non-vegetative stabilization measures (e.g. mulch or rolled erosion control products) to provide effective cover while vegetation is being established, to prevent erosion of the seeded or planted area;
- c. Ensure that final vegetative cover or permanent stabilization is established before temporary sediment controls are removed unless doing so conflicts with local requirements;
- d. Ensure there is no reasonable potential for discharge from the site of construction-related sediment or turbidity to surface waters;
- e. Remove and properly dispose of all construction materials, waste and waste handling devices, and remove all equipment and vehicles that were used during construction, unless intended for long-term use following the termination of permit coverage;
- f. Remove all temporary stormwater controls that were installed and maintained during construction, except those that are intended for long-term use following the termination of permit coverage;
- g. Remove sediment from permanent (post-construction) structural stormwater facilities by over excavating and replacing with growth media before vegetating; and
- h. Remove all potential pollutants, including any sediment being retained by temporary erosion and sediment controls, and discontinued pollutant-generating activities associated with construction, unless needed for long-term use following the termination of permit coverage.

## **2.3 POLLUTION PREVENTION CONTROLS**

The registrant must implement pollution prevention controls in accordance with the following requirements to prevent the discharge of pollutants to stormwater and to prevent the discharge of pollutants from spilled or leaked materials from construction activities, such as building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, fuels, lubricants, and other materials present.

The registrant must provide written spill prevention and response procedures, employee training on spill prevention and proper disposal procedures, spill kits available on site, regularly maintained vehicles and machinery, material delivery and storage controls, signage, and covered storage areas for waste and supplies.

### **2.3.1 General conditions**

Provide an effective means of eliminating the discharge of any waste from any activities performed on site by implementing the following:

- a. Locate activities away from waters of the state and stormwater inlets or conveyances so that stormwater coming into contact with these activities cannot reach waters of the state;
- b. Ensure adequate supplies are available at all times to handle spills, leaks, and disposal of liquids, and provide secondary containment (e.g. spill berms, decks, spill containment pallets);
- c. Have a spill kit available on site and ensure personnel are available to respond expeditiously in the event of a leak or spill;
- d. Clean up spills or contaminated surfaces immediately using dry clean up measures (do not clean contaminated surfaces by hosing the area down), and eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge; and
- e. Store materials in a covered area (e.g., plastic sheeting, temporary roofs), or in secondary containment to prevent the exposure of these containers to precipitation or stormwater runoff, or a similarly effective means designed to prevent the discharge of pollutants from these areas.

### **2.3.2 Equipment and vehicle fueling and maintenance**

- a. Use drip pans and absorbents under or around vehicles; and
- b. Dispose of or recycle oil and oily wastes in accordance with other federal, state, tribal, or local requirements.

### **2.3.3 Equipment and vehicle washing:**

- a. Ensure there is no discharge of soaps, solvents, or detergents in equipment and vehicle wash water.
- b. Prevent the discharge of turbid vehicle wash water to waters of the state or conveyances that lead to waters of the state.

### **2.3.4 Building materials and building products:**

Minimize material exposure in cases where the exposure to precipitation or to stormwater will result in a discharge of pollutants (e.g. elevate materials from soil to prevent leaching of pollutants).

### **2.3.5 Pesticides, herbicides, insecticides, and fertilizers:**

Comply with all application and disposal requirements included on the registered pesticide, herbicide, insecticide, and fertilizer label (see also Section 2.3.6). When applying fertilizers, registrants must:

- a. Apply at a rate and in amounts consistent with manufacturer's specifications;
- b. Apply at the appropriate time of year for the location, and preferably timed to coincide as closely as possible to the period of maximum vegetation uptake and growth;
- c. Avoid applying before heavy rains that could cause excess nutrients to be discharged;
- d. Never apply to frozen ground;
- e. Never apply to stormwater conveyance channels; and
- f. Follow all other federal, state, and local requirements regarding fertilizer application.

### **2.3.6 Hazardous or toxic wastes**

- a. Separate hazardous or toxic waste from construction and domestic waste;
- b. Store waste in sealed containers, which are constructed of suitable materials to prevent leakage and corrosion, and which are clearly labeled with their contents in accordance with all applicable federal, state, tribal, or local requirements;
- c. Store all outside containers within appropriately-sized secondary containment (e.g., spill berms, decks, spill containment pallets) to prevent spills from being discharged, or provide a similarly effective means designed to prevent the discharge of pollutants from these areas (e.g., storing chemicals in a covered area, having a spill kit available on site); and
- d. Dispose of hazardous or toxic waste in accordance with the manufacturer's recommended method of disposal and in compliance with federal, state, tribal, and local requirements.

### **2.3.7 Construction and domestic wastes**

- a. Provide waste containers (e.g., dumpster, trash receptacle) that provide ground separation and are of sufficient size and number to contain construction and domestic wastes;
- b. Keep waste container lids closed when not in use and close lids at the end of the business day for those containers that are actively used throughout the day. For waste containers that

do not have lids, provide either (1) cover (e.g., a tarp, plastic sheeting, temporary roof) to prevent exposure of wastes to precipitation, or (2) a similarly effective means designed to prevent the discharge of pollutants (e.g., secondary containment);

- c. Clean up and dispose of waste in designated waste containers; and
- d. Clean up immediately if containers overflow.

### **2.3.8 Sanitary wastes**

Position portable toilets so that they are secure and will not be tipped or knocked over, and located away from waters of the state and stormwater inlets or conveyances.

### **2.3.9 Washing applicators and containers**

Washing applicators and containers used for stucco, paint, concrete, form release oils, curing compounds, or other materials:

- a. No discharge of these liquid wastes is allowed in storm sewers or waters of the state;
- b. Dispose of liquid wastes in accordance with applicable requirements;
- c. Remove and dispose of hardened concrete waste consistent with the handling of other construction wastes in Section 2.3.7; and
- d. Locate any washout or cleanout activities as far away as possible from waters of the state and stormwater inlets or conveyances, and, to the extent feasible, designate areas to be used for these activities with signs and in the ESCP and conduct such activities only in these areas.

### **2.3.10 Emergency spill notification requirements**

Discharges of toxic or hazardous substances from a spill or other release are prohibited, consistent with Section 1.5. Where a leak, spill, or other release containing a hazardous substance or oil occurs during a 24-hour period, the registrant must notify the Oregon Emergency Response System at (800) 452-0311 as soon as the registrant has knowledge of the release. Contact information must be in locations that are readily accessible and available to all employees.

## **2.4 CONSTRUCTION DEWATERING REQUIREMENTS**

This section pertains to accumulated water from precipitation and uncontaminated groundwater seepage due to shallow excavation activities, not for the lowering of contaminated groundwater (see Section 1.2.9). Registrant must comply with the following requirements to prevent the discharge of pollutants in groundwater or accumulated stormwater that is removed from excavations, trenches, foundations, vaults, or other similar points of accumulation, in accordance with Section 1.5.

- a. To the extent feasible, use vegetated, upland areas of the site to infiltrate dewatering water before discharge. The registrant is prohibited from using waters of the state as part of the treatment area;
- b. Implement the appropriate control measures for dewatering discharges to prevent the discharge of pollutants;
- c. Do not discharge visible floating solids or foam;
- d. Use an oil-water separator or suitable filtration device (such as a cartridge filter) that is designed to remove oil, grease, or other products if dewatering water is found to contain these materials;
- e. At all points where dewatering water is discharged, comply with the velocity dissipation requirements of Section 2.2.16;

- f. With backwash water, either haul it away for disposal or return it to the beginning of the treatment process;
- g. Replace and clean the filter media used in dewatering devices when the pressure differential equals or exceeds the manufacturer's specifications;
- h. If there is no alternative option, the use of a sanitary or combined sewer discharge is authorized with local sewer district approval; and
- i. Active treatment systems for turbidity or any other pollutants must be designed and stamped by an Oregon Registered Professional Engineer.

### **3 WATER QUALITY-BASED EFFLUENT LIMITATIONS AND ASSOCIATED REQUIREMENTS FOR STORMWATER DISCHARGES**

Discharges must be controlled to meet all applicable water quality standards. In addition, DEQ or Agent expects compliance with the permit conditions is compliance with applicable water quality standards. At any time the registrant becomes aware, or DEQ or Agent determines, that discharges do not meet applicable water quality standards, corrective actions must be undertaken as required in Sections 5.1.

#### **3.1 GENERAL EFFLUENT LIMITATIONS TO MEET APPLICABLE IN-STREAM WATER QUALITY STANDARDS**

Discharges must be controlled and may not cause or contribute to an exceedance of the applicable water quality standards as established in OAR 340-041; specifically OAR 340-041-0036: Turbidity (Nephelometric Turbidity Units, NTU); No more than a 10% (ten percent) cumulative increase in natural stream turbidities may be allowed, as measured relative to a control point immediately upstream of the turbidity causing activity.

### **4 EROSION AND SEDIMENT CONTROL PLAN (ESCP)**

The registrant must implement the ESCP at all times, from initial soil disturbance until permit registration is terminated. Failure to implement any of the control measures or practices described in the ESCP is a permit violation. The ESCP must be kept up-to-date throughout the term of coverage under this permit.

The registrant must ensure that an ESCP is revised as necessary to reflect site conditions, and submit revisions to DEQ or Agent in accordance with the requirements of this permit.

All permit registrants that received permit coverage prior to December 14, 2020 must update the ESCP content and site map to ensure that the requirements of this permit are addressed by February 15, 2021.

#### **4.1 QUALIFICATIONS TO DEVELOP ESCP**

- a. For construction activities disturbing twenty or more acres, the ESCP must be developed and stamped by a professional with one of the following credentials, and their name and credentials must be included in the ESCP as a preparer:

- i. Certified Professional in Erosion and Sediment Control,
  - ii. Certified Professional in Stormwater Quality,
  - iii. Oregon Registered Professional Engineer,
  - iv. Oregon Registered Landscape Architect; or
  - v. Oregon Certified Engineering Geologist.
- b. If engineered facilities such as sedimentation basins or diversion structures for erosion and sediment control are required, the ESCP must be prepared and stamped by an Oregon Registered Professional Engineer (see Sections 2.2.17 and 2.2.18).

## **4.2 DESIGN THE ESCP TO MEET THE OBJECTIVES**

The ESCP must be designed to meet the following objectives:

- a. To implement best management practices (BMPs) in accordance with appropriate, recognized, and generally accepted engineering practices to prevent erosion and sedimentation, and to identify, reduce, eliminate, or prevent contamination of stormwater and water pollution from construction activities.
- b. To prevent violations of water quality standards, erosion and sediment transport from the project site, and meet 1200-C permit technology-based effluent limitations and treatment requirements.
- c. To control peak volumetric flow rates and velocities of stormwater discharges to prevent scouring by means such as diverting, collecting, conveying, and/or controlling flows.

## **4.3 ESCP FOR EACH PHASE OF CONSTRUCTION ACTIVITY**

Sediment and erosion controls must be clearly depicted for each of the following four distinct phases of construction activities within the ESCP. In addition, a site description and site map must be developed for the following construction phases:

1. Demolition, clearing, grading, excavating and land development;
2. Street and utilities;
3. Vertical construction; and
4. Final landscaping and site stabilization.

## **4.4 ESCP CONTENTS**

At a minimum, the ESCP must include the information specified below:

- a. Clearly identify the ESCP preparer and their credentials or stamp within the ESCP per section 4.1.
- b. Name of the site.
- c. All contractors to perform work on site.
  - i. Once known, include a list of all contractors that will engage in construction activities on site, and the areas of the site where the contractor(s) will engage in construction activities. Revise the list as appropriate until permit coverage is terminated.
  - ii. Include a list of all personnel (by name and position) that are responsible for the design, installation and maintenance of stormwater control measures (e.g. ESCP developer, BMP installer (see Section 4.10), as well as their individual responsibilities.
  - iii. Personnel conducting visual monitoring must be identified in the ESCP. Provide the following for all personnel conducting visual monitoring of the project site:



1. Name and title;
  2. Contact information; and
  3. A description of certification per section 6.1, along with any certification numbers and expiration date.
- d. Environmental Management Plan per section 1.2.9 if applicable.
- e. Site Description must include the following:
- i. A description of the construction activities, including structures that are planned for demolition;
  - ii. The size of the property (in acres and length in miles if a linear construction site);
  - iii. A statement that clearly identifies the 303(d) Category 4 and 5 impairment status of each receiving water body (when the discharge enters an impaired watershed unit, the listing will only be applied if there is a hydrologic connection between the receiving water and assessment water body causing the impairment);
  - iv. Any waterbodies to be impacted by construction activities and reference in 401 water quality certifications, USACE permit, DSL permit, and/or any other applicable agency authorization;
  - v. The total area expected to be disturbed by the construction activities (to the nearest quarter acre or nearest quarter mile if a linear construction site);
  - vi. A description of any on-site and off-site construction support activity areas covered by this permit (see Section 1.3.2) such as staging areas;
  - vii. The maximum area expected to be disturbed at any one time, including on-site and off-site construction support activity areas;
  - viii. A description and projected schedule for the following:
    1. Estimated start dates of construction activities in each portion of the site, including clearing and grubbing, mass grading, demolition activities, site preparation (i.e., excavating, cutting and filling), final grading, and creation of soil and vegetation stockpiles requiring stabilization;
    2. Temporary or permanent stop dates of construction activities in each portion of the site;
    3. Estimated dates of temporary or final stabilization of exposed areas for each portion of the site; and
    4. Estimated dates of removal of temporary stormwater controls and construction equipment or vehicles, and the final end date of construction-related pollutant-generating activities.
  - ix. Type of fill material to be used, and of the site soils prior to disturbance;
  - x. Composition of seed mix and other plantings used to establish temporary cover;
  - xi. A statement indicating engineered soils will be used per section 6.6, and pH monitoring is required of sedimentation basins;
  - xii. Identify all authorized non-stormwater discharges in section 1.4 that will or may occur;
  - xiii. A list and description of all pollutant-generating activities on the site. For each pollutant-generating activity, include an inventory of pollutants or pollutant constituents (e.g., sediment, fertilizers, pesticides, paints, caulks, sealants, fluorescent light ballasts, contaminated substrates, solvents, fuels) associated with that activity, which could be discharged in stormwater from the construction site. The registrant must take into account where potential spills and leaks could occur that contribute pollutants to stormwater discharges, and any known hazardous or toxic substances, such as PCBs and asbestos, that will be disturbed, removed, stored, or used on site during construction;

- xiv. Description of Stormwater Controls. For each of the Section 2.2 Erosion Prevention and Sediment Control and Treatment Requirements, Section 2.3 Pollution Prevention Controls, and Section 2.4 Construction Dewatering Requirements, as applicable to the site, the registrant must include the following in the detail design sheets of the ESCP:
  - i. A description of the specific control(s) to be implemented to comply with the requirements of this permit;
  - ii. Any applicable stormwater control design specifications (including references to any manufacturer specifications and/or erosion and sediment control manuals/ordinances relied upon);
  - iii. Routine stormwater control maintenance specifications; and
  - iv. Proposed timetable indicating when each sediment and control BMP is to be installed/implemented and the duration that it is to remain in place.
- xv. Natural buffer zone and/or equivalent sediment controls (see Section 2.2.4 and Appendix B). The registrant must include the following in the narrative site description:
  - 1. The compliance alternative to be implemented;
  - 2. If complying with alternative 1, the width of natural buffer retained;
  - 3. If complying with alternative 2 or 3, the erosion and sediment control(s) the registrant will use to achieve an equivalent sediment reduction, and any information the registrant relied upon to demonstrate the equivalency;
  - 4. If complying with alternative 3, a description of why it is infeasible for the registrant to provide and maintain an undisturbed natural buffer of any size;
  - 5. For “linear construction sites” where it is infeasible to implement compliance alternative 1, 2, or 3, a rationale for this determination, and a description of any buffer width retained and/or supplemental erosion and sediment controls installed; and
  - 6. A description of any disturbances that are exempt under Section 2.2.1 that occur within 50 feet of a water of the state.
  - 7. A description of the vegetated buffers, sized at 50 feet (horizontally) plus an additional 25 feet (horizontally) per five degrees of slope or DEQ or Agent approved control measures of equal effectiveness for any waterbody that is listed as impaired and requiring a TMDL for turbidity or sedimentation on the most recently approved Oregon 303(d) list, or has an established TMDL for turbidity or sedimentation.
- xvi. Perimeter controls for a “linear construction site” (see Section 2.2.6). For areas where perimeter controls are not feasible, include documentation to support this determination and a description of the other practices that will be implemented to prevent discharges of pollutants in stormwater associated with construction activities.
  - 1. Note: Routine maintenance specifications for perimeter controls documented in the ESCP must include Sections 2.1.5.a and 2.2.6 requirement that sediment be removed before it has accumulated to one-third of the above-ground height of any perimeter control.
- xvii. Sediment track-out controls (see Section 2.2.7). Document the specific stabilization techniques and/or controls that will be implemented to remove sediment prior to vehicle exit;
- xviii. Sediment basins (see Section 2.2.17). The registrant must include the design storm method and calculations, and other design details in the ESCP. In circumstances where it is infeasible to utilize outlet structures that withdraw water from the surface of the

- sediment basin, include documentation to support this determination, including the specific conditions or time periods when this exception will apply;
- xix. Treatment chemicals (see Section 1.2.9). The registrant must include the specific controls and implementation procedures designed to ensure that the use of cationic treatment chemicals will not lead to an exceedance of water quality standards;
  - xx. Stabilization measures (see Sections 2.2.20 and 2.2.21). The registrant must include the specific vegetative and/or non-vegetative practices that will be used;
  - xxi. Spill Prevention Procedures (see Section 2.3.10). The following must be included:
    - 1. Procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases;
    - 2. The ESCP may also reference the existence of oil Spill Prevention Control and Countermeasure (SPCC) plans developed for the construction activity (see Section 2.3.2.a), provided that the registrant keep a copy of on site or electronically available;
    - 3. Waste management procedures (see Sections 2.3.1 and 2.3.4); and
    - 4. The location of fertilizers applied on site (see Section 2.3.5).
  - xxii. Staff Training. Include documentation that the required personnel are trained in accordance with Section 6.1; and
  - xxiii. Planned business days and hours for the project known at the time.
    - f. Site Map. Include a legible map, or series of maps, showing the following features of the site if applicable:
      - i. Roads and features for DEQ or Agent to locate and access the site;
      - ii. Boundaries of the property;
      - iii. Depict the drainage patterns of stormwater and authorized non-stormwater before and after major grading activities;
      - iv. Locations where construction activities will occur, including:
        - 1. Locations where land disturbing activities will occur (note any phasing), including any demolition activities;
        - 2. Approximate slopes before and after major grading activities (pre and post-elevation contours);
        - 3. For steep slopes (see definitions), clearly label with the words “Steep slope” and include the percentage grade;
        - 4. Locations where sediment, soil, or other construction materials will be stockpiled;
        - 5. Clearly label any water of the state crossings with words “water crossing”;
        - 6. Designated points where vehicles will exit onto paved roads;
        - 7. Locations of structures and other impervious surfaces upon completion of construction; and
        - 8. Locations of on-site and off-site construction support activity areas covered by this permit (see Section 1.3.2).
      - v. Locations of springs, wetlands, surface waters, and all waters of Oregon within and one mile downstream of the site’s discharge point. Also identify if any surface waters are 303(d) Category 4 and 5 listed as impaired (when the discharge enters an impaired watershed unit, the listing will only be applied if there is a hydrologic connection between the receiving water and assessment water body causing the impairment);
      - vi. Riparian areas and vegetation including trees and associated rooting zones, and vegetation areas to be preserved;

- vii. Vegetated buffer zones and or equivalent sediment controls (see Section 2.2.4 and Appendix B) between the site and sensitive areas (e.g. wetlands), and other areas to be preserved, clearly label with the words “Natural Buffer Zone”;
- viii. Clearly label the type and extent of pre-construction cover on the site (e.g., vegetative cover, forest, pasture, pavement, structures);
- ix. Temporary and permanent stormwater conveyance systems;
- x. Location of concrete wash out;
- xi. Location of sanitary facilities;
- xii. Location of the nearest official rain gauge, or, if used, location of the registrant’s onsite rain gauge;
- xiii. Onsite water disposal locations (e.g. for dewatering);
- xiv. Storm drain catch basins depicting inlet protection, and a description of the type of catch basins used (e.g. field inlet, curb inlet, grated drain, and combination);
- xv. Septic drain field;
- xvi. Existing or proposed drywells or other UICs;
- xvii. Drinking water wells on site or adjacent to the site;
- xviii. Planters;
- xix. Detention ponds, storm drain piping, and inflow and outflow details (e.g. bottom elevations and inverts);
- xx. Post-construction stormwater facilities designed and engineered to infiltrate or filter stormwater and associated access restriction control measures (Section 2.2.12);
- xxi. Locations of all potential pollutant-generating activities identified in Section 4.4.e.xiii;
- xxii. Locations of stormwater controls, including any shared controls utilized to comply with this permit;
- xxiii. Any other applicable features or controls that are associated with pollution prevention in stormwater discharges;
- xxiv. Locations where polymers, flocculants, or other treatment chemicals will be used and stored;
- xxv. Locations of engineered soils (see section 2.2.18);
- xxvi. Locations of engineered sediment basins (see Section 2.2.17);
- xxvii. Receiving water(s). Stormwater and authorized non-stormwater discharge point locations, including:
  - 1. Locations where stormwater and/or authorized non-stormwater will be discharged to storm drain inlets; and
  - 2. Locations where stormwater or authorized non-stormwater will be discharged directly to surface waters of the state.
- xxviii. Perimeter controls for a “linear construction site” (see Section 2.2.6);
- xxix. Sediment track-out controls (see Section 2.2.7); and
- xxx. Stabilization measures (see Sections 2.2.20 and 2.2.21). The registrant must include the specific vegetative and/or non-vegetative practices that will be used.

## 4.5 ESCP CERTIFICATION

The ESCP must be signed and dated by the preparer and in accordance with Section 4.1 if applicable.

## 4.6 ESCP ATTACHMENTS

Once the registrant is assigned coverage under this permit, the registrant must include the following documents as part of the ESCP:

- a. A copy of the application submitted to DEQ or Agent along with any correspondence exchanged between the registrant and DEQ or Agent related to coverage under this permit;
- b. A copy of the 1200-C assignment confirmation provided by DEQ or Agent, along with the identification number provided by DEQ or Agent;
- c. A copy of this permit (an electronic copy is available on the DEQ website and also acceptable); and
- d. A copy of the DEQ approved Environmental Management Plan if applicable (see Section 1.2.9)

## 4.7 ON-SITE AVAILABILITY OF THE ESCP

The registrant must keep a current copy of the ESCP at the site and be available for inspections or upon request by DEQ or Agent. The ESCP can be stored electronically as long as the personnel on-site can access it and make it available for inspector review.

## 4.8 ESCP REVISIONS

The ESCP and the site maps must be revised, within seven days of any of the following to accurately reflect site conditions and BMPs used onsite:

- a. Changes to the construction plans that impact erosion and sediment control measures;
- b. Changes to the stormwater control BMPs, their location, maintenance required, and any other revisions necessary to prevent and control erosion and sediment runoff;
- c. An increase in construction activities to adjacent lots (see Section 1.2.7);
- d. Other activities at the site that are no longer accurately reflected in the ESCP. This includes changes made in response to corrective actions triggered under Section 5. The ESCP does not need to be modified if the estimated dates in Section 4.4.e.viii change during the course of construction;
- e. To reflect areas on the site map where operational control has been transferred (and the date of transfer) since initiating permit coverage;
- f. If inspections by DEQ or Agent determine that ESCP revisions are necessary for compliance with this permit;
- g. Where DEQ or Agent determines it is necessary to install and/or implement additional controls at the site in order to meet the requirements of this permit, the following must be included in the ESCP:
  - i. A copy of any correspondence describing such measures and requirements; and
  - ii. A description of the controls that will be used to meet such requirements.
- h. Change of contractors that will engage in construction activities on site, and the areas of the site where the contractor(s) will engage in construction activities;
- i. Change of any personnel (by name and position) that are responsible for the design, installation and maintenance of stormwater control measures (see Section 4.10);
- j. Change of the Certified Erosion and Sediment Control Inspector, or of their contact information and any applicable certification and training experience;

- k. To reflect any revisions to applicable federal, state, tribal, or local requirements that affect the stormwater controls implemented at the site; and
- l. If a change in chemical treatment systems or chemically enhanced stormwater control is made, including use of a different treatment chemical, different dosage rate, or different area of application as applicable.

#### **4.9 SUBMISSION OF ESCP REVISION TO DEQ OR AGENT**

Revisions to the ESCP that require submission are a reporting requirement. The registrant must submit a revised version of the complete ESCP to DEQ or Agent within ten calendar days of the revision. If the registrant does not receive a response to the revisions from DEQ or Agent within ten calendar days of receipt, the proposed revisions are deemed accepted.

- a. ESCP revisions must be submitted if they are made for the following reasons:
  - i. Part of a corrective action requirement in Section 5;
  - ii. Registrant change of address. The registrant must notify DEQ or Agent of their current address. Failure to do so may be used as grounds for termination of coverage;
  - iii. An increase or decrease of the project size;
  - iv. An increase or decrease of the size or location of disturbed areas;
  - v. Change to BMPs (e.g. type, design, or location); or
  - vi. Change of the certified visual monitoring inspector.
- b. The registrant must maintain records showing the dates of all ESCP revisions. The records must include the name of the person authorizing each change (see Section 4.8 above) and a brief summary of all changes.
- c. All revisions made to the ESCP consistent with Section 4.8 must be authorized by a person identified in Section 4.1 if applicable.
- d. Approval of the revisions by DEQ or Agent prior to implementation is not required, however the addition of an Active Treatment System must be approved by DEQ or Agent before operating and requires submission of an Environmental Management Plan (see Section 1.2.9.c).

#### **4.10 PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES**

The registrant must document the names and contact information of personnel that have responsibilities for implementing stormwater control measures and complying with the permit and ESCP requirements at the project site. The list of personnel should be kept with the ESCP. If new or additional contractors are hired to implement control measures identified in the ESCP after construction has commenced, the contact information must be updated. The registrant must ensure that the following personnel are informed of the permit and ESCP requirements and their specific responsibilities:

- a. Personnel who are responsible for the design, installation, maintenance, and/or repair of stormwater controls (including pollution prevention controls);
- b. Personnel responsible for the application and storage of treatment chemicals (if applicable);
- c. Personnel who are responsible for conducting inspections as required in Section 6.1; and
- d. Personnel who are responsible for taking corrective actions as required in Section 5.

#### **4.11 THE PERMIT REGISTRANT IS RESPONSIBLE FOR ENSURING THAT ALL ACTIVITIES ON THE SITE COMPLY WITH THE REQUIREMENTS OF THIS PERMIT**

The registrant must make subcontractors and outside service providers aware of any permit requirements that apply to the work they are subcontracted to perform. The permit registrant must provide subcontractors and outside service providers easy access to an electronic or paper copy of applicable portions of this permit, the most updated copy of the ESCP, and other relevant documents or information that must be kept with the ESCP.

### **5 CORRECTIVE ACTIONS**

The registrant must take corrective action(s) to comply with permit conditions, and must take corrective action if any of the following conditions exist:

- a. The discharges are causing an exceedance of applicable water quality standards;
- b. Sediment or turbidity (as described in Section 2.2.11) are visible in discharge from the permitted site within:
  - i. A conveyance system leading to surface waters; or
  - ii. Surface waters from the discharge point.
- c. If DEQ or Agent requires the registrant to take corrective actions to prevent or control the discharge of significant amounts of sediment or turbidity to surface waters or to conveyance systems that discharge to surface waters, or as the result of a permit violations found during an inspection;
- d. A stormwater control needs repair or replacement (beyond routine maintenance required under Section 2.1.4);
- e. A stormwater control necessary to comply with the requirements of this permit was never installed, or was installed incorrectly; or
- f. A prohibited discharge has occurred (see Section 1.5).

#### **5.1 CORRECTIVE ACTION TIMELINES**

If any corrective action is required per Section 5 above, the registrant must implement that action according to the following:

- a. Immediately take all reasonable steps to address the condition, including cleaning up any contaminated surfaces so the material will not discharge in subsequent storm events;
- b. Complete the corrective action by the close of the next business day when the problem does not require a new or replacement control or significant repair; and
- c. When the problem requires a new or replacement control or significant repair, install the new or modified control and make it operational, or complete the repair, by no later than 24 hours from the time of discovery to ensure that the requirements of Section 3.1 are met. If it is infeasible to complete the installation or repair within 24 hours, the registrant must document in the records why it is infeasible to complete the installation or repair within the 24-hour timeframe and document the schedule for installing the stormwater control(s) and making it operational as soon as feasible after the 24 hour timeframe. Where these actions result in changes to any of the stormwater controls or procedures documented in the ESCP, the registrant must revise the ESCP in accordance with section 4.8.

## **5.2 CORRECTIVE ACTION DOCUMENTATION**

Within 24 hours of each corrective action implemented, the registrant must document the corrective actions in a report that includes:

- a. The site common name and identification number provided by DEQ or Agent file.
- b. Identification of discharge locations that were out of compliance.
- c. The period of noncompliance.
- d. Names, titles and contact information of personnel conducting inspections.
- e. The specific condition and the date and time it was identified.
- f. Describe the noncompliance, and evaluate the stormwater control measures and practices to determine the cause of noncompliance.
- g. Within 24 hours of completing the corrective action (in accordance with the timelines in Section 5.1), document the actions taken to address the condition, and steps taken to prevent the reoccurrence of the noncompliance including whether any ESCP revisions are required. Where these actions result in changes to any of the stormwater controls or procedures documented in the ESCP, the registrant must revise the ESCP in accordance with Section 4.8.
- h. Each corrective action report must be signed by the permit registrant.
- i. The corrective action reports must be kept at the site or at an easily accessible location and made available to DEQ or Agent upon request.
- j. The corrective action reports must be retained for three years after permit coverage is terminated.

## **5.3 SUBMIT A CORRECTIVE ACTION REPORT TO DEQ OR AGENT**

Within 10 calendar days of identifying the need to take Corrective Actions as required in 5.a or 5.b above, the registrant must submit a corrective action report to DEQ or Agent. This report must include:

- a. The site common name and identification number provided by DEQ or Agent;
- b. Identification of outfalls that were out of compliance;
- c. Names of personnel conducting visual monitoring;
- d. A description of the noncompliance and its cause;
- e. The period of noncompliance;
- f. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance (such as specific BMPs that will be implemented or increased inspection frequency); and
- g. ESCP revisions, if revisions were required to prevent and control erosion and sediment discharges.



## **SCHEDULE B MINIMUM MONITORING AND RECORDKEEPING REQUIREMENTS**

### **6 VISUAL MONITORING AND REPORTING REQUIREMENTS**

#### **6.1 PERSON(S) RESPONSIBLE FOR VISUALLY MONITORING THE PROJECT SITE**

Visual monitoring must be conducted by a Certified Erosion and Sediment Control or Storm Water Quality Inspector (Inspector). The Inspector must be certified in one of the following sediment and erosion control programs, or any other course approved at a future date by DEQ. DEQ has approved the following programs:

1. Certified Professional in Erosion and Sediment Control,
2. Certified Professional in Storm Water Quality,
3. Certified Inspector of Sediment and Erosion Control,
4. Washington State Certified Erosion and Sediment Control Lead,
5. Rogue Valley Sewer Services Erosion and Sediment Control Certification.

By May 15, 2021, permit registrants that received permit coverage prior to December 14, 2020 must have visual monitoring of sites under 5 acres conducted by a person certified in a DEQ approved erosion and sediment control program.

#### **6.2 FREQUENCY OF VISUAL MONITORING INSPECTIONS**

At a minimum, the Inspector must document the initial date of any construction staging, construction activities, or land clearing, and conduct and document a visual monitoring inspection of the project site per the following frequency:

- a. On the initial date;
- b. Once every 14 calendar days; and
- c. Within 24 hours of any storm event, including snowmelt that results in discharge from the site.

Storm event information can be derived from weather stations that are representative of the site location, rain gauges or other appropriate weather documentation can be used in the inspection report. (Note: in many parts of Western Oregon, a storm event of 0.10 inches will result in a discharge from construction sites).

#### **6.3 REDUCTIONS IN VISUAL MONITORING FREQUENCY**

The Inspector must inspect stabilized areas no more than 14 days prior to a site becoming inactive to ensure that erosion and sediment control measures are in working order. For the following scenarios, the Inspector must clearly document the following conditions have begun in the written visual monitoring reports:

- a. The Inspector may reduce the frequency of inspections in any area of the site where the stabilization steps in 2.2.20 have been completed to twice per month for the first month, no less than 14 calendar days apart, then once per month. If construction activity resumes on a stabilized area of the site at a later date, the inspection frequency must immediately increase to that required in Section 6.2, as applicable. The Inspector must document the beginning and ending dates of site inactivity in the visual monitoring reports.
- b. For “linear construction sites” where disturbed portions have achieved final stabilization per Section 2.2.21 at the same time active construction continues on others, the inspection frequency may be reduced to twice per month for the first month, no less than 14 calendar days apart, in any area of the site where the stabilization steps in 2.2.20 have been completed. After the first month, inspect once more within 24 hours of any storm event leading to discharge from the site. If there are no issues or evidence of stabilization problems (e.g. failure to establish 70% vegetative cover), inspections may be discontinued. If “wash-out” of stabilization materials and/or sediment is observed, following re-stabilization, inspections must resume at the inspection frequency required in Section 6.2.a. Inspections must continue until final stabilization is visually confirmed following a storm event leading to discharge from the site, or the occurrence of a storm event resulting in discharge from the project site.

**Frozen conditions:**

- a. If construction activities are suspended due to frozen conditions, visual monitoring inspections may be temporarily suspended on the site until thawing begins (See Definitions) if:
  - i. Runoff is unlikely due to continuous frozen conditions. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, the Inspector must immediately resume the regular inspection frequency as described in Section 6.2, as applicable;
  - ii. Land disturbances have been suspended; and
  - iii. All disturbed areas of the site have been stabilized in accordance with Section 2.2.20.
- b. If construction activities are conducted during frozen conditions, the visual monitoring inspection frequency may be reduced to once per month if:
  - i. Runoff is unlikely due to continuous frozen conditions. If unexpected weather conditions (such as above freezing temperatures or rain events) results in likely discharges, the Inspector must immediately resume the regular inspection frequency as described in Section 6.2, as applicable; and
  - ii. Disturbed areas of the site have been stabilized in accordance with Section 2.2.20.

**6.4 REQUIREMENTS FOR VISUAL MONITORING**

Visual Monitoring should be conducted during safe conditions and must include an evaluation of all elements of the ESCP including:

- a. Confirmation that all stormwater controls are properly installed and are working as intended to prevent pollutant discharges;
- b. Confirmation that the presence of conditions that could lead to spills, leaks, or other accumulations of pollutants on the site are addressed (See Section 2.3);

- c. Identification of any locations where new or modified stormwater controls are necessary to meet the requirements of Sections 2, 3 and 4;
- d. Checking for the presence of visible erosion and sedimentation as outlined in Section 2.2.11 and document any indication of sediment that has left or is likely to leave the project site;
- e. If a discharge is occurring during the inspection:
  - i. Identification of all stormwater discharge locations at the site; and
  - ii. Documenting the visual quality of the discharge and take note of the characteristics of the stormwater discharge, including color, odor, suspended solids, foam, oil sheen; and any other indicators of stormwater pollutants.
- f. If no discharge occurred from site within 24 hours of a storm event, the inspector must document (e.g. date stamped photos of all points of discharge from the site) that no discharge from the site occurred;
- g. Identification any portion of the project site where land disturbing activities have permanently ceased or will be temporarily inactive for 14 or more calendar days and note the initial date of cessation; and
- h. Identification and documentation of any necessary maintenance under Section 2.1.4, corrective actions under Section 5, or stabilization measures under Sections 2.2.20 and 2.2.21.

The Inspector is not required to visually monitor areas that, at the time of the inspection, are considered unsafe; however nearby downstream locations of any receiving waterbodies must be inspected to the extent that such inspections are safe, accessible and practical.

## **6.5 VISUAL MONITORING INSPECTION REPORT**

The inspection report must be completed within 48 hours of all site inspections. Inspection reports must include the following as applicable to the site:

- a. The inspection date;
- b. The name of the site and the identification number provided by DEQ or Agent;
- c. Names, titles and contact information of the inspector;
- d. A summary of the inspection, including the observations made in accordance with Section 6.5, the location of BMPs in need of any necessary maintenance or corrective actions, the location of any BMPs that failed to operate as designed or proved inadequate for a particular application, the location of where additional BMPs are needed that did not exist at the time of inspection, visual observations (e.g. clear, turbid, opaque, sheen) of the stormwater discharges from the site, or if a discharge from the site did not occur within 24 hours of a storm event (attach date stamped photos to report);
- e. Any unauthorized discharges from the site;
- f. Any portion(s) of the site where land disturbing activities have permanently ceased or will be temporarily inactive for 14 or more calendar days;
- g. If complying with stabilization schedules for sites affected by unforeseen circumstances that delay the initiation and/or completion of vegetative stabilization, document the circumstances and the schedule for initiating and completing stabilization;
- h. If complying with the stabilization schedules in arid, and semi-arid sites typical of Eastern Oregon (climate determination of the project site can be found in the National Climatic Data Center publication Climate of Oregon), or drought-stricken areas, the beginning and ending dates of the seasonally dry period and the schedule the registrant will follow for initiating and completing vegetative stabilization;

- i. All pH sampling results conducted per section 6.6.1;
- j. The alternative erosion and sediment control measures (see Section 2.2.6) and the inspection frequency (see section 6.3.b) for linear construction projects;
- k. Reasons for changes or modifications to the ESCP;
- l. Start and end dates subject to alternative inspection frequencies listed in Section 6.3;
- m. If the Inspector is inspecting the site at the frequency specified in Section 6.2 or Section 6.3.b, the applicable rain gauge, weather station readings or other source of information that triggered the inspection (e.g. weather conditions during the inspection, the approximate amount of precipitation since the last inspection, and approximate amount of precipitation during the last 24 hours);
- n. If the Inspector determines that it is unsafe to inspect a portion of the site or the inclement weather makes the site, or portions of the site inaccessible, the reasoning and the locations to which this condition applies must be documented;
- o. Each inspection report must be signed by the Inspector with the following statement: "I certify that this report is true, accurate, and complete to the best of my knowledge, abilities, and belief";
- p. All inspection reports should be kept in chronological order at the site or at an easily accessible location (electronically is acceptable), and made available at the time of inspection or upon request by DEQ or Agent; and
- q. All visual monitoring notes, sampling records and inspection reports must be kept for three years from the date that the permit coverage expires or is terminated.

## **6.6 STORMWATER DISCHARGE MONITORING REQUIREMENTS**

### **6.6.1 Monitoring the pH of stormwater captured in sediment basins/impoundments when engineered soils are used.**

If construction activity involves the use of engineered soils (soil amendments including, but not limited to Portland cement-treated base, cement kiln dust, or fly ash), the registrant must conduct and document pH monitoring of stormwater captured in the sediment impoundment as described below:

- a. The registrant must begin the pH monitoring period when the engineered soils are first exposed to precipitation and must continue every 7 calendar days and within 24 hours of the occurrence of discharge from the site, or the occurrence of a storm event of 0.10 inches or greater until final stabilization of the area of engineered soils is established (see Section 2.2.21).
- b. Document the date when soil amendments were added and final stabilization achieved in the inspection Report per Section 6.5.
- c. The registrant must monitor the pH of stormwater in the sediment basins/impoundments and at discharge locations that receive stormwater runoff from the area where engineered soils were used before the stormwater discharges to surface waters.
- d. The benchmark value for pH is defined in Standard Units (su), and determined by the river basin containing the receiving waterbody according to OAR 340-041-0021. Anytime monitoring indicates that the pH of the site's stormwater is the maximum allowed su or greater, the registrant must either:
  - i. Prevent the high pH water from entering storm sewer systems or surface waters; or
  - ii. Adjust or neutralize the high pH water until it is in the range of pH su acceptable for discharge to the river basin containing the receiving waterbody by using an

appropriate treatment BMP such as carbon dioxide (CO<sub>2</sub>) sparging or dry ice. The registrant must obtain written permission from DEQ or Agent before using any form of chemical treatment other than CO<sub>2</sub> sparging or dry ice per Section 1.2.9.

- e. The registrant must perform pH monitoring on site within 15 minutes of sample collection with an accurately calibrated pH meter. The registrant must record the pH monitoring results and any pH adjustment treatments in the inspection report.

## **6.7 INSPECTIONS BY DEQ OR AGENT**

The registrant must allow and make arrangements for DEQ or Agent to have access to the site at all reasonable times.

## **SCHEDULE D SPECIAL CONDITIONS**

### **7 Schedule Precedence**

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

#### **7.1 Availability of ESCP and Monitoring Data.**

The Erosion and Sediment Control Plan and stormwater monitoring data must be made available to government agencies responsible for stormwater management in the permit registrant's area.

#### **7.2 Other Requirements**

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

#### **7.3 TERMINATION OF PERMIT COVERAGE**

DEQ or Agent will approve permit termination only if the conditions of Section 2.2.21 are met. Permit registrants are subject to the conditions of this permit until termination has been approved by DEQ or Agent, and must pay an annual fee, according to OAR 340-045-0075, Table 70G. To terminate permit coverage, the registrant must submit a complete and accurate Notice of Termination to DEQ or Agent in the format required.

##### **7.3.1 Conditions for terminating permit coverage**

The following must be completed prior to termination approval:

- a. Submit photo-documentation that depicts the requirements for final vegetative or non-vegetative site stabilization in Section 2.2.21, unless the site has been inspected by DEQ or Agent within 30 calendar days and verified to meet the requirements of Section 2.2.21;
- b. Resolve all outstanding compliance and enforcement issues;
- c. Pay all outstanding permit fees;
- d. For a common plan of development or sale, the existing 1200-C will be allowed to terminate when items 7.3.1.a, .b, and .c are met and when the remaining unstabilized area is covered by the 1200-C and/or 1200-CN.

As an alternative to termination, a registrant may:

- a. Transfer control of all areas of the site for which the registrant is responsible under this permit to another registrant(s);
- b. Obtain an individual NPDES permit for the discharge of stormwater associated with the construction activity under this general permit; or
- c. If the project never started and the registrant no longer desires to commence construction activities requiring this permit, there are no additional requirements.

## 7.4 EFFECTIVE DATE OF TERMINATION OF COVERAGE

Authorization to discharge under this general permit terminates when confirmation of permit coverage termination is issued by DEQ or Agent.

## 7.5 Local public agencies acting as DEQ's Agent

DEQ has authorized certain local governments and special districts to act as its Agent in implementing portions of this permit. The Agent conducts the following activities, including: application and ESCP review, inspections, monitoring data review, stormwater monitoring, compliance inspections and referrals for enforcement. Where DEQ has entered into such an agreement, DEQ or Agent will notify the permit registrant of other notifications or correspondence associated with this permit.

### 7.5.1 Permit-Specific definitions

- a. *Agent*-a government entity or water resources management utility that has an agreement with DEQ to administer this general permit within their jurisdictional boundaries.
- b. *Farm Use Land*-cropland, grassland, rangeland, pasture, and other land on which agricultural or forest-related products or livestock are produced. Agricultural lands include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of land used for the production of livestock.
- c. *Backwash water* (per Section 2.4.f)- refers to pumping water backwards through the filters media, sometimes including intermittent use of compressed air during the process. Backwashing is a form of preventive maintenance so that the filter media can be reused.
- d. *Best Management Practices or BMPs* -schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural or managerial practices to prevent or reduce the pollution of waters of the state. BMPs include treatment systems, erosion and sediment control, source control, and operating procedures and practices to control site runoff, spillage or leaks, and waste disposal.
- e. *Borrow Area*-the area from which material is excavated to be used as fill material in another onsite or off-site area.
- f. *Cationic Treatment Chemicals*-polymers, flocculants, or other chemicals that contain an overall positive charge. Among other things, they are used to reduce turbidity in stormwater discharges by chemically bonding to the overall negative charge of suspended silts and other soil materials and causing them to bind together and settle out. Common examples of cationic treatment chemicals are chitosan and cationic PAM.
- g. *Clean Water Act or CWA*-the Federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483, and 97-117; USC 1251 et seq.
- h. *Common Plan of Development or Sale*—is a plan to subdivide a parcel of land into separate parts for separate sale. This can be for residential, commercial, or industrial development. A construction activity is part of a larger common plan of development if it is completed in one or more of the following ways: in separate stages, in separate phases, and/or in combination with other construction activities.
- i. *Conveyance System*-for the purposes of this permit, humanmade structures, such as a sewer, ditch, pipe, channel, swale, or similar component that is designed to carry water to and from stormwater control measures on a construction site; or any combination of such components.

- j. *Construction Activity*-including but not limited to; clearing, grading, excavating, grubbing, stumping, demolition, and land disturbing activities. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility as defined in 40 CFR 122.26(b)(15).
- k. *CO<sub>2</sub> Sparging* (per Section 7.6)-is a technique in which carbon dioxide gas, sometimes introduced by dry ice, is bubbled through a liquid in order to lower the pH of the liquid.
- l. *DEQ*-the Oregon Department of Environmental Quality.
- m. *Detention*-the temporary storage of stormwater to improve quality or reduce the volumetric flow rate of discharge or both.
- n. *Dewatering*-the removal and disposal of surface water or groundwater during site construction.
- o. *Discharge Point*-the location where stormwater leaves the site. It includes the location where stormwater is discharged to surface water or a stormwater conveyance system.
- p. *Encroach(ing)*- to intrude beyond a specified boundary without right or permission.
- q. *Engineered soils* (per Section 6.6.1)-soils on site amended with cementitious compounds.
- r. *Erosion*-the movement of soil particles or rock fragments by water or wind.
- s. *Erosion and Sediment Control BMPs*-BMPs that are intended to prevent erosion and sediment transport, such as preserving natural vegetation, seeding, mulching and matting, plastic covering, sediment fences, and sediment traps and ponds. Erosion and sediment control BMPs are synonymous with stabilization and structural BMPs.
- t. *Hazardous Materials*-the materials defined in 40 CFR part 302 Designation, Reportable Quantities, and Notification.
- u. *Legally Authorized Representative*-the following (please see 40 CFR §122.22 for more detail, if needed):
  - For a corporation - president, secretary, treasurer, vice-president, or any person who performs principal business functions; or a manager of one or more facilities that is authorized in accordance to corporate procedure to sign such documents.
  - For a partnership - general partner.
  - For a sole proprietorship - owner.
  - For a city, county, state, federal, or other public facility - principal executive officer or ranking elected official.
  - For a Limited Liability Company - Member [articles of organization].
  - For trusts – Acting trustee.
- v. *Linear Construction Site*- Examples of linear construction projects include, but are not limited to, pipeline projects, highway construction, highway resurfacing and maintenance, airport runway construction and resurfacing tunnels, mass transit systems, and railroads.
- w. *Local Government*-any county, city, town, or service district.
- x. *National Pollutant Discharge Elimination System or NPDES*-the national program under Section 402 of the Clean Water Act for regulation of point source discharges of pollutants to waters of the United States.
- y. *Native topsoil* (per Section 2.2.11)-top layer of soil on site.
- z. *Natural Buffer*-for the purposes of this permit, an area of undisturbed natural cover surrounding surface waters within which construction activities are restricted. Natural cover includes the natural vegetation, exposed rock, and barren ground that existed prior to commencement of land disturbing activities.



- aa. *Natural Vegetation*-vegetation that occurs spontaneously without regular management, maintenance, or species introductions or removals. For purposes of this permit, this includes invasive species.
- bb. *Non-Stormwater Pollution Controls*-general site and materials management measures that directly or indirectly aid in minimizing the discharge of sediment and other construction related pollutants from the construction site.
- cc. *Owner*-for the purposes of this permit, any person with a legal interest in the permitted activities or the property on which the permitted activities occur.
- dd. *Permit Registrant*-for the purposes of this permit, the owner or registrant of the construction activity regulated by this permit that has submitted an application and received notice of registration under this general permit by DEQ.
- ee. *Person*-individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.
- ff. *pH neutralization* (per Section 6.6)-to bring the pH between 6.5 and 8.5 standard units.
- gg. *Pollutant* as defined in 40 CFR §122.2-dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, domestic sewage sludge (biosolids), munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, cellar dirt and industrial, municipal, and agricultural waste discharge into water. It does not mean sewage from vessels within the meaning of section 312 of the FWPCA, nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the FWPCA.
- hh. *Pollution or Water Pollution* as defined by ORS 468B.005(5)-such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.
- ii. *Responsible Person*-for the purposes of this permit, means any person associated with a construction project that meets either of the following two criteria:
  - (1) The person has operational control over construction plans and specifications, including the authority to make modifications to those plans and specifications; or
  - (2) The person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a ESCP for the site or other permit conditions (for example, they are authorized to direct workers at a site to carry out activities required by the ESCP or comply with other permit conditions).
- jj. *Runoff Controls*-BMPs that are designed to control the peak volume and flow rate or to prevent scour due to concentrated flows.
- kk. *Sediment*-mineral or organic matter, typically deposited by water, air, or ice.
- ll. *Sediment Basin/Impoundment (also includes traps/ponds)*-a sediment basin is a temporary pond built on a construction site to capture eroded or disturbed soil that is washed off during storm events, and protect the water quality of a nearby stream, river, lake, or bay. The sediment-laden soil settles in the pond before the runoff is discharged.
- mm. *Sequence*-the phased order that land disturbing activities are performed.
- nn. *Site*-the area where the construction activity is physically located or conducted.

- oo. *Shared Control*-a stormwater control, such as a sediment basin or pond, used by two or more operators that is installed and maintained for the purpose of minimizing and controlling pollutant discharges from a construction site with multiple registrants associated with a common plan of development or sale.
- pp. *Steep Slopes*-defined as those that are 70 percent or greater in grade.
- qq. *Storm Event*-EPA defines a storm event at [40 CFR 122.21\(g\)\(7\)\(ii\)](#) as a rainfall event with greater than 0.1 inch of rainfall and at least 72 hours from the previously measurable—greater than 0.1 inch rainfall—storm event.
- rr. *Stormwater as defined by 40 CFR §122.26(b)(13)*-stormwater runoff, snow melt runoff, and surface runoff and drainage.
- ss. *Stormwater Conveyance*-a sewer, ditch, or swale that is designed to carry stormwater; a stormwater conveyance may also be referred to as a storm drain or storm sewer.
- tt. *Stormwater run-on*-sources of stormwater that drain from adjacent land located upslope or upstream from the regulated site.
- uu. *Stumping*- For the purposes of this draft permit, “stumping” is defined as “to clear the land of stumps.”
- vv. *Surface Runoff* -that portion of stormwater that does not infiltrate into the ground or evaporate, but instead flows onto adjacent land or watercourses or is routed to stormwater conveyance systems.
- ww. *Surface Water*-all water naturally open to the atmosphere (for example, rivers, lakes, wetlands, reservoirs, ponds, streams, impoundments, oceans, estuaries, springs, etc.).
- xx. *Thawing conditions*-when frozen water onsite melts and creates runoff that may possibly discharge.
- yy. *Total Maximum Daily Load or TMDL*-a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet state water quality standards. It is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. Percentages of the TMDL are allocated by DEQ to the various pollutant sources.
- zz. *Toxic Substances*-are materials that are poisonous to living organisms.
- aaa. *Turbidity*-the optical condition of waters caused by suspended or dissolved particles or colloids that scatter and absorb light rays instead of transmitting light in straight lines through the water column. Turbidity may be expressed as nephelometric turbidity units (NTUs) measured with a calibrated turbidity meter.
- bbb. *Underground Injection Control*-any system, structure, or activity that is created to place fluid below the ground or sub-surface (for example, sumps, infiltration galleries, drywells, trench drains, drill holes, etc.)
- ccc. *Water or Waters of the State as defined by ORS 468B.005(10)*-lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

## SCHEDULE F NPDES GENERAL CONDITIONS

### 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.
- k. For communities with combined sewer overflows (CSOs):
  - (1) To comply with any state or federal law regulation for CSOs that is adopted or promulgated subsequent to the effective date of this permit.
  - (2) If new information that was not available at the time of permit issuance indicates that CSO controls imposed under this permit have failed to ensure attainment of water quality standards, including protection of designated uses.
  - (3) Resulting from implementation of the permittee's long-term control plan and/or permit conditions related to CSOs.

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 Rule (OAR) 340-041-0033 and section 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, if 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. Overflows from Wastewater Conveyance Systems and Associated Pump Stations**

- a. Definition. "Overflow" means any spill, release or diversion of sewage including:
  - (1) An overflow that results in a discharge to waters of the state; and
  - (2) An overflow of wastewater, including a wastewater backup into a building (other than a backup caused solely by a blockage or other malfunction in a privately owned sewer or building lateral), even if that overflow does not reach waters of the state.
- b. Reporting required. All overflows must be reported orally to DEQ within 24 hours from the time the permittee becomes aware of the overflow. Reporting procedures are described in more detail in General Condition D5.

#### **B7. Public Notification of Effluent Violation or Overflow**

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 B8.

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.

**B8. 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 overflows, 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 public entities (including public water systems). The overflow 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.

**B9. Removed Substances**

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

**SECTION C. MONITORING AND RECORDS**

**C1. Representative Sampling**

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

**C2. Flow Measurements**

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

**C3. Monitoring Procedures**

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

For monitoring of recycled water with no discharge to waters of the state, monitoring must be conducted according to test procedures approved under 40 CFR part 136 or as specified in the most



recent edition of Standard Methods for the Examination of Water and Wastewater unless other test procedures have been specified in this permit or approved in writing by DEQ.

**C4. Penalties for Tampering**

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

**C5. Reporting of Monitoring Results**

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

**C6. Additional Monitoring by the Permittee**

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

**C7. Averaging of Measurements**

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

**C8. Retention of Records**

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

**C9. Records Contents**

Records of monitoring information must include:

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

**C10. Inspection and Entry**

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

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

**C11. Confidentiality of Information**

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

**SECTION D. REPORTING REQUIREMENTS**

**D1. Planned Changes**

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

**D2. Anticipated Noncompliance**

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

**D3. Transfers**

This permit may be transferred to a new permittee provided the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of the permit and EQC rules. No permit may be transferred to a third party without prior written approval from DEQ. DEQ may require modification, 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) to the DEQ regional office or Oregon Emergency Response System (1-800-452-0311) as specified below within 24 hours from the time the permittee becomes aware of the circumstances.

a. Overflows.

(1) Oral Reporting within 24 hours.

i. For overflows other than basement backups, the following information must be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311. For basement backups, this information should be reported directly to the DEQ regional office.

- (a) The location of the overflow;
- (b) The receiving water (if there is one);
- (c) An estimate of the volume of the overflow;
- (d) A description of the sewer system component from which the release occurred (for example, manhole, constructed overflow pipe, crack in pipe); and
- (e) The estimated date and time when the overflow began and stopped or will be stopped.

ii. The following information must be reported to the DEQ regional office within 24 hours, or during normal business hours, whichever is earlier:

- (a) The OERS incident number (if applicable); and
- (b) A brief description of the event.

(2) Written reporting postmarked within 5 days.

i. The following information must be provided in writing to the DEQ regional office within 5 days of the time the permittee becomes aware of the overflow:

- (a) The OERS incident number (if applicable);
- (b) The cause or suspected cause of the overflow;
- (c) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the overflow and a schedule of major milestones for those steps;
- (d) Steps taken or planned to mitigate the impact(s) of the overflow and a schedule of major milestones for those steps; and
- (e) For storm-related overflows, the rainfall intensity (inches/hour) and duration of the storm associated with the overflow.

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

b. Other instances of noncompliance.

(1) The following instances of noncompliance must be reported:

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

(2) 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).

- (3) A written submission must be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain:
  - i. A description of the noncompliance and its cause;
  - ii. The period of noncompliance, including exact dates and times;
  - iii. The estimated time noncompliance is expected to continue if it has not been corrected;
  - iv. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and
  - v. Public notification steps taken, pursuant to General Condition B7.
- (4) 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 Indirect Dischargers**

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

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

**SECTION E. DEFINITIONS**

- E1. *BOD* or *BOD<sub>5</sub>* means five-day biochemical oxygen demand.
- E2. *CBOD* or *CBOD<sub>5</sub>* means five-day carbonaceous biochemical oxygen demand.
- E3. *TSS* means total suspended solids.
- E4. *Bacteria* means but is not limited to fecal coliform bacteria, total coliform bacteria, *Escherichia coli* (*E. coli*) bacteria, and *Enterococcus* bacteria.
- E5. *FC* means fecal coliform bacteria.
- E6. *Total residual chlorine* means combined chlorine forms plus free residual chlorine
- E7. *Technology based permit effluent limitations* means technology-based treatment requirements as defined in 40 CFR § 125.3, and concentration and mass load effluent limitations that are based on minimum design criteria specified in OAR 340-041.
- E8. *mg/l* means milligrams per liter.
- E9. *µg/l* means microgram per liter.
- E10. *kg* means kilograms.
- E11. *m<sup>3</sup>/d* means cubic meters per day.
- E12. *MGD* means million gallons per day.
- E13. *Average monthly effluent limitation* as defined at 40 CFR § 122.2 means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- E14. *Average weekly effluent limitation* as defined at 40 CFR § 122.2 means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.
- E15. *Daily discharge* as defined at 40 CFR § 122.2 means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge must be calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge must be calculated as the average measurement of the pollutant over the day.
- E16. *24-hour composite sample* means a sample formed by collecting and mixing discrete samples taken periodically and based on time or flow.
- E17. *Grab sample* means an individual discrete sample collected over a period of time not to exceed 15 minutes.
- E18. *Quarter* means January through March, April through June, July through September, or October through December.
- E19. *Month* means calendar month.
- E20. *Week* means a calendar week of Sunday through Saturday.

E21. *POTW* means a publicly-owned treatment works.