Issuance Date: 2012
Effective Date: 2012
Expiration Date: 2017

AQUATIC NOXIOUS WEED MANAGEMENT GENERAL PERMIT

National Pollutant Discharge Elimination System and
State Waste Discharge General Permit
Permit Number WAG993000

State of Washington
Department of Ecology
Olympia, Washington 98504

In compliance with the provisions of
Chapter 90.48 Revised Code of Washington
(State of Washington Water Pollution Control Act)
and
Title 33 United States Code, Section 1251 et seq.
The Federal Water Pollution Control Act (The Clean Water Act)

Until this permit expires, is modified or revoked, Permittees that have properly obtained coverage under this general permit are authorized to discharge in accordance with the special and general conditions that follow.

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Kelly Susewind, P.E., P.G.
Water Quality Program Manager
Washington State Department of Ecology

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SUMMARY OF PERMIT REPORT SUBMITTALS

Refer to the Special and General Conditions of this permit for submittal requirements.

Table 1. Required permit submittals

Permit Section	Submittal	Frequency	Due Date(s)
S2.	Application for new coverage	As necessary	At least 60 days prior to the start of discharge
S3.F.	Updated *Integrated Pest Management Plan for Freshwater Emergent Noxious- and Quarantine-Listed Weeds*	Once per permit cycle and as updated	February 1, 2013 and when updated
S5.A.	Notification of adverse incidents	As necessary	As necessary
S6.	Freshwater emergent weed monitoring plan	Annually	February 1
S8.A.	Annual monitoring report	Annually	February 1
S8.D.	Noncompliance notification	As necessary	As necessary
S.9.B.	Spill notification	As necessary	As necessary
G5.	Permit modification	As necessary	Within 14 days of request
G6.	Permit revocation	As necessary	As necessary
G13.	Request for transfer of coverage	As necessary	As necessary
G.18.	Re-Application for permit coverage	Once per permit cycle	At least 180 days prior to the permit expiration date

The text of this permit contains words or phrases which are formatted in ***bold and italics*** when first used in the document. These words or phrases are defined in Appendix A.

SPECIAL PERMIT CONDITIONS

S1. PERMIT COVERAGE

The Aquatic Noxious Weed Management General Permit regulates the use of ***pesticides*** and other products applied to manage Washington state ***noxious- and quarantine-listed weeds*** where pesticides or other products may ***indirectly*** enter the ***surface waters of the state of Washington***.

A. Activities Covered Under This Permit

This general permit covers freshwater and marine noxious- and quarantine-listed weed management activities that result in a discharge of ***herbicides***, ***adjuvants***, and ***marker dyes*** (referred to hereafter as chemicals) indirectly into streams, rivers, estuaries, marine areas, ***wetlands***, along lake shorelines, and other wet areas. The permit also covers the ***treatment*** of noxious- and quarantine-listed vegetation for roadside/ditch bank management activities where chemicals may indirectly enter the water.

This permit does not apply to the in-water application of chemicals ***directly*** into lakes, ponds, streams, or rivers to manage freshwater noxious- and quarantine-listed weeds. The Aquatic Plant and Algae Management General Permit is the appropriate permit for those activities.

Plants authorized for treatment under this permit include:

1. Noxious weeds as identified in chapter 16.750 of the Washington Administrative Code (WAC).

2. Plants listed on the Washington State Department of Agriculture's (WSDA) quarantine list as identified in chapter 16.752 WAC.

3. ***Non-native*** and ***potentially invasive plants*** not listed on the above lists, as determined by the ***Washington State Noxious Weed Control Board*** (WSNWCB), WSDA, the Washington Invasive Species Council, or the Washington State Department of Ecology (Ecology).

B. Geographic Area Covered

This permit covers the activities listed in S1.A throughout surface waters of the state of Washington, except for federal and tribal lands.

C. Activities Excluded From Coverage Under This Permit

Ecology will not require coverage under this permit for the use of chemicals on the following sites:

1. Constructed ***detention or retention ponds*** designed specifically for wastewater or stormwater treatment that do not discharge to other water bodies during and for two weeks after treatment, or where Ecology regulates the discharge under another permit that allows chemical treatment.

2. Any ***constructed water body*** five acres or less in surface area with no discharge to other surface waters of the state during and for two weeks after treatment.

3. Any constructed water body ten acres or less in surface area under single ownership with no ***public access*** and no discharge to other surface waters of the state during and for two weeks after treatment.

4. ***Upland farm ponds*** with no discharge to other surface waters of the state during and for two weeks after treatment.

5. Treatment conducted on ***seasonally dry land surfaces*** (including seasonally dry wetlands) so long as the treatment occurs when the area is dry and the active ingredient is not biologically available when the water returns.

6. Research activities when applying chemical or products to water bodies under a ***State Experimental Use Permit*** (see S4.C.).

S2. APPLICATION FOR COVERAGE

A. Who May Apply for Coverage

This permit covers activities outlined in S1.A performed by government entities, ***non-governmental organizations***, and private applicators. WSDA may contract with other state or local government entities, non-governmental organizations, and private applicators or individuals to ***treat*** plants specified in S1.A. of this permit. Contractors, called "***limited agents***" by WSDA must comply with the permit. Either the Permittee or its contractor (per individual agreement) may carry out notification, monitoring, reporting, documentation, planning, and other administrative permit tasks.

B. How to Obtain Coverage

The ***applicant*** must:

1. Submit an application for coverage no later than 60 days prior to the planned discharge date. A complete application must include a complete and signed ***Notice of Intent*** (***NOI***), and a ***State Environmental Policy Act (SEPA)*** checklist.

2. Publish public notice twice, one week apart, in a local newspaper of general circulation that an application for permit coverage has been made pursuant to WAC 173-226-130(5).

3. Publish the public notice only after Ecology has received the complete application for coverage.

4. Use the applicant Public Notice Template provided in Appendix B of this permit. The applicant may add additional information to the template as long as the required information remains as stated on the template.

5. Submit an original copy of the portion of the newspaper publication containing the Public Notice and the newspaper date to Ecology for each week the Public Notice is published, or submit a signed, notarized affidavit of publication indicating what is included in the Public Notice and the dates that the Public Notice will be published.

6. At the end of the 30-day comment period, Ecology will consider comments about the applicability of this permit to the proposed plant treatment activity before issuing a decision on permit coverage. If the applicant does not receive notification of a coverage decision from Ecology, coverage under this permit will begin automatically on the 61st day following Ecology's acceptance of a completed NOI.

C. How to Terminate Permit Coverage

A Permittee may request termination of permit coverage by submitting a Notice of Termination form (NOT) to Ecology. Every July 1, the Permittee will continue to incur an annual permit fee unless it submits a NOT.

S3. DISCHARGE LIMITS

A. Compliance with Standards

1. The application of chemicals must not cause or contribute to a violation of the Water Quality Standards for Surface Waters of the State of Washington (chapter 173-201A WAC), Ground Water Quality Standards (chapter 173-200 WAC), Sediment Management Standards (chapter 173-204 WAC), and human health-based criteria in the National Toxics Rule (40 CRF 131.36). Ecology prohibits discharges that do not comply with these standards.

2. Permittees must use ***all known, available, and reasonable methods of pollution control, prevention, and treatment (AKART)*** when applying chemicals. Compliance with this permit, the ***Washington Pesticide Control Act***, and the requirements of the ***Federal Insecticide, Fungicide, and Rodenticide Act*** (FIFRA) label constitute AKART.

B. Temporary Exceedance of Water Quality Standards

Short and long-term exceedance of water quality standards are allowed under this permit provided the Permittee complies with the provisions of WAC 173-201A-410.

C. Application Requirements

The Permittee must comply with the FIFRA label. Permit requirements do not reduce the requirements on the FIFRA label. The Permittee must ensure that:

1. A ***licensed pesticide applicator***, with the appropriate WSDA license and certification, has ***direct supervision responsibilities*** for the use of pesticides during application.

2. All applicators have current training in the use of equipment necessary to apply chemicals correctly and that they use approved application techniques.

3. Appropriately trained personnel calibrate the application equipment for the chemical used.

D. Impaired Water Bodies

The Permittee must not cause further impairment of any ***303(d)***-listed water body for any parameter. See www.ecy.wa.gov/programs/wq/303d/index.html for listed water bodies.

E. Wetland Treatments

In ***identified and/or emergent wetlands***, the Permittee must make reasonable effort to protect native wetland vegetation when applying chemicals. Reasonable efforts may include using a selective herbicide, minimizing overspray by using application techniques such as wicking or injection, or temporarily covering non-target vegetation.

F. Discharge Management Plans (*DMPs*)

The WSDA *Integrated Pest Management Plan for Freshwater Emergent Noxious- and Quarantine-Listed Weeds* covers the discharge of chemicals to manage freshwater noxious weeds and incorporates the principles of ***integrated pest management*** (IPM). It is equivalent to a DMP.

1. The Permittee (WSDA) must update this plan and any addendums, and submit the plan to Ecology by February 1, 2013.

2. The Permittee must post the plan on its website.

3. Contactors operating under Washington state government permit coverage must adopt and follow the plan's IPM principles.

S4. THE APPLICATION OF PRODUCTS

A. Prohibited Discharges

1. Ecology prohibits treatment that causes oxygen depletion to the point of stress or lethality to aquatic biota from plant die-off, the mortality of aquatic vertebrates, or unintended impacts to water quality or biota.

2. This permit does not authorize any direct application of chemicals into the water. Ecology covers ***in-water treatment*** of noxious weeds such as Eurasian watermilfoil under its Aquatic Plant and Algae Management Permit.

B. Authorized Discharges

1. Beginning on the effective date of this permit and until Ecology modifies, reissues, or revokes this permit; this permit authorizes the Permittee to discharge the chemicals listed in the permit indirectly into surface waters of the State, provided that the discharge meets the terms and conditions of the permit.

2. This permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights.

3. The Permittee may apply the following listed active ingredients that are labeled for use on aquatic sites indirectly to waters of the state:

   a. Bispyribac-sodium: sodium, 2,6-bis [(4,6-dimethoxy-pyrimidin-2-yl)oxy] benzoate

   b. Carfentrazone-ethyl: Ethyl a,2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoate

   c. 2,4-D: 2,4-Dichlorophenoxyacetic acid, dimethylamine salt

   d. Flumioxazin: 2-[7-fluro-3,4-dihydro-3-oxo-4-(2-propynyl)-2H-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1H-isoindole-1,3(2H)-dione; an herbicide of the N-phenylphthalimide class

   e. Glyphosate: N-(phosphonomethyl)glycine, isopropylamine salt

   f. Imazamox: 2-[4,5-dihydro-4-methyl-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(methoxymethyl)-3-pyridinecarboxylic acid

   g. Imazapyr: 2-(4,5-dihydro-4-methyl-4-(1-methyleth7yl)-5-oxo-1H-imidazol-2-y1)-3- pyridinecarboxylic acid

h. Penoxsulam: 2-(2,2-difluoroethoxy)--6-(trifluoromethyl-N-(5,8-dimethoxy[1,2,4] triazolo[1,5-c]pyrimidin-2-yl))benzenesulfonamide

i. Triclopyr TEA: Triethylamine salt of 3,5,6-trichloro-2-pyridyloxyacetic acid

4. The Permittee may apply the adjuvants listed in Table 2 indirectly to waters of the State.

Table 2 – Adjuvants

Adjuvant (Trade Name)	Product use
Agri-Dex™	Crop oil concentrate
Bond™	Spreader, sticker, and deposition aid
Bronc Max™	Water conditioning agent
Bronc Plus Dry-EDT™	Water conditioning agent, surfactant, deposition aid, and anti-foam agent
Class Act NG™	Water conditioning agent and surfactant
Competitor™	Modified vegetable oil and surfactant
Cut-Rate™	Water conditioning agent
Cygnet Plus™	Surfactant and modified vegetable oil
Destiny™	Modified vegetable oil and surfactant
Dyne-Amic™	Modified vegetable oil and surfactant
Exciter™	Water conditioning agent and surfactant
Fast Break™	Antifoaming agent and defoaming agent
Fraction™	Water conditioning agent
Interlock™	Deposition aid and drift control agent
Kinetic™	Surfactant

Adjuvant (Trade Name)	Product use
Level 7™	Surfactant, water conditioning agent, and acidifier
LI-700™	Surfactant, acidifier, deposition aid, and drift control agent
Liberate™	Surfactant, deposition aid, and drift control agent
Magnify™	Water conditioning agent and surfactant
One-Ap XL™	Water conditioning agent, surfactant, deposition aid, and antifoaming agent
Pro AMS Plus Activator Penetrant™	Water conditioning agent and surfactant
Sinker™	Carrier, drift control agent, and deposition aid
Spray-Rite™	Water conditioning agent
Superb HC™	Surfactant
Tactic™	Spreader/sticker and deposition aid
Tronic™	Surfactant

5. The Permittee may apply marker dyes indirectly to waters of the State.

C. Experimental Use

The Permittee may apply chemicals not listed in this permit on a limited basis in the context of a research and development effort under the jurisdiction of the Environmental Protection Agency (EPA) through the issuance of a ***federal experimental use permit*** (40 CFR 172) and the WSDA through the issuance of a ***state experimental use permit*** (EUP).

1. Project proponents must obtain coverage under this general permit for any projects conducted under a federal EUP, unless the project proponent conducts the project at a site excluded from coverage under this permit.

2. Ecology does not require coverage under this general permit for research and development projects of one acre or less in size where the project proponent operates under a state EUP (issued by WSDA).

D. General Application Restrictions

When a treatment occurs in a ***highly populated or residential area***, Permittees must not apply chemicals on weekends, Memorial Day, the 4th of July, and Labor Day without prior consent by the property owner(s) or manager(s).

S5. NOTIFICATION AND POSTING REQUIREMENTS

A. Ecology Notification Requirements for *Adverse Incidents* or Chemical Spills

The Permittee must immediately call Ecology headquarters or 1-800-6457-911 when they are aware of any of the following conditions occurring during or after a treatment:

1. Any person(s) exhibiting or indicating any toxic and/or allergic response because of treatment.

2. Any fish or fauna exhibiting stress or dying inside or outside of a treated area.

3. Any spill of chemicals covered under the permit that occurs into the water or onto land with a potential for entry into waters of the state.

B. *Spartina* Notification and Posting Requirements

1. Notification Requirements

   a. Using the public notice template in Appendix B and before the first treatment of the year, the Permittee must publish notice in the Washington State Register and on the WSDA website.

   b. The Permittee must issue a press release announcing the upcoming *Spartina* treatment season.

2. Posting Requirements

   The Permittee must:

   a. Post all public access areas (as identified in the *Washington Public Shore Guide – Marine Waters*) that are within two miles of a treated area using the *Spartina* templates provided in Appendix C. The Permittee may add additional treatment-related information to the sign, as needed.

   b. Post signs before starting treatment.

   c. Post signs so they are secure from the normal effects of weather but cause minimal damage to private or public property.

d. Post signs in English and the language, if other than English, commonly spoken by the community that uses the area.

e. Remove all signs at the end of the treatment season.

C. Freshwater Weed Notification and Posting Requirements

1. Notification Requirements

   a. The Permittee must notify residents/businesses within 200 feet of any treated area before chemical application. The Permittee may provide notice the same day as treatment.

   b. The Permittee must provide notice to the resident/business by a notification form, letter, flyer, or a personal conversation. The notice must explain the purpose of the treatment, identify the herbicide used, any re-entry or water use restrictions, and provide the location of the treated area(s) in relation to the residences/businesses.

   c. Ecology does not require posting on private properties that do not have any public access areas so long as the Permittee follows the notification procedure in S5. C.1.b.

2. Posting Public Access Areas

   The permittee must post signs around the treated area any time the treated site is within 200 feet of a public access area. Public access areas include swimming beaches, public boat launches, parks, resorts, community areas, privately owned community access areas, and any other area where the public may readily access the treated areas.

   a. The Permittee must use the freshwater templates provided in Appendix C, but may add additional treatment-related information to the sign, as needed. If applying more than one chemical in an area, the Permittee must list all herbicides on the sign.

   b. Signs must be a minimum size of 8 ½ by 11 inches.

   c. The Permittee must place the signs within 10 feet of the edge of the treated area and at each end of the treated area. Where the treated area has a shoreline length greater than 150 feet and the public has access, the Permittee must post, at a minimum, one sign for every 100 feet of shoreline. Where noxious weeds occur sporadically within an area, the Permittee may consider flagging them.

   d. The Permittee must:

i. Post the signs before treatment but no more than 48 hours before treating.

ii. Post signs so that they are secure from the normal effects of weather but cause minimal damage to property.

iii. Remove signs after the reentry period has expired.

iv. Post signs in English and the language, if other than English, commonly spoken by the community that uses the area.

S6. MONITORING REQUIREMENTS FOR FRESHWATER EMERGENT PLANTS

A. The Permittee must submit an annual monitoring plan to Ecology by February 1 of each year.

1. The annual monitoring plan must provide proposed monitoring locations and list the active ingredients proposed for monitoring. If the Permittee adds additional monitoring locations or active ingredients later in the treatment season, the Permittee may amend the plan to include the new information.

2. The Permittee must monitor a subset of treatments when using imazamox, bispyribac-sodium, penoxsulam, flumioxazin, carfentrazone-ethyl for emergent plant treatment. Ecology does not require monitoring for glyphosate, imazapyr, 2,4-D, and triclopyr.

3. If monitoring shows little to no herbicide residues entering the water adjacent to treated areas, Ecology may suspend any further monitoring for freshwater emergent weed herbicide applications under this permit.

B. After Ecology's approval of the annual monitoring plan, the Permittee (WSDA) must post the monitoring plan, any amendments to the plan, and the final annual monitoring data to its website.

S7. ANALYTICAL PROCEDURES

A. The Permittee must use either an EPA method or one of the methods specified in S7.B or S7.C. to fulfill the analytical requirements of this permit.

B. The Permittee must ensure that a laboratory registered or accredited for the active ingredient(s) prepares all monitoring data submitted for this permit under the provisions of chapter 173-50 WAC, Accreditation of Environmental Laboratories.

C. Analyses conducted using enzyme linked immunosorbent assay (ELISA) methods may substitute for the requirements in S7.B.

S8. REPORTING AND RECORDKEEPING REQUIREMENTS

The Permittee must submit pesticide information in accordance with the following conditions.

A. Annual Treatment/Monitoring Reports

1. The Permittee must submit its reports by February 1 of each year. A signed and dated copy of the reports must be submitted to:

   Department of Ecology
   Water Quality Program
   Attn: Aquatic Pesticide Permit Manager
   P.O. Box 47600
   Olympia, WA 98504-7600

2. The Permittee must submit an annual treatment/monitoring report regardless of whether treatment or monitoring occurred. This report must include water body name, dates treatment occurred, chemicals used, amount of active ingredient applied, acreage treated, monitoring results, and the plant species targeted.

B. Records Retention

1. The Permittee must retain records of all permitting and monitoring information for a minimum of five (5) years. Such information must include copies of all reports required by this permit and records of all data used to complete the application for this permit.

2. The Permittee must keep records longer in the event of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by Ecology.

3. The Permittee must make the records, reports, surveys, plans, public notices (including a list of locations or addresses to which they were delivered), and other information required by this permit available to Ecology on request.

C. Recording of Results

For each measurement or sample taken, the Permittee must follow the recording provisions outlined in WAC 173-226-090 (2).

D. Noncompliance Notification

In the event the Permittee is unable to comply with any of the terms and conditions of this permit for any cause, the Permittee must immediately stop the activity causing the

noncompliance, correct the problem, notify Ecology of the failure to comply, and return to compliance as quickly as possible.

S9. SPILL PREVENTION AND CONTROL

A. Spill Prevention

The Permittee must:

1. Handle, store, and use all oil, fuel, chemicals, or products authorized under this permit in a manner that prevents spills.

2. Ensure that it maintains all mobile equipment to prevent leaks or spills of petroleum products.

3. Have absorbent materials available at the application site for cleanup or the spill containment materials recommended in the Material Safety Data Sheet for that product, including appropriate cleanup materials for a spill of the products being applied.

B. Spill Notification Requirements

The Permittee must immediately report spills to Ecology by calling 1-899-6457-911. See www.ecy.wa.gov/programs/spills/other/reportaspill.htm for more environmental reporting information.

C. Spill Cleanup Requirements

1. In the event of a spill, the Permittee must begin immediate containment and cleanup using appropriate materials. Spill cleanup takes precedent over normal work.

2. Cleanup includes proper disposal of any spilled materials and used cleanup materials.

S10. APPENDICES

The attached appendices are incorporated by reference into this permit.

APPENDIX A – DEFINITIONS

APPENDIX B – PUBLIC NOTICE

APPENDIX C – SIGN TEMPLATES

GENERAL CONDITIONS

G1. DISCHARGE VIOLATIONS

All discharges and activities authorized by this general permit must be consistent with the terms and conditions of this permit. The discharge of any pollutant more frequently than, or at a concentration in excess authorized by this permit, constitutes a violation of the terms and conditions of this permit.

G2. PROPER OPERATION AND MAINTENANCE

The Permittee must at all times properly operate and maintain all systems of treatment and control to achieve compliance with the terms and conditions of the general 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 systems which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of this permit. The Permittee must not allow concentrations of the product(s) to exceed FIFRA label requirements.

G3. RIGHT OF ENTRY

The Permittee must allow an authorized representative of Ecology, upon the presentation of credentials and such other documents as may be required by law, at reasonable times:

A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this general permit;

B. To have access to and to copy any records that must be kept under the terms and conditions of the permit;

C. To inspect any posting, monitoring equipment, or method of monitoring required in this permit;

D. To inspect any collection, treatment, pollution management, or discharge facilities; and

E. To sample any discharge of pollutants.

G4. PERMIT COVERAGE REVOCATION

Pursuant to chapter 43.21B RCW and chapter 173-226 WAC, the Director may require any discharger authorized by this general permit to apply for and obtain coverage under an individual permit or another more specific and appropriate general permit. Cases where revocation of coverage may be required include, but are not limited to the following:

A. Violation of any term or condition of this general permit.

B. Obtaining coverage under this general permit by misrepresentation or failure to disclose fully all relevant facts.

C. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090.

D. A determination that the permitted activity endangers human health or the environment, or significantly contributes to water quality standards violations.

E. Nonpayment of permit fees or penalties assessed pursuant to chapter 90.48.465 RCW and chapter 173-224 WAC.

F. Failure of the Permittee to satisfy the public notice requirements of WAC 173-226-120(5), when applicable; or Permittees who have their coverage revoked for cause according to WAC 173-226-240, may request temporary coverage under this permit during the time an individual permit is being developed, provided the request is made within ninety (90) days from the time of revocation and is submitted along with a complete individual permit application form.

G5. GENERAL PERMIT MODIFICATION OR REVOCATION

This permit may be modified, revoked and reissued, or terminated in accordance with the provisions of chapter 173-226 WAC. Grounds for modification or revocation and reissuance include, but are not limited to, the following:

A. When a change that occurs in the technology or practices for control or abatement of pollutants applicable to the category of dischargers covered under this permit.

B. When effluent limitation guidelines or standards are promulgated pursuant to the Federal Water Pollution Control Act or chapter 90.48 RCW for the category of dischargers covered under this general permit.

C. When a water quality management plan containing requirements applicable to the category of dischargers covered under this general permit is approved.

D. When information is obtained which indicates that cumulative effects on the environment from dischargers covered under this general permit are unacceptable.

G6. REPORTING A CAUSE FOR REVOCATION OF COVERAGE

A Permittee who knows or has reason to believe that any activity has occurred or will occur which would constitute cause for revocation under condition G5 above or 40 CFR 122.62 must report such information to Ecology so that a decision can be made on whether action to revoke coverage under this general permit will be required. Ecology may then require

submission of a new application for coverage under this or another general permit or an application for an individual permit. Submission of a new application does not relieve the Permittee of the duty to comply with all the terms and conditions of the existing general permit until the new application for coverage has been approved.

G7. TOXIC POLLUTANTS

The Permittee must comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

G8. OTHER REQUIREMENTS OF TITLE 40 CODE OF FEDERAL REGULATIONS

All other applicable requirements of 40 CFR 122.41 and 122.42 are incorporated in this general permit by reference.

G9. COMPLIANCE WITH OTHER LAWS AND STATUTES

Nothing in this permit excuses the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

G10. ADDITIONAL MONITORING

Ecology may establish specific monitoring requirements in addition to those contained in this general permit by administrative order or permit modification.

G11. PAYMENT OF FEES

The Permittee must submit payment of fees associated with this permit as assessed by Ecology. Ecology may revoke this permit coverage or take enforcement, collection, or other actions, if the permit fees established under chapter 173-224 WAC are not paid.

G12. REQUESTS TO BE EXCLUDED FROM COVERAGE UNDER A GENERAL PERMIT

Any discharger authorized by this general permit may request to be excluded from coverage under this general permit by applying for an individual permit. The discharger must submit to the Director an application as described in WAC 173-220-040 or WAC 173-216-070, whichever is applicable, with reasons supporting the request. The reasons must fully document how an individual permit will apply to the applicant in a way that the general permit cannot. The Director may either issue an individual permit or deny the

request with a statement explaining the reason for the denial. When an individual permit is issued to a discharger otherwise subject to this general permit, the applicability of this general permit to that Permittee is automatically terminated on the effective date of the individual permit.

G13. TRANSFER OF PERMIT COVERAGE

This permit coverage may be automatically transferred to a new Permittee if:

A. The Permittee notifies Ecology at least 30 days in advance of the proposed transfer date.

B. The notice includes a written signed agreement between the existing and new Permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them.

C. Ecology does not notify existing Permittee and the proposed new Permittee of its intent to modify or revoke coverage.

G14. PENALTIES FOR VIOLATING PERMIT CONDITIONS

Any person who is found guilty of willfully violating the terms and conditions of this permit is deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars ($10,000) and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit will incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars ($10,000) for every such violation. Each and every violation is a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

G15. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to Ecology must be signed and certified.

A. In the case of a municipal, state, or public facility, all permit applications must be signed by a principal executive officer or ranking elected official. In the case of a corporation, partnership, or sole proprietorship, all permit applications must be signed by either a principal executive officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.

B. All reports required by this permit and other information requested by Ecology shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described above and submitted to Ecology.

2. The authorization specifies either an individual or a position having responsibility for the overall operation of a regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

C. Changes to authorization. If an authorization under paragraph B.2. above is no longer accurate because a different individual or position has responsibility for environmental matters, a new authorization satisfying the requirements of paragraph B.2. must be submitted to Ecology prior to or together with any reports, information, or applications to be signed by an authorized representative.

D. Certification. Any person signing a document under this section must make the following certification:

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiries of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

G16. APPEALS

The terms and conditions of the Aquatic Noxious Weed Management general permit are subject to appeal. There are two different appeal categories:

A. The permit terms and conditions as they apply to the appropriate class of dischargers are subject to appeal within thirty (30) days of issuance of this general permit in accordance with chapter 43.21(B) RCW and chapter 173-226 WAC; and

B. The applicability of the permit terms and conditions to an individual discharger are subject to appeal in accordance with chapter 43.21(B) RCW within thirty (30) days of the effective date of coverage of that discharger.

An appeal of the coverage of this permit to an individual discharger is limited to applicability or non-applicability to that same discharger. Appeal of this permit coverage of an individual discharger will not affect any other individual dischargers. If the terms and conditions of this general permit are found to be inapplicable to any discharger (s), the matter must be remanded to Ecology for consideration of issuance of an individual permit or permits.

G17. SEVERABILITY

The provisions of this general permit are severable, and if any provision of this general permit, or application of any provision of this general permit to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this general permit shall not be affected thereby.

G18. DUTY TO REAPPLY

The Permittee must reapply for coverage under this general permit at least one hundred and eighty (180) days prior to the specified expiration date of this general permit. An expired general permit continues in force and effect until Ecology issues a new general permit or until Ecology cancels it. Only those Permittees that reapply for coverage are covered under the continued permit.

APPENDIX A - DEFINITIONS

All definitions listed below are for use in the context of this permit only.

303(d): Section 303(d) of the federal Clean Water Act requires states to develop a list of polluted water bodies every two years. For each of those water bodies, the law requires states to develop Total Maximum Daily Loads (TMDLs). A TMDL is the amount of pollutant loading that can occur in a given water body (river, marine water, wetland, stream, or lake) and still meet water quality standards.

Adjuvant: An additive, such as a surfactant, that enhances the effectiveness of the primary chemical (active ingredient).

Adverse incident: An unusual or expected incident in which:

1. There is evidence that a person or non-target organism has likely been exposed to a pesticide residue, and
2. The person or non-target organism suffered a toxic or adverse effect.

Toxic or adverse effects include effects that occur within waters of the State on non-target plants, fish, or wildlife that are unusual or unexpected (e.g., effects are to organisms not otherwise described on the product label or otherwise expected to be present) because of exposure to a pesticide residue, and may include:

- Distressed or dead fishes.
- Unexpected stunting, wilting, or desiccation of non-target submersed or emergent aquatic plants.
- Other dead or visibly distressed non-target aquatic organisms (amphibians, turtles, invertebrates, etc.).

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

All known, available, and reasonable methods of pollution control, prevention, and treatment: (*AKART*): A technology-based approach to limiting pollutants from discharges. Described in chapters 90.48 and 90.54 RCW and chapters 173-201A, 173-204, 173-216 and 173- 220 WAC.

Applicant: The entity choosing to get coverage under this permit.

Constructed water body: A constructed water body created in an area that was not part of a previously existing watercourse, such as a pond, stream, wetland, etc.

Detention or retention ponds: Constructed water bodies specifically designed to manage stormwater. Detention ponds are generally dry until a significant storm event. Retention (wet) ponds have a permanent pool of water and gradually release stormwater through an outlet.

Directly: The purposeful application of chemicals into surface waters of the state to manage the growth of submersed plants such as Eurasian watermilfoil where the intent is to add herbicides to the water to kill the plant. Herbicide application for plants such as fragrant water lily that grows in shallow water requires coverage under the Aquatic Plant and Algae Management permit rather than the Noxious Aquatic Weed Management permit because significant amounts of herbicide may directly enter the water through its treatment.

Direct supervision responsibilities: Direct supervision by aquatic certified applicators means direct on-the-job supervision and requires that the certified applicator be physically present at the application site and that the person making the application be in voice and visual contact with the certified applicator at all times during the application. Licensed certified applicators may directly supervise unlicensed applicators.

Discharge Management Plan: A plan to help people reduce the use of pesticides to manage noxious weeds and that incorporates principles of integrated pest management.

Federal experimental use permit: A permit issued by the EPA allowing use of pesticides that are not registered, or for experiments involving uses not allowed by the pesticide label. Aquatic applications often exceed one acre.

Federal Insecticide, Fungicide, and Rodenticide Act (*FIFRA*)**:** A set of EPA regulations that establishes uniform pesticide product labeling, use restrictions, and review and labeling of new pesticides.

Herbicide: Any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed or other higher plant (see chapter 17.21.020 RCW).

Highly populated or residential area: In area such as in a city or suburb where a large number of people may be potentially affected by an herbicide treatment or an area like a park where many people may be affected by a treatment.

Identified and/or emergent wetlands: Wetlands identified by local, state, or federal agencies as being important wetlands. Plants growing with their roots underwater and foliage extending above the water (emergent plants) characterize emergent wetlands (marshes).

Indirectly: The purposeful application of a chemical to a weed where there may be inadvertent and incidental overspray or dripping of chemical from the plant into waters of the State. The applicator does not intentionally add the chemical to the water to treat the plant (as occurs during in-water treatments for submersed plants such as Eurasian watermilfoil). Indirect application to water may occur into adjacent water bodies or wetlands, particularly when treating plants where the roots may be submerged and the foliage is above water. An example is the control of knotweeds along riparian corridors – the applicator applies herbicide to the plant, but there may

be some inadvertent overspray into the water or the herbicide can drip from the plant into a stream.

Integrated Pest Management: An ecologically based strategy for pest control that incorporates monitoring, and biological, physical, and chemical controls in order to manage pests with the least possible hazard to humans, the environment, and property. Integrated pest management considers all management actions, including no action.

In-water treatment: The application of an aquatic herbicide to the water to control the growth of mainly submersed plants. In-water treatment also includes controlling plants that typically grow in shallow water (like fragrant water lily) where treatment can result in significant quantities of herbicide directly entering the water.

Licensed pesticide applicator: Any individual licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, or certified private applicator, or any other individual who is certified by the director of WSDA to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators only. WSDA classifies aquatic herbicides as restricted use pesticides.

Limited agents: When the weed being controlled is covered under the authority of a program at WSDA, individuals, governments, and non-governmental organizations may contract with WSDA and operate under the WSDA coverage. These entities are known as “limited agents” and must follow all permit conditions and provisions.

Marker dyes: Colorants sprayed onto the targeted weed along with the herbicide. Marker dyes allow better targeting of herbicide sprays since treated and untreated areas are more clearly seen by the applicator.

Non-governmental organizations: Entities such as the Nature Conservancy that may have a role in managing noxious weeds. Many non-governmental organizations are non-profit.

Non-native: A plant living outside of its natural or historical range of distribution. Plants considered non-native were not present in Washington prior to European settlement. Most non-native plants are not noxious weeds.

Notice of Intent (*NOI*): An application to obtain coverage under an NPDES permit.

Noxious weed: A legal term defined in chapter 17.10 RCW that means a non-native plant that when established is highly destructive, competitive, or difficult to control by cultural or chemical practices. The Washington State Noxious Weed Control Board maintains a legal list of noxious weeds (see chapter 16.750 WAC for the current list of noxious weeds).

Pesticide: WAC 15.58.030 (31) "Pesticide" means, but is not limited to:

a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;
b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and
c) Any spray adjuvant (see chapter 17.21.020 RCW).

Potentially invasive plants: Plant species that are not indigenous to the region, have been shown to have invasive tendencies, and have a probability of becoming listed as a noxious weed.

Public Access: Identified legal passage to any of the public waters of the State, assuring that the public has access to and use of these waters for recreational and other purposes. Public access areas include public-or community-provided swimming beaches, picnic areas, docks, marinas, and boat launches at state and local parks and at private resorts.

Quarantine-listed weeds: Plants listed on the WSDA Quarantine list as identified in chapter 16.752 WAC.

Seasonally dry land surfaces: An area that may be wet or contain standing water in the rainy season, but may be dry during other times of the year. When dry, there must be no standing water present in the treatment area and the soils must not be saturated at the time of treatment. Ecology does not consider tidal lands as meeting its definition of seasonally dry land surfaces.

Spartina: As used in this permit, any non-native species in a genus of grasses in the family *Poaceae* commonly called cordgrass. There are four spartina species listed as noxious weeds in Washington on the 2011 State Noxious Weed list.

State Environmental Policy Act (SEPA): A state policy that requires state and local agencies to consider the likely environmental consequences of a proposal before approving or denying the proposal (See chapter 43.21C RCW and chapter 197 -11 WAC).

State experimental use permit: A permit issued by WSDA allowing use of pesticides that are not registered, or for experiments involving uses not allowed by the pesticide label. Aquatic applications are limited to one acre or less in size.

Surface waters of the state of Washington: All waters defined as “waters of the United States” in 40 CRF 122.2 within the geographic boundaries of the state of Washington. All waters defined in chapter 90.48.020 RCW. This includes lakes, rivers, ponds, streams, inland waters, and all other fresh, brackish, and marine surface waters and watercourses within the jurisdiction of the state of Washington, including drainages to surface waters.

Treat: Apply an herbicide to a plant or plant population.

Treatment: The application of an herbicide to a plant or plant population to kill the plant(s).

Upland farm pond: Private farm ponds created from upland sites that did not incorporate natural water bodies (WAC 173-201A-260(3)(f)).

Washington Pesticide Control Act: Chapter 15.58 RCW.

Washington State government agencies: Washington state government agencies such as Washington Departments of Agriculture, Fish and Wildlife, Natural Resources, etc. Does not include local governments.

Washington State Noxious Weed Control Board: Established in RCW 17.10, a board of nine voting members and seven appointed members that advises WSDA about noxious weed control in Washington. The Board also serves as the state's noxious weed coordination center. Through its actions and policies it supports the activities of 48 county noxious weed control boards and weed districts.

Wetland: Any area inundated with water sometime during the growing season, and identified as a wetland by a local, state, or federal agency.

In the absence of other definitions set forth herein, the definitions set forth in 40 CFR Part 403.3 or in chapter 90.48 RCW apply.

APPENDIX B - PUBLIC NOTICE

PUBLIC NOTICE TEMPLATE FOR NEW APPLICANTS

Public notice must be published at least once each week for two consecutive weeks, in a single newspaper of general circulation in the county or counties where the treatment will take place. The applicant may add additional project information to this template, but must not remove or change any bolded language (other than changing fonts or removing bolding).

Applicant name and contact information (e.g., phone number, Email address, website) **is seeking coverage under the NPDES State Waste Discharge General Permit for Aquatic Noxious Weeds. The proposed coverage applies to** *list water body name(s), acres proposed for treatment, and their location within the water body*.

Water body name **may be treated to control** *list specific noxious weeds or reference the State Noxious Weed List or Quarantine List.* **The chemicals planned for use are:** *list all active ingredients anticipated for use*.

Any person desiring to present their views to the Department of Ecology regarding this application must do so in writing within 30 days of the last date of publication of this notice.

Comments must be submitted to the Department of Ecology. Any person interested in Ecology's action on the application may notify Ecology of their interest within 30 days of the last date of publication of this notice.

Submit comments to:
Department of Ecology
P.O. Box 47696
Olympia, WA 98504-7600
Attn: Water Quality Program, Aquatic Pesticide Permit Manager
Email: jonathan.jennings@ecy.wa.gov
Telephone: 360-407-6283

Copies of the application are available by contacting the
Aquatic Pesticide Permit Manager.

LEGAL NOTICE FOR SPARTINA TREATMENTS

The Permittee may add additional project information to this template, but must not remove or change any bolded language (other than changing fonts or removing bolding).

The Washington State Department of Agriculture (WSDA) is hereby notifying the affected public that the herbicides imazapyr and glyphosate may be used to control invasive *Spartina* grass species between (*list dates*).

Licensed pesticide applicators operating under WSDA's NPDES State Waste Discharge General Permit may apply these products in the following locations: (*list locations*)**.**

For more information, including locations of possible application sites or information on *Spartina*, contact WSDA (*phone, email, website*).

Or write WSDA *Spartina* Program, PO Box 42560, Olympia, WA 98504-2560.

The Washington State Department of Ecology 24-hour emergency number for reporting concerns about *Spartina* treatments is _____.

Permittee may add other optional project information at its discretion.

APPENDIX C - POSTING TEMPLATES

POSTING TEMPLATES
FOR
FRESHWATER TREATMENTS

CAUTION

Glyphosate will be applied under permit on _____ to control the noxious weed(s) _____. **(Applicator to list the weeds treated here)**

Treated locations are behind the signs. Do not enter the treated area until _____. **(Applicator to post a time at least 4 hours after he/she expects to finish the treatment. If the label re-entry period is longer than 4 hours, the applicator must use the label re-entry time)**

There are no swimming or recreation restrictions.

For more information, contact the applicator: _____
Phone number: (___) _____

Or the Department of Ecology at (___) _____

CAUTION

Imazapyr will be applied under permit on _____ to control the noxious weed(s) _____. **(Applicator to list the weeds treated here)**

Treated locations are behind the signs. Do not enter the treated area until _____. **(Applicator to post a time at least 4 hours after he/she expects to finish the treatment. If the label re-entry period is longer than 4 hours, the applicator must use the label re-entry time)**

There are no swimming or recreation restrictions.

For more information, contact the applicator: _____
Phone number: (___) _____

Or the Department of Ecology at (___) _____

CAUTION

Triclopyr TEA will be applied under permit on _____to control the noxious weed(s) _____. **(Applicator to list the weeds treated here)**

Treated locations are behind the signs. Do not enter the treated area until _____. **(Applicator to post a time at least 4 hours after he/she expects to finish the treatment. If the label re-entry period is longer than 4 hours, the applicator must use the label re-entry time)**

There are no swimming or recreation restrictions.

For more information, contact the applicator: _____

Phone number: (___) _____

Or the Department of Ecology at (___) _____

CAUTION

The aquatic herbicide 2, 4-D (amine formulation) will be applied under permit on _____ to control the noxious weed(s) _____. **(Applicator to list the weeds treated here)**

Treated locations are behind the signs. Do not enter the treated area until _____. **(Applicator to post a time at least 4 hours after he/she expects to finish the treatment. If the label re-entry period is longer than 4 hours, the applicator must use the label re-entry time)**

There are no swimming or recreation restrictions.

For more information, contact the applicator: _____

Phone number: (___)_____

This application is regulated by Department of Ecology: Phone (___)_____

CAUTION

Imazamox will be applied under permit on _____ to control the noxious weed(s) _____. **(Applicator to list the weeds treated here)**

Treated locations are behind the signs. Do not enter the treated area until _____. **(Applicator to post a time at least 4 hours after he/she expects to finish the treatment. If the label re-entry period is longer than 4 hours, the applicator must use the label re-entry time)**

There are no swimming or recreation restrictions.

For more information, contact the applicator: _____
Phone number: (___) _____

Or the Department of Ecology at (___) _____

CAUTION

Flumioxazin will be applied under permit on _____ to control the noxious weed(s) _____. **(Applicator to list the weeds treated here)**

Treated locations are behind the signs. Do not enter the treated area until _____. **(Applicator to post a time at least 4 hours after he/she expects to finish the treatment. If the label re-entry period is longer than 4 hours, the applicator must use the label re-entry time)**

There are no swimming or recreation restrictions.

For more information, contact the applicator: _____
Phone number: (___) _____

Or the Department of Ecology at (___) _____

CAUTION

Penoxsulam will be applied under permit on _____ to control the noxious weed(s) _____. **(Applicator to list the weeds treated here)**

Treated locations are behind the signs. Do not enter the treated area until _____. **(Applicator to post a time at least 4 hours after he/she expects to finish the treatment. If the label re-entry period is longer than 4 hours, the applicator must use the label re-entry time)**

There are no swimming or recreation restrictions.

For more information, contact the applicator: _____
Phone number: (___) _____

Or the Department of Ecology at (___) _____

CAUTION

Carfentrozone-ethyl will be applied under permit on _____ to control the noxious weed(s) _____. **(Applicator to list the weeds treated here)**

Treated locations are behind the signs. Do not enter the treated area until _____. **(Applicator to post a time at least 4 hours after he/she expects to finish the treatment. If the label re-entry period is longer than 4 hours, the applicator must use the label re-entry time)**

There are no swimming or recreation restrictions.

For more information, contact the applicator: _____
Phone number: (___) _____

Or the Department of Ecology at (___) _____

CAUTION

Bispyribac-sodium will be applied under permit on _____ to control the noxious weed(s) _____.
(Applicator to list the weeds treated here)

Treated locations are behind the signs. Do not enter the treated area until _____. **(Applicator to post a time at least 4 hours after he/she expects to finish the treatment. If the label re-entry period is longer than 4 hours, the applicator must use the label re-entry time)**

There are no swimming or recreation restrictions.

For more information, contact the applicator: _____
Phone number: (___) _____

Or the Department of Ecology at (___) _____

POSTING TEMPLATES
FOR
SPARTINA TREATMENTS

CAUTION

Imazapyr will be applied under permit on _____ to control Spartina (cordgrass).

There are no swimming, recreation, or other water use restrictions.

For more information, contact the applicator: _____
Phone number: (___) _____

Or

The WSDA Spartina Coordinator at (___) _____

The Department of Ecology at (___) _____

CAUTION

Glyphosate will be applied under permit on _____ to control Spartina (cordgrass).

There are no swimming, recreation, or other water use restrictions.

For more information, contact the applicator: _____
Phone number: (___) _____

Or

The WSDA Spartina Coordinator at (___) _____

The Department of Ecology at (___) _____

CAUTION

Imazapyr and/or glyphosate will be applied under permit on _____ to control Spartina (cordgrass).

There are no swimming, recreation, or other water use restrictions.

For more information, contact the applicator: _____
Phone number: (___) _____

Or

The WSDA Spartina Coordinator at (___) _____

The Department of Ecology at (___) _____