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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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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 38 days prior to the start of discharge
S3.E	Update <i>Integrated Pest Management Plan for Freshwater Emergent Noxious- and Quarantine-Listed Weeds</i>	As necessary	As necessary
S5.A	Notification of adverse incidents	As necessary	As necessary
S6	Freshwater emergent weed monitoring plan	Annually	February 1
S7.A	Annual monitoring report	Annually	February 1
S7.D	Noncompliance notification	As necessary	As necessary
S8.B	Spill notification	As necessary	As necessary
G22	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 that 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 submersed or floating 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 general permit covers the activities listed in S1.A throughout surface waters of the state of Washington.

This permit does not apply to:

1. Federal lands where a federal agency provided funding, made the decision to apply chemicals, or is the entity applying chemicals.
2. **Indian Country** and trust or restricted lands except portions of the Puyallup Reservation as noted below.
3. Puyallup Exception: Following the Puyallup Tribe of Indians Land Claims Settlement Act of 1989, 25 U.S.C. §1773; this permit does apply to land within the Puyallup Reservation except for discharges to surface water on land held in trust by the federal government.

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 special condition S4.C).

S2. APPLICATION FOR COVERAGE

A. Who May Apply for Coverage

This permit covers activities outlined in S1.A performed by the Washington State Department of Agriculture (WSDA). WSDA may contract with other state or local government entities, **non-governmental organizations**, and private applicators or individuals to **treat** plants specified in special condition 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.

1. To obtain a Limited Agent contract from WSDA follow the application instructions located on the permit webpage:
http://www.ecy.wa.gov/programs/wq/pesticides/final_pesticide_permits/noxious/noxious_index.html.
2. Special conditions S2.B through S2.D do not apply to Limited Agents.

B. How to Obtain Coverage

The *applicant* must:

1. Submit an application for coverage no later than 38 days prior to the planned discharge date. A complete application must include a completed and signed *Notice of Intent* (NOI).
2. Publish twice, one week apart, a public notice 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 Public Notice Template provided in the NOI. The applicant may add additional information to the template provided that the required information remains as stated on the template.
5. Submit a copy of the portion of the newspaper publication containing the Public Notice and 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 discharge activity before deciding to issue permit coverage.

C. Permit Coverage Timeline

1. If the applicant does not receive notification from Ecology, permit coverage automatically commences on whichever of the following dates occurs last:
 - a. The 31st day following receipt by Ecology of a completed application for coverage.

- b. The 31st day following the end of a 30-day public comment period.
 - c. The effective date of the general permit.
2. Ecology may need additional time to review the application:
- a. If the application is incomplete.
 - b. If it requires additional site-specific information.
 - c. If the public requests a public hearing.
 - d. If members of the public file comments.
 - e. When more information is necessary to determine whether coverage under the general permit is appropriate.
3. When Ecology needs additional time:
- a. Ecology will notify the applicant in writing before the 31st day following the end of the 30 day public comment period and identify the issues that the applicant must resolve before a decision can be reached.
 - b. Ecology will submit the final decision to the applicant in writing. If Ecology approves the application for coverage, coverage begins the 31st day following approval, or the date the approval letter is issued, whichever is later.

D. 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*, the requirements of the *Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)* label, and all other applicable federal, state, and local laws constitute AKART.

B. Application Requirements

The Permittee must fully comply with the FIFRA label. Nothing in this permit relieves the Permittee from meeting 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.

C. 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.

D. Protecting Native Vegetation

In *identified and/or emergent wetlands* and other areas with native vegetation, the Permittee must protect native plants when applying chemicals.

Methods of protecting native plants include but are not limited to:

- Using a selective herbicide.
- Minimizing overspray by using application techniques such as wicking or injection.
- Temporarily covering non-target vegetation.

E. Integrated Pest Management Plan (IPM)

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)*. WSDA must update their IPM plan as necessary when changes occur.

1. Contactors operating as Limited Agents under WSDA permit coverage must follow the WSDA IPM Plan. Limited Agents may add to the WSDA IPM Plan but not remove conditions.

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, and floating weeds such as lily pads 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-methylethyl)-5-oxo-1H-imidazol-2-yl)-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)/State Registration Number	Adjuvant (Trade Name)/State Registration Number
Agri-Dex™/5905-50094	Hasten-EA™/2935-15003
AgriSolutions Inergy®/1381-13001	Interlock™/1381-05004
Atmos™/1381-13006	Kinetic™/5905-11004
Bond™/34704-04003	Level 7™/1381-05002
Brandt Magnify/48813-15003	LI-700™/34704-04007
Breeze®/1381-13007	Liberate™/34704-04008
Bronc Max™/2935-03005	NIS-EA™/2935-14001
Bronc® Plus Dry/2935-12005	One-Ap XL™/45989-02001
Bronc Plus Dry-EDT™/2935-03002	Pro AMS Plus™/71058-50001
Chempro A-10 / 46059-16001	Rainier-EA™/2935-15001
Cide-Kick IIM®/99940/12001	Renegade-EA™/2935-15002
Class Act NG™/1381-01004	Sinker™/5905-05001

Adjuvant (Trade Name)/State Registration Number	Adjuvant (Trade Name)/State Registration Number
Competitor™/2935-04001	Sphere 7/73127-10008
Cut-Rate™/2935-06001	Spray-Rite™/7001-09003
Cygnets Plus™/105114-50001	Superb HC™/1381-06003
Denali-EA™/2935-15006	Syl-Tac-EA™/2935-15004
DestinyHC™/1381-12001	Tactic™/34704-05008
Droplex™/1381-12001	Trail Blazer/91327-15009
Dyne-Amic™/5905-50071	Tronic™/45989-06003
Fast Break®/1381-50006	Turbulence®/1381-13008
Forge/46661-15002	Winfield Solutions Inergy®/ 1381-13002
Fraction™/45989-06001	Yardage™/52467-13001

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. The Permittee must operate under both federal and state experimental use permits for projects over one acre.
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 at 360-407-6600 or 1-800-6457-911 and discontinue treatment 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 legal notice for *Spartina* treatments in Appendix B and before the first treatment of the year, the Permittee must publish notice in the Washington State Register and on its website.
- b. The Permittee must issue a press release announcing the upcoming *Spartina* treatment season.

2. Posting Requirements

The Permittee must:

- a. For aerial treatments: Post all *public access areas* that are within two miles of a treated area along the shoreline.
- b. For ground-based treatments: Post according to special condition S5.B.2.a, post the corners of the treatment area, or if treating an individual plant post a sign at the treated plant.

- c. Use the *Spartina* templates provided on the permit webpage (http://www.ecy.wa.gov/programs/wq/pesticides/final_pesticide_permits/noxious/noxious_index.html). The Permittee may add additional treatment-related information to the sign, as needed.
- d. Post signs within 72 hours prior to starting treatment.
- e. Post signs so they are secure from the normal effects of weather and tide but cause minimal damage to private or public property.
- f. Post signs in English, and if it is known that a non-English speaking community commonly uses an area, post signs in the language commonly used by the non-English speaking community.
- g. Remove all signs after the period of water use restriction has ended or by the end of the treatment season.

C. Freshwater Weed Notification and Posting Requirements

1. Notification Requirements

The Permittee must meet one of the following notification requirements.

- a. The Permittee must notify private residents and businesses immediately adjacent to any treated area before chemical application, or as an alternative to notification, post the treated area (see d. below). The Permittee may provide notice the same day as treatment.
- b. If notifying under special condition S5.C.1.a, 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, provide the location of the treated area(s) in relation to the property/residence/business and provide contact information to obtain additional information about the treatment.
- 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 special condition S5.C.1.b.
- d. Instead of notification, the Permittee may post the treated areas on private properties where advance notification of adjacent landowners is difficult. Where it is obvious that many people other than landowners are accessing the site, the Permittee must post the treated area. In these situations, the Permittee must follow the posting requirements outlined in special condition S5.C.2 – Posting Public Access Areas.

- e. The Permittee need not post or provide notification in private areas with limited site accessibility where people are highly unlikely to enter treated areas.

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 on the permit webpage (http://www.ecy.wa.gov/programs/wq/pesticides/final_pesticide_permits/noxious/noxious_index.html), 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:
 - Post the signs before treatment but no more than 48 hours before treating.
 - i. Post signs so that they are secure from the normal effects of weather but cause minimal damage to property.
 - ii. Remove signs after the reentry period has expired.
 - iii. 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

Sampling and analytical methods used to meet the monitoring requirements specified in this permit must conform to the latest revision of the Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40 CFR Part 136 (or as applicable in 40 CFR subchapters N [Parts 400–471] or O [Parts 501–503]) unless otherwise specified in this permit. Ecology may

only specify alternative methods for parameters without limits and for those parameters without an EPA approved test method in 40 CFR Part 136.

All samples must be analyzed by a laboratory registered or accredited under the provisions of Accreditation of Environmental Laboratories, Chapter 173-50 WAC. The following parameters need not be accredited or registered:

1. Flow.
2. Temperature.
3. Settleable solids.
4. Conductivity, except that conductivity must be accredited if the laboratory must otherwise be registered or accredited.
5. pH, except that pH must be accredited if the laboratory must otherwise be registered or accredited.
6. Turbidity, except that turbidity must be accredited if the laboratory must otherwise be registered or accredited.
7. Parameters which are used solely for internal process control

Documentation of monitoring activities and results must include (if applicable):

1. The date, exact place, and time of sampling.
2. The date analyses were performed.
3. Who performed the analyses.
4. The analytical techniques/methods used (if any).
5. The results of such analyses.

The Permittee must take representative samples and measurements to meet the requirements of this permit (i.e., representative of the volume and nature of the monitored parameters, including representative sampling of any unusual discharge or discharge condition, including spills, upsets, and maintenance-related conditions affecting water quality).

- 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 must amend the plan to include the new information.
 2. The Permittee must monitor a subset of treatments when using, bispyribac-sodium, penoxsulam, flumioxazin, carfentrazone-ethyl for emergent plant treatment.
 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 must post the monitoring plan, any amendments to the plan, and the final annual monitoring data to its website.
- C. Limited Agents must refer to their Limited Agent Contract with WSDA for their monitoring responsibilities.

S7. REPORTING AND RECORDKEEPING REQUIREMENTS

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

A. Annual Treatment/Monitoring Reports

- 1. Annual monitoring reports must be submitted 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 in pounds, acreage treated, monitoring results, and the plant species targeted.
- 3. Limited Agents must refer to their Limited Agent Contract with WSDA for their reporting responsibilities.

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

Compliance with the requirements of this special condition does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failing to comply.

In the event the Permittee is unable to or does not comply with any part of this permit, which may threaten human health or the environment, the Permittee must:

1. Immediately take action to minimize potential pollution or otherwise stop the noncompliance and correct the problem.
2. Immediately notify the appropriate Ecology regional office and the aquatic pesticides permit manager of the failure to comply via the regional spills telephone hotline and the aquatic pesticides permit manager’s phone number below.

Central (CRO) -----	509-575-2490
Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, and Yakima counties	

Eastern (ERO) -----	509-329-3400
Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman counties	

Northwest (NWRO) -----	425-649-7000
Island, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom counties	

Southwest (SWRO) -----	360-407-6300
Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, and Wahkiakum counties	

Aquatic Pesticide Permit Manager -----	360- 407-6600
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3. The Permittee must provide a written report to Ecology within five (5) days of the time that the Permittee becomes aware of any permit non-compliance unless Ecology requests and earlier submission. The report must contain a description of the noncompliance and its cause, the exact date(s), time(s), place(s), and duration(s) of the noncompliance, whether the noncompliance has been corrected and, if not, when the noncompliance will be corrected, and the steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

Upon request of the permittee, Ecology may waive or extend the requirement for a written report on a case-by-case basis, if the immediate notification (S7.D.2) is received by Ecology within 24 hours.

4. The Permittee must submit noncompliance notifications to:

Washington State Department of Ecology
Water Quality Program
Attn: Aquatic Pesticide Permit Manager
PO Box 47696
Olympia, WA 98504-7696

S8. 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 1-800-424-8802 or 1-800-258-5990. 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.

S9. APPENDICES

The attached appendices are incorporated by reference into this permit.

APPENDIX A – DEFINITIONS

APPENDIX B – LEGAL NOTICE FOR SPARTINA TREATMENTS

GENERAL CONDITIONS

G1. SIGNATORY REQUIREMENTS

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

- A. In the case of corporations, by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - 1. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision making functions for the corporation, or
 - 2. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- B. In the case of a partnership, by a general partner.
- C. In the case of sole proprietorship, by the proprietor.
- D. In the case of a municipal, state, or other public facility, by either a principal executive officer or ranking elected official.
- E. All reports required by this permit and other information requested by Ecology must 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 the person described above and is submitted to Ecology at the time of authorization, and
 - 2. The authorization specifies either a named individual or any individual occupying a named position.
- F. Changes to authorization. If an authorization under paragraph E above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to Ecology prior to or together with any reports, information, or applications to be signed by an authorized representative.
- G. 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 inquiry 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 fine and imprisonment for knowing violations.”

G2. RIGHT OF ENTRY AND INSPECTION

Representatives of Ecology must have the right to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting and investigating conditions relating to the pollution or the possible pollution of any waters of the state.

Reasonable times include normal business hours; hours during which production, treatment, or discharge occurs; or times when Ecology suspects a violation requiring immediate inspection.

Representatives of Ecology must be allowed to have access to, and copy at reasonable cost, any records required to be kept under terms and conditions of the permit; to inspect any monitoring equipment or method required in the permit; and to sample any discharge, waste treatment processes, or internal waste streams.

G3. PERMIT ACTIONS

This permit may be modified, revoked and reissued, or terminated either at the request of any interested person (including the Permittee) or upon Ecology’s initiative. However, the permit may only be modified, revoked and reissued, or terminated for the reasons specified in 40 CFR 122.62, 122.64 or WAC 173-220-150 according to the procedures of 40 CFR 124.5.

- A. The following are causes for terminating permit coverage during its term, or for denying a permit renewal application:
1. Violation of any permit term or condition.
 2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts.
 3. A material change in quantity or type of waste disposal.
 4. A determination that the permitted activity endangers human health or the environment or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR part 122.64(3)].

5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit [40 CFR part 122.64(4)].
 6. Nonpayment of fees assessed pursuant to RCW 90.48.465.
 7. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090.
- B. The following are causes for modification but not revocation and reissuance except when the Permittee requests or agrees:
1. A material change in the condition of the waters of the state.
 2. New information not available at the time of permit issuance that would have justified the application of different permit conditions.
 3. Material and substantial alterations or additions to the permitted facility or activities which occurred after this permit issuance.
 4. Promulgation of new or amended standards or regulations having a direct bearing upon permit conditions, or requiring permit revision.
 5. The Permittee has requested a modification based on other rationale meeting the criteria of 40 CFR Part 122.62.
 6. Ecology has determined that good cause exists for modification of a compliance schedule, and the modification will not violate statutory deadlines.
 7. Incorporation of an approved local pre-treatment program into a municipality's permit.
- C. The following are causes for modification or alternatively revocation and reissuance:
1. Cause exists for termination for reasons listed in A1 through A7, of this section, and Ecology determines that modification or revocation and reissuance is appropriate.
 2. Ecology has received notification of a proposed transfer of the permit. A permit may also be modified to reflect a transfer after the effective date of an automatic transfer but will not be revoked and reissued after the effective date of the transfer except upon the request of the new Permittee.

G4. REPORTING PLANNED CHANGES, CAUSE FOR MODIFICATION

The Permittee must, as soon as possible, but no later than sixty (60) days prior to the proposed changes, give notice to Ecology of planned physical alterations or additions to the permitted facility, production increases, or process modification which will result in:

- A. The permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b).
- B. A significant change in the nature or an increase in quantity of pollutants discharged.
- C. A significant change in the Permittee's sludge use or disposal practices.

Following such notice, and the submittal of a new application or supplement to the existing application, along with required engineering plans and reports, this permit may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

G5. PLAN REVIEW REQUIRED

Prior to constructing or modifying any wastewater control facilities, an engineering report and detailed plans and specifications must be submitted to Ecology for approval in accordance with WAC 173-240. Engineering reports, plans, and specifications must be submitted at least one hundred eighty (180) days prior to the planned start of construction unless a shorter time is approved by Ecology. Facilities must be constructed and operated in accordance with the approved plans.

G6. COMPLIANCE WITH OTHER LAWS AND STATUTES

Nothing in this permit must be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

G7. TRANSFER OF THIS PERMIT

In the event of any change in control or ownership of facilities from which the authorized discharge emanate, the Permittee must notify the succeeding owner or controller of the existence of this permit by letter, a copy of which must be forwarded to Ecology. This permit is automatically transferred to a new owner or operator if:

- A. A written agreement between the old and new owner or operator containing a specific date for transfer of permit responsibility, coverage, and liability is submitted to Ecology;
- B. A copy of the permit is provided to the new owner and;

- C. Ecology does not notify the Permittee of the need to modify the permit.

Unless this permit is automatically transferred according to section A. above, this permit may be transferred only if it is modified to identify the new Permittee and to incorporate such other requirements as determined necessary by Ecology.

G8. REDUCED PRODUCTION FOR COMPLIANCE

The Permittee, in order to maintain compliance with its permit, must control production and/or all discharges upon reduction, loss, failure, or bypass of the treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

G9. REMOVED SUBSTANCES

Collected screenings, grit, solids, sludge, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters must not be resuspended or reintroduced to the final effluent stream for discharge to state waters.

G10. DUTY TO PROVIDE INFORMATION

The Permittee must submit to Ecology, within a reasonable time, all information which Ecology may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee must also submit to Ecology upon request, copies of records required to be kept by this permit.

G11. OTHER REQUIREMENTS OF 40 CFR

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

G12. ADDITIONAL MONITORING

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

G13. PAYMENT OF FEES

The Permittee must submit payment of fees associated with this permit as assessed by Ecology. Ecology may revoke this permit if the permit fees established under WAC 173-224 are not paid.

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 will 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 is a separate and additional violation. Any person who violates the terms and conditions of a waste discharge permit incurs, 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 such violation is a separate and distinct offense, and in case of a continuing violation, every day's continuance is deemed to be a separate and distinct violation.

G15. UPSET

Definition – “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limits because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limits if the requirements of the following paragraph are met. 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 cause(s) of the upset; 2) the permitted facility was being properly operated at the time of the upset; 3) the Permittee submitted notice of the upset as required in condition S9.D; and 4) the Permittee complied with any remedial measures required under S9.D of this permit. In any enforcement proceedings the Permittee seeking to establish the occurrence of an upset has the burden of proof.

G16. PROPERTY RIGHTS

This permit does not convey any property rights of any sort, or any exclusive privilege.

G17. DUTY TO COMPLY

The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

G18. 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.

G19. PENALTIES FOR TAMPERING

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit will, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this Condition, punishment will be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four (4) years, or by both.

G20. COMPLIANCE SCHEDULES

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 fourteen (14) days following each schedule date.

G21. REPORTING ANTICIPATED NON-COMPLIANCE

The Permittee shall give advance notice to Ecology by submission of a new application, or supplement to the existing application, at least 45 days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during non-critical water quality periods and carried out in a manner approved by Ecology.

G22. 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 and coverage under the 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.

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).

Indian Country: Means as defined in 18 USC 1151: “Except as otherwise provided in sections 1154 and 1156 of this title, the term “Indian country”, as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.”

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: 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. See also *Public Access*.

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 2016 State Noxious Weed list.

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 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 - 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 number for reporting concerns about *Spartina* treatments is (360) 407-6600.

Permittee may add other optional project information at its discretion.