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Effective Date: July 1, 2006
Expiration Date: June 30, 2011
Modification Date: July 1, 2008

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTE DISCHARGE PERMIT NO. WA0040975

State of Washington
DEPARTMENT OF ECOLOGY
Olympia, Washington 98504-7775

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

Willapa Bay/Grays Harbor Oyster Growers Association
P.O. Box 3
Ocean Park, WA 98640
And
Farm and Forest Helicopter Service Inc.
P.O. Box 404
Napavine, WA 98565

<u>Facility Location:</u> All of Willapa Bay and Grays Harbor	<u>Receiving Water:</u> Willapa Bay and Grays Harbor
<u>Water Body I.D. No.:</u> Willapa Bay 11-24-01 Grays Harbor 10-22-03	<u>Discharge Location:</u> Area Bounded by : Latitude: 46° 24' N to 47° 00' N Longitude: 123° 51' W to 124° 02' W
<u>Industry Type:</u> Oyster Farming	

is authorized to discharge in accordance with the special and general conditions which follow.

Garin Schriever, P.E.
Southwest Region Manager
Water Quality Program
Washington State Department of Ecology

TABLE OF CONTENTS

	<u>Page</u>
SUMMARY OF PERMIT REPORT SUBMITTALS	3
SPECIAL CONDITIONS	
S1. DISCHARGE LIMITATIONS	4
A. Process Wastewater Discharges	
S2. MONITORING REQUIREMENTS	4
A. Monitoring Schedule	
B. Sampling Point Locations	
C. Laboratory Accreditation	
S3. REPORTING AND RECORDKEEPING REQUIREMENTS	6
A. Discharge Monitoring Report	
C. Records Retention	
D. Recording of Results	
E. Additional Monitoring by the Permittee's	
F. Noncompliance Notification	
S4. ANNUAL OPERATIONS PLAN	8
S5. COMPLIANCE SCHEDULE.....	10
S6. SPILL PLAN	11
S7. BEST MANAGEMENT PRACTICES	11
GENERAL CONDITIONS	13
G1. SIGNATORY REQUIREMENTS.....	13
G2. RIGHT OF ENTRY	14
G3. PERMIT ACTIONS	14
G4. REPORTING A CAUSE FOR MODIFICATION	14
G5. PLAN REVIEW REQUIRED	14
G6. COMPLIANCE WITH OTHER LAWS AND STATUTES	15
G7. DUTY TO REAPPLY	15
G8. TRANSFER OF THIS PERMIT	15
G9. REDUCED PRODUCTION FOR COMPLIANCE	15
G10. REMOVED SUBSTANCES	15
G11. ADDITIONAL MONITORING	15
G12. PAYMENT OF FEES.....	15
G13. PENALTIES FOR VIOLATING PERMIT CONDITIONS.....	16
G14. UPSET	16
G15. REPORTING ANTICIPATED NON-COMPLIANCE.....	16
G16. REPORTING OTHER INFORMATION.....	16
G17. COMPLIANCE SCHEDULES	17

SUMMARY OF PERMIT REPORT SUBMITTALS

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

Permit Section	Submittal	Frequency	First Submittal Date
S4.D.	Annual Report	Annually	December 1, 2006
S3.E.	Noncompliance Notification	As necessary	
S4.A.	Annual Operations Plan	Annually	June 1, 2007*
S5.A.	Integrated Pest Management Plan	1/permit cycle	February 1, 2007
S6.	Spill Plan Update	1/permit cycle	June 1, 2007
G1.	Notice of Change in Authorization	As necessary	
G4.	Permit Application for Substantive Changes to the Discharge	As necessary	
G5.	Engineering Report for Construction or Modification Activities	As necessary	
G7.	Application for Permit Renewal	1/permit cycle	December 31, 2010
G8.	Notice of Permit Transfer	As necessary	
G16.	Reporting Anticipated Non-compliance	As necessary	
*Willapa Bay Oyster Growers Association has submitted their Annual Operations Plan for year 2006, carbaryl application.			

SPECIAL CONDITIONS

S1. DISCHARGE LIMITATIONS

A. Process Wastewater Discharges

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit. The discharge of carbaryl authorized by this permit is limited to the waters of the state of Washington. Nothing in this permit shall be construed as authorizing carbaryl discharge to the Shoalwater Indian Reservation.

Beginning on the effective date of this permit and lasting through the expiration date, the Permittee's are authorized to apply carbaryl at the times and locations approved in the Annual Operations Plan specified in S4. and in conformance with practices set forth in S7.

This permit authorizes an annual short-term modification in accordance with Washington Administrative Code (WAC) 173-201A-110(1) for activities conducted under an approved Annual Operations Plan as specified in S4. The short-term modification suspends the acute effluent limit for 48-hours from the time of application and the chronic effluent limit for 30 days from the time of application. As described in S4, application of carbaryl must take place between July 1 and October 31, each year.

Practices as set forth in S4. and S7. are currently accepted as AKART for the control of burrowing shrimp in Willapa Bay and Grays Harbor.

This waste discharge permit authorizes the establishment of a Sediment Impact Zone in accordance with WAC 173-204-415, for a period one year from the issuance of this permit, with subsequent one year duration SIZs to be authorized in accordance with the annual operation plan. The Sediment Impact Zone(s) will be those areas proposed for application of carbaryl, and the surrounding buffer zones (200 feet for aerial application and 50 feet for hand application). Monitoring, as discussed elsewhere in this permit, shall be reviewed for determining compliance with the above cited regulations.

	EFFLUENT LIMITATIONS	
Parameter	Acute Limit*	Chronic Limit *
Carbaryl, µg/L	3.0	0.06

* The short term modification suspends the acute limit for 48-hours from the time of application and the chronic limit for 30 days from the time of application.

S2. MONITORING REQUIREMENTS

Monitoring required by this section is intended to determine residual concentrations of carbaryl in the area of application. Specific sampling locations and corresponding background locations shall be associated with a general area of treatment. Treatment locations vary each year and will be identified in the Annual Operations Plan required in S4. The Annual Operations Plan will

specify the areas and timing of treatment, and identify appropriate corresponding sampling locations from those listed in S2.B. below.

A. Monitoring Schedule

Category	Parameter	Units	Sample Point	Minimum Sampling Frequency	Sample Type
Spray Site Acute Compliance	Carbaryl	µg/L	Application Areas	First Falling Tide, at least 48-hours after Application	Grab (Surface Water)
Spray Site	1-Naphthol	µg/L	Application Area	First Falling Tide, at least 48-hours after Application	Grab (Surface Water)
Chronic Compliance	Carbaryl	µg/L	See S2.B. below	First Falling Tide, 30 Days after Application	Grab (Surface Water)
30 Day Concentration	1-Naphthol	µg/L	See S2.B. below	First Falling Tide, 30 Days after Application	Grab (Surface Water)
Off-Site Downwind	Carbaryl	µg/L	Within 1 foot of Buffer Zone	At time of application	Airborne deposition

If a large area cannot be sprayed in one day the 30 day waiting period for chronic sampling will begin on the last day sprayed. Proximate spray sites may be represented by a single sampling location. Specific sampling locations will be identified in the Annual Operations Plan (S4). It is the duty of the Permittee's to assure that all spraying be done in a manner that will not compromise the validity of sampling events.

Surface water samples, shall be taken from as close to the sediment/water interface as possible.

The sample from immediately outside the buffer area will be a single sample, taken within one foot of the buffer zone downwind of the application area. The sampling methodology will be included in the annual operations plan to be approved by the Department.

B. Sampling Point Locations

Specific sampling dates (between July 1,- October 31), locations and corresponding background locations, will be dependent on the spray schedule and will be identified in the Annual Operations Plan (S4) each year. The number of sampling locations are required to be sufficient to meet compliance requirements. The annual operations plan is required to be submitted by June 1, each year.

C. Laboratory Accreditation

All monitoring data required by the Department shall be prepared by a laboratory registered or accredited under the provisions of, *Accreditation of Environmental Laboratories*, Chapter 173-50 WAC. Flow, temperature, settleable solids, conductivity, pH, and internal process control parameters are exempt from this requirement. Conductivity and pH shall be accredited if the laboratory must otherwise be registered or accredited. The Department exempts crops, soils, and hazardous waste data from this requirement pending accreditation of laboratories for analysis of these media.

S3. REPORTING AND RECORDKEEPING REQUIREMENTS

The Permittee's shall monitor and report in accordance with the following conditions: the falsification of information submitted to the Department shall constitute a violation of the terms and conditions of this permit.

A. Discharge Monitoring Report

The first monitoring period begins on the effective date of the permit. Monitoring results shall be submitted in the Annual Report. Monitoring data obtained during each monitoring period shall be summarized, reported, and submitted on a Discharge Monitoring Report form provided, or otherwise approved, by the Department. A separate form for each application site will be submitted by the Permittee's in the Annual Report for the Willapa Bay/Grays Harbor Oyster Growers Association.

B. Annual Report

The Annual Report requirements described throughout this permit include: S3.A., S4.D. and S7.I. The Annual Report shall be received no later than December 1, following the application season. The report(s) shall be sent to:

Industrial Unit Permit Coordinator
Department of Ecology
Southwest Regional Office
P.O. Box 47775
Olympia, Washington 98504-7775.

All laboratory reports providing data for organic and metal parameters shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number, analytical method/ number, method detection limit (MDL), laboratory practical quantitation limit (PQL), reporting units, and concentration detected.

An annual Discharge Monitoring Report must be submitted whether or not the pesticide was applied. If there was no application during a given year, submit the report as required with the words "no discharge" entered in place of the monitoring results.

C. Records Retention

The Permittee's shall retain records of all monitoring information for a minimum of three years. Such information shall include all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee's or when requested by the Director.

D. Recording of Results

For each measurement or sample taken, the Permittee's shall record the following information: (1) the date, exact place, method, and time of sampling or measurement; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) the individual who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

E. Additional Monitoring by the Permittee's

If the Permittee's monitor any pollutant more frequently than required by this permit using test procedures specified by Condition S2. of this permit, then the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Permittee's Annual Report.

F. Noncompliance Notification

In the event the Permittee's are unable to comply with any of the terms and conditions of this permit due to any cause, the Permittee's shall:

1. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the noncompliance, correct the problem and, if applicable, repeat sampling and analysis of any noncompliance immediately and submit the results to the Department within 30 days after becoming aware of the violation.
2. Immediately notify the Department of the failure to comply.
3. Submit a detailed written report to the Department within 30 days, unless requested earlier by the Department. The report shall contain a description of the noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Compliance with these requirements does not relieve the Permittee's from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

S4. ANNUAL OPERATIONS PLAN

The Permittee's shall submit an Annual Operations Plan for applying carbaryl to selected shrimp infested oyster beds. The annual short-term modification authorized by this permit is conditioned on approval of the Annual Operations Plan. No carbaryl placement will take place until the Annual Operations Plan is approved by the Department.

Unless otherwise authorized by the Department, the area to be sprayed under this permit shall be limited to 600 acres in Willapa Bay and 200 acres in Grays Harbor.

No oyster bed may be treated with carbaryl if it contains oysters which are within one year of harvest.

No application shall take place outside the areas identified in the Annual Operations Plan and approved. Application of carbaryl shall take place between July 1 and October 31.

A. Annual Operations Plan Requirements:

On or before June 1st of the application year, the Permittee's shall complete and submit to the Department an Annual Operations Plan to treat oyster beds. At a minimum, the Annual Operations Plan shall consist of the following:

1. The treatment schedule showing the days, times, number of acres, oyster bed designations, and burrow counts for each oyster bed; no oyster bed may be treated with carbaryl unless the mean burrow count exceeds ten burrows per square meter (ten burrows/m²).

If the mean burrow count is less than ten burrows/m², a bed may be treated with carbaryl provided a report is filed with the Department at least one week before the application date with the following information:

- a. A substrate condition evaluation,
 - b. Species of burrowing shrimp present, and
 - c. The anticipated use of the bed following treatment.
2. The name and telephone number of the person(s) responsible for the management of the spray program.
 3. Locations of all posting signs at public and privately-owned access points (as identified in C. 2 below).
 4. Written permission from the landowners of the proposed carbaryl application sites for access by Department employees as described in General Condition G2.
 5. A list of proposed sampling sites and a sampling schedule based on the anticipated spray locations. The sampling plan must meet the requirements described in Condition S.2.

6. Identification of measuring device to be used for monitoring wind velocity during applications.

B. Experimental Use

Experimental Use application shall be included in the Annual Operations Plan. Carbaryl and other pesticides may be applied in the context of a research and development effort under the jurisdiction of the Washington State Department of Agriculture through the issuance of a Washington State Experimental Use Permit (WSEUP). For projects conducted under a Washington State Experimental Use Permit only, coverage under this general permit is not required. The Permittee shall obtain coverage under this permit for projects conducted under a Federal and State Experimental Use Permit.

C. Notification

1. Public notification, by Willapa Bay/Grays Harbor Oyster Growers Association, including property owners within 200 feet of the treatment site, will be required at least 24-hours, but not more than ten days, prior to the commencement of initial carbaryl application to oyster beds. Notification shall continue at a frequency of no less than once per month until carbaryl application is completed for the season. At a minimum, notification shall include announcements in *Aberdeen World*, *Harbor Herald*, and *Chinook Observer* area newspapers, and by signs at all reasonable points of public access to the proposed treatment areas. Electronic media public service announcements, handbills, mailings to adjacent landowners, or any combination of the above may be used in addition to the newspaper and sign notification. Adjacent property owners within 200 feet of the treatment site shall be notified directly either in person, by telephone, or by mail. All notifications shall include the name of the pesticide to be used, where it is to be applied, any public health and livestock restrictions, and the name and phone number of the Willapa/Grays Harbor Oyster Growers Association designated contact person.
2. Notification by signs includes, but is not limited to, posting beaches and docks. All public access areas within one-quarter ($\frac{1}{4}$) mile and all public boat launches within a one-and-a-half ($1\frac{1}{2}$) mile radius of any bed scheduled for treatment shall be posted. Public access areas shall be posted at 500 foot intervals at those access areas more than 500 feet wide. Signs shall be a minimum of $8\frac{1}{2}$ x 11 inches in size, and be made of a durable weather-resistant, white material. Lettering shall be in bold black type with the word "WARNING" or "CAUTION" at least one-inch high, and all other words at least one-fourth ($\frac{1}{4}$) of an inch high. Signs shall be posted so they are secure from the normal effects of weather and water currents, but cause no damage to private or public property.
3. At least 24-hours prior to the first application of carbaryl in Willapa Bay/Grays Harbor, the applicant shall notify the Department. The contact for this notification is the Non-Point Water Quality Specialist for the Western Olympic Basin (360-407-0246). Notification shall include the following information, at a minimum:
 - a. A treatment schedule showing the days, times, number of acres, oyster bed designations, and burrow counts for each oyster bed.

- b. The name and telephone number of the person responsible for the management of the program; and
 - c. Locations of all posting signs at public access points.
4. A Willapa/Grays Harbor Oyster Growers Association representative shall notify the Department Non-Point Water Quality Specialist for the Western Olympic Basin the exact time and location of the helicopter landing site for the purpose of monitoring or chemical handling and mixing, or the location of the bed to be sprayed via backpack or mechanical means. If treatment is on a weekend or Monday, notification shall be 5:00 p.m. the Friday prior to the application date. If the Department Non-Point Water Quality Specialist does not arrive at the site at the time specified, then chemical handling and mixing are authorized to proceed without the Department Non-Point Water Quality Specialist on-site verification
 5. At least 24-hours prior to the first application of carbaryl in Willapa Bay/Grays Harbor, the applicant shall notify the U.S. Fish and Wildlife Service, Environmental Contaminant Division at (360) 753-9440, the Willapa National Wildlife Refuge at (360) 484-3482 and the Grays Harbor National Wildlife Refuge at (360) 753-9467, and the research scientist in charge at the Washington State Department of Fish & Wildlife at (360) 665-4166. Notification shall include the treatment schedule showing the days, times, number of acres, oyster bed designations, and burrow counts for each oyster bed; and the name and telephone number of the person responsible for the management of the program.
 6. At least 24-hours prior to the application of carbaryl in Willapa Bay/Grays Harbor, the applicant or the applicant's representative shall notify interested parties of the scheduled treatment. This can be done by telephone, e-mail, or fax. The applicant shall obtain the list of names (interested parties) to be notified from the Department Non-Point Water Quality Specialist for the Western Olympic Basin.

D. Reporting Requirements

On or before December 1, of the treatment year of carbaryl application, a summary of the results of the treatment will be submitted in the Annual Report. All items shown in Section S4.A, 1, 2, 3, and 6, shall be included in the report, together with any pertinent observations. The report shall include a copy of the newspaper notices, locations of all signs, hand bills, mailings to landowners, or e-mail notice to interested parties, Global Positioning System (GPS) coordinates or similar level accuracy mapping for all parcels sprayed either aurally or by hand. A copy of this report shall also be provided to the Washington State Department of Fish & Wildlife at the Willapa Bay Office.

S5. COMPLIANCE SCHEDULE

This permit requires that AKART for the control of burrowing shrimp in Willapa Bay and Grays Harbor be re-evaluated and updated through submittal of the following reports:

A. Integrated Pest Management (IPM) Plan

On or before **February 1, 2007**, the Permittee's shall submit to the Department an IPM plan to control burrowing shrimp populations.

B. Sediment Impact Zone (SIZ) Authorization

This permit authorizes the establishment of a sediment impact zone, in accordance with WAC 173-204-415 and WAC 173-204-420. The applicant shall compile and provide a review of existing data and scientific publications to determine spatial heterogeneity to determine the representativeness of the 2006 report "The Sediment Impact Zone Related to Carbaryl – based Management of Burrowing Shrimp in Willapa Bay – Grays Harbor", and provide recommendations for follow-up field work and data review to assess the range of benthic habitat and communities potentially impacted by the application of carbaryl to control burrowing shrimp.

S6. SPILL PLAN

Prior to the application of carbaryl, the Permittee shall submit to the Department a spill control plan for the prevention, containment, and control of spills or unplanned releases. The Permittee shall review the plan at least annually and update the Spill Plan as needed. Changes to the plan shall be sent to the Department. The plan and any supplements shall be followed throughout the term of the permit. The updated spill control plan shall include the following:

- A description of the reporting system which will be used to alert responsible managers and legal authorities in the event of a spill.
- A description of preventive measures and facilities (including an overall facility plot showing drainage patterns) which prevent, contain, or treat spills of these materials.
- A list of all oil and chemicals used, processed, or stored at the facility which may be spilled into state waters.
- For the purpose of meeting this requirement, plans and manuals, or portions thereof, required by 33 CFR 154, 40 CFR 109, 40 CFR 110, 40 CFR Part 112, the Federal Oil Pollution Act of 1990, Chapter 173-181, and contingency plans required by Chapter 173-303 WAC may be submitted.

S7. BEST MANAGEMENT PRACTICES

The Permittee's shall follow the best management practices defined below on all days of application.

- A. The applicator shall comply with all pesticide label instructions. When application conditions in this permit issued by the Department differ from those on pesticide labels, the more stringent of the two requirements must be complied with. However, no condition in this permit or any amended Order shall reduce the requirements on the pesticide label. All applicable federal, state and local laws and ordinances shall be followed.

- B. The corners of each oyster bed scheduled for treatment shall be marked so the bed is visible from an altitude of at least 500 feet.
- C. A Willapa Bay/Grays Harbor Oyster Growers Association representative shall be present at the treatment site at the time of treatment.
- D. Only one application of carbaryl per treated oyster bed is allowed.
- E. Carbaryl application rate shall not exceed eight pounds active ingredient per acre.
- F. Carbaryl shall be applied to only those beds which are uncovered by the outgoing tide.
- G. No carbaryl shall be applied within the following distances of sloughs, channels, or oysters which are within one year of harvest:
 - 1. Application by helicopter - 200 feet
 - 2. Application by hand sprayer - 50 feet
- H. No aerial application of carbaryl shall occur if the wind velocity at the treatment site exceeds ten miles per hour.
- I. During all pesticide applications, the oyster bed owner or representative, the applicator, or persons applying pesticides shall possess, on-site, a copy of the permit.
 - 1. The applicator shall keep complete application records on the approved spray report form provided in Appendix "E" of the Fact Sheet. This form will also fulfill the Department of Agriculture's reporting requirements.
 - 2. These application records shall be completed and available to the Department the same day the pesticide was applied and be mailed or hand delivered to the Department immediately upon request.
 - 3. A copy of each application record shall be provided to the Department Non-Point Water Quality Specialist for the Western Olympic Basin with the Annual Report.

GENERAL CONDITIONS

G1. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Department shall be signed and certified.

- A. All permit applications shall be signed by either a responsible corporate officer of at least the level of vice president of a corporation, president of an association, 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 the Department 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 the Department.
 - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the 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 the overall operation of the facility, a new authorization satisfying the requirements of paragraph B.2 above must be submitted to the Department 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 shall 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

Representatives of the Department shall 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 shall include normal business hours; hours during which production, treatment, or discharge occurs; or times when the Department suspects a violation requiring immediate inspection. Representatives of the Department shall 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 the discharge, waste treatment processes, or internal waste streams.

G3. PERMIT ACTIONS

This permit shall be subject to modification, suspension, or termination, in whole or in part by the Department for any of the following causes:

- A. Violation of any permit term or condition;
- B. Obtaining a permit by misrepresentation or failure to disclose all relevant facts;
- C. A material change in quantity or type of waste disposal;
- D. A material change in the condition of the waters of the state; or
- E. Nonpayment of fees assessed pursuant to Revised Code of Washington (RCW) 90.48.465.

The Department may also modify this permit, including the schedule of compliance or other conditions, if it determines good and valid cause exists, including promulgation or revisions of regulations or new information.

G4. REPORTING A CAUSE FOR MODIFICATION

The Permittee shall submit a new application, or a supplement to the previous application, along with required engineering plans and reports, whenever a new or increased discharge or change in the nature of the discharge is anticipated which is not specifically authorized by this permit. This application shall be submitted at least 60 days prior to any proposed changes. Submission of this application does not relieve the Permittee of the duty to comply with the existing permit until it is modified or reissued.

G5. PLAN REVIEW REQUIRED

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

G6. COMPLIANCE WITH OTHER LAWS AND STATUTES

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

G7. DUTY TO REAPPLY

The Permittee's shall apply for permit renewal no later than **December 31, 2010**.

G8. TRANSFER OF THIS PERMIT

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 the Department;
- B. A copy of the permit is provided to the new owner and;
- C. The Department 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 the Department.

G9. REDUCED PRODUCTION FOR COMPLIANCE

The Permittee's, in order to maintain compliance with its permit, shall 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.

G10. REMOVED SUBSTANCES

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

G11. ADDITIONAL MONITORING

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

G12. PAYMENT OF FEES

The Permittee's shall submit payment of fees associated with this permit as assessed by the Department.

G13. PENALTIES FOR VIOLATING PERMIT CONDITIONS

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to \$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 shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to \$10,000 for every such violation. Each and every such violation shall be 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.

G14. UPSET

Definition – “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee’s. 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 limitations if the requirements of the following paragraph are met.

A Permittee’s who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that: 1) an upset occurred and that the Permittee’s can identify the cause(s) of the upset; 2) the permitted facility was being properly operated at the time of the upset; 3) the Permittees submitted notice of the upset as required in condition S3.F.

In any enforcement proceeding the Permittee’s seeking to establish the occurrence of an upset has the burden of proof.

G15. REPORTING ANTICIPATED NON-COMPLIANCE

The Permittee’s shall give advance notice to the Department by submission of a new application or supplement thereto at least 180 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 the Department.

G16. REPORTING OTHER INFORMATION

Where the Permittee’s becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

G17. 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 shall be submitted no later than 14 days following each schedule date.