

PERMIT NO: WAG – 991000

Coverage Date:

Issuance Date: December __, 2007

Effective Date: January __, 2008

Expiration Date: December __, 2012

Comment [SoW1]: Changed dates to reflect new timeline

-- DRAFT --

IRRIGATION SYSTEM AQUATIC WEED CONTROL
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
AND STATE WASTE DISCHARGE GENERAL PERMIT

State of Washington
Department of Ecology
Olympia, Washington 98504-7600

Draft Date:

August 15, 2007

Comment [SoW2]: Changed cover page

Items in [red brackets] will need to be updated when permit is issued. Significant changes are in blue or other colored text.

In compliance with the provisions of
Chapter 90.48 Revised Code of Washington as amended

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

David C. Peeler, Manager
Water Quality Program
Department of Ecology

TABLE OF CONTENTS

TABLE OF CONTENTS	2
SUMMARY OF PERMIT REPORT SUBMITTALS.....	3
PERMIT COVERAGE	4
C1. ACTIVITIES COVERED	4
C2. GEOGRAPHIC AREA COVERED	4
C3. OBTAINING COVERAGE.....	4
C4. POINT OF COMPLIANCE.....	4
SPECIAL CONDITIONS	5
S1. DISCHARGE LIMITATIONS	5
S2. MONITORING REQUIREMENTS.....	8
S3. REPORTING AND RECORDKEEPING REQUIREMENTS	10
S4. OPERATION AND MAINTENANCE.....	12
S5. INTEGRATED VEGETATION MANAGEMENT PLAN.....	13
S6. SPILL PLAN FOR PESTICIDE STORAGE AND APPLICATION SITES.....	13
PUBLIC NOTICE PROCEDURES	13
P1. LEGAL NOTICE PROCEDURES.....	13
P2. POSTING PROCEDURES.....	14
P3. VARIATIONS TO THIS PROCEDURE.....	14
GENERAL CONDITIONS.....	15

SUMMARY OF PERMIT REPORT SUBMITTALS

Comment [SoW3]: Added (optional) requirements from text.

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

<i>Permit Section</i>	<i>Submittal</i>	<i>Frequency</i>	<i>Submittal Date</i>
C4.C	Point of Compliance (if applicable)	1/permit cycle	March 1, 2008 (notification) November 1, 2008 (plan) November 1, 2011 (reports)
S1.B9	Copper Compliance Schedule (if applicable)	1/permit cycle	March 1, 2008 (notification) March 1, 2009 (plan)
S2.C	Time Travel Study	Annually	February 1
S3.A1	Discharge Monitoring Reports (DMR)	Monthly (April - October)	April DMR due May 30 May DMR due June 30 June DMR due July 30 July DMR due August 30 August DMR due September 30 September DMR due October 30 October DMR due November 30
S3.A2	Discharge Monitoring Reports for Fluridone and Imazapyr	Monthly (October - March)	October DMR due November 30 November DMR due December 30 December DMR due January 30 January DMR due March 2 February DMR due March 30 March DMR due April 30
S3.B	Annual Treatment Reports	Annually	February 1
S3.C	Notification of Treatments	As necessary	24 hours prior to any treatment
S3.G	Noncompliance Notification	As necessary	See S3.G for details
S5	Integrated Aquatic Vegetation Management	1/permit cycle	November 1, 2008
S6	Spill Plan	1/permit cycle	November 1, 2008
S6	Update to Spill Plan	1/permit cycle	February 1, 2010
P1.B	Legal Notice Submittal	Annually	February 1
G8.	Application for Permit Renewal	1/permit cycle	180 days prior to expiration of permit
G9 and G19	Additional Information	As necessary	See G9 and G19
G13	Upset Notice	As necessary	See G13
G18	Reporting Planned Changes	As necessary	As soon as possible
G20	Reporting Anticipated Non-Compliance	As necessary	45 days prior to discharges

PERMIT COVERAGE

C1. Activities Covered

Every irrigation district or irrigation water supplier who applies pesticides to water in irrigation canals or ditches that flows to a point of compliance (see C4) must apply for and obtain coverage under this general permit (unless those activities are covered under an individual NPDES permit). **This general permit also covers certain applications of pesticides to ditch banks (see S1.C)**

Comment [SoW4]: Throughout the permit, replaced the term "herbicide" with "pesticide".

C2. Geographic Area Covered

This general permit covers application of pesticides in irrigation supply systems anywhere in the state of Washington. The specific areas where aquatic weed control activities are covered are described and limited by each application for coverage.

Comment [SoW5]: Added this sentence, see S1.C for details.

Comment [SoW6]: Comments included:

- Upper extent of salmonid distribution is not protective of all aquatic resources but we believe it to be a workable compromise
- WDFW maps are difficult to use and are vague
- WDFW maps haven't been ground-truthed
- The fish must be a sustaining population in order to be used for a POC
- WDFW has a different mission than Ecology
- The current POC works fine
- If POC changes, drains and wasteways can't be used to dilute treated water
- Moving POC requires new water quality monitoring stations (\$)
- Moving POC requires new travel time studies
- There is no credible data – there does not appear to be any reliable, defensible data
- Ecology defines salmonid distribution with terms such as "presumed, potential, probably and historic"
- What about current sampling that is above anadromous fish locations?
- POC need to be permanent for the duration of the permit.
- There is little usable habitat / spawning habitat
- Ecology has vastly exceeded the intent of the CWA

C3. Obtaining Coverage

For new irrigation supply systems or those seeking coverage after *[90 days after issuance]*:

- A. Notify the Department of Ecology (Department) by submission of a completed application form requesting coverage under this permit at least 90 days prior to the planned activity that will result in the discharge to waters of the state.
- B. Publish twice in a local newspaper of general circulation a notice that an application for coverage has been made pursuant to Section 173-226-130(5) WAC. This notice shall specify the last day of the 30 day public comment period.
- C. At the end of the 30 day comment period, the Department will accept the application and review all comments prior to making a determination on whether to grant permit coverage.
- D. The Department intends to notify applicants by mail of their status concerning coverage under this permit. If the applicant does not receive notification of the coverage decision from the Department, coverage under this permit will commence on the 31st day following the Department's acceptance of an application form.

{Response: To avoid the need to use maps, all points of compliance based on document presence of salmonids are specifically listed in this condition. Only those locations with raw data that documents salmonid use are included. This is not limited to spawning populations. Presumed, potential, probable, and historic information was not used. See fact sheet for more details. Added report option in "C"}

C4. Point of Compliance

- A. The point of compliance is where water treated with pesticides enters surface water courses that existed prior to the alteration of water drainage and creation of reclamation and irrigation projects.

Comment [SoW7]: Based on comments, added specific waters where we have documented presence of salmonids. Deleted references to on-line databases. This line based on language in 2002 permit. Added report option in "C"

- B. In addition, for Amon Wasteway, Snipes Creek Wasteway, Sulphur Creek Wasteway, and Crab Creek, the point of compliance must be at or above the following locations:
1. Amon Wasteway where it exits the golf course at Gage Road (Latitude 46.22715, Longitude -119.26024),
 2. Snipes Creek Wasteway at the Benton 29.32 Lateral (near McCreadie Road (Latitude 46.25630, Longitude -119.67406),
 3. Sulphur Creek Wasteway at Sheller Road (Latitude 46.33167, Longitude -119.98021), and
 4. Crab Creek at Red Rock Coulee (Latitude 46.84693, Longitude -119.58673).
- C. A permittee may choose to use the points of compliance specified in C4.A and not the points of compliance specified in C4.B, if it does all of the following:
1. Notifies the department by March 1, 2008 of its intent to do so.
 2. Submits a plan by November 1, 2008 detailing how it will meet the requirements of C3 and C4 (below).
 3. Submits to the department by November 1, 2011 a report detailing the fishery and other aquatic life uses in the waterbody identified in C4.B. The report must be a comprehensive analysis of the uses of the waterbody during the entire irrigation season, must be performed by appropriately trained personnel, and must use currently accepted practices.
 4. Submits to the department by November 1, 2011 an economic and engineering analysis detailing what changes to the current pesticide application practices or irrigation practices would have to occur in order to meet the permit requirements at the points of compliance identified in C4.B.
- D. The permittee may move its point(s) of compliance upstream of the point described in C4.A through C4.B for easier access for monitoring or for other reasons. The permittee must notify the Department before moving a point of compliance.

Comment [SoW8]: Added language 7/07 allowing use of "natural waters" POC if permittee submits a biological evaluation of the water and a economic/engineering analysis of the changes needed to meet anadromous fish POC.

SPECIAL CONDITIONS

S1. Discharge Limitations

From *[effective date of permit]*, 2008 to *[expiration date of permit]*, 2012, the Permittee is authorized to discharge the aquatic pesticides designated in this permit into irrigation conveyance systems subject to following label directions, applicable state and federal laws and rules regarding pesticides, and complying with the conditions of this permit.

A. Temporary Water Quality Modification

The application of pesticides to control aquatic weeds in the irrigation conveyance system is allowed under this permit so long as the conditions of this permit are satisfied and the exceedance of water quality criteria is limited to the minimum time necessary to accomplish the desired aquatic pest control objectives. This temporary water quality modification is allowed only in the confines of the irrigation conveyance system above the point of compliance.

B. Residual Wastes at the Point of Compliance

1. All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit.
2. The discharge of any of the following pollutants at a level in excess of that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit.
3. No adjuvants shall be used by the Permittee (except as allowed under S1.C2).
4. Wherever treated water from a pesticide application eventually flows to a point of compliance, the following limitations must be met by the permittee:

Parameter	Maximum instantaneous concentration
Copper (dissolved)	25 ug/l
Acrolein	21 ug/l
Xylene	5.1 mg/l
Sodium Carbonate Peroxyhydrate	No Limitation
Fluridone	See S1.B6
Imazapyr	See S1.B7
The maximum daily limitation is defined as the highest allowable discharge at any time.	

5. For treatments with sodium carbonate peroxyhydrate, no monitoring (S2) is required. Reporting and record keeping (S3) are required for all treatments.
6. Fluridone treatments are only allowed from October 1 through March 31. Fluridone must only be applied to slow-moving or quiescent waters. All fluridone treatments must be conducted in a manner that will prevent treated water from reaching a point of compliance for at least eight weeks after application. No monitoring (S2) is required. Reporting and record keeping (S3) are required for all treatments.
7. Imazapyr treatments are only allowed from October 1 through March 31. Imazapyr must only be applied when water levels are extremely low (less

Comment [SoW9]: New phrase added, see S1.C2.

Comment [SoW10]: Imazapyr was added to this section based on comments.

Comment [SoW11]: Comments include:
 •we support the instantaneous measure that will better allow us to assess the level of protection
 •instantaneous limits will not allow adequate treatment
 •if going instantaneous, then we need to have a mixing zone (in the receiving water)
 •continue the use of a 24-hour average as this gives a de facto mixing zone
 •(Ecology response: we included a compliance schedule. We still need to meet water quality standards. Even a mixing zone (<2.5% of the river flow plus other requirements in WAC 173-201A) would not allow a 25 ug/L 24-hour average)

Comment [SoW12]: Comment: Where did the copper numbers come from? (Ecology response: the copper numbers come from the water quality standards, WAC 173-201A. See the fact sheet for more information)

Comment [SoW13]: Added imazapyr at request of commenter.

Comment [SoW14]: Minor wording changes

Comment [SoW15]: Changed fluridone requirements to make it more workable.

than six inches). All imazapyr treatments must be conducted in a manner that will prevent treated water from reaching a point of compliance for at least two weeks after application. No monitoring (S2) is required. Reporting and record keeping (S3) are required for all treatments.

Comment [SoW16]: Added Imazapyr at request of commenter.

8. Pesticides for which a risk assessment and/or SEPA have not been completed may be applied under a Washington State Department of Agriculture Experimental Use Permit (EUP). No monitoring (S2) is required (other than the monitoring specified in the EUP). Reporting and record keeping (S3) is still required.
9. A permittee may choose to implement a compliance schedule rather than meeting the copper limitation in S1.B4. If a permittee chooses to use a compliance schedule, it does not need to meet the requirements in S1.B4 for copper until March 1, 2012, but it must meet the following interim requirements:

Requirement	Deadline
Notify the department of its intent to use the compliance schedule.	March 1, 2008
Wherever treated water from a pesticide application eventually flows to a point of compliance, the following limitations for dissolved copper must be met by the permittee:	
<ul style="list-style-type: none"> • a maximum 24-hour rolling average of 25 ug/l and a maximum instantaneous limit of 100 ug/l. 	March 1, 2008
<ul style="list-style-type: none"> • a maximum 24-hour rolling average of 25 ug/l and a maximum instantaneous limit of 75 ug/l. 	March 1, 2010
<ul style="list-style-type: none"> • a maximum 24-hour rolling average of 25 ug/l and a maximum instantaneous limit of 50 ug/l. 	March 1, 2011
<ul style="list-style-type: none"> • a maximum instantaneous limit of 25 ug/l. 	March 1, 2012
Submit a plan by March 1, 2009 to the department explaining how the permittee will meet the copper limit in S1.B4 by March 1, 2012.	March 1, 2009

C. Ditch Bank Applications

Comment [SoW17]: Added this section to cover activities that are covered under other permits. This keeps irrigation districts from having to apply for multiple aquatic pesticide general permits.

This general permit also covers pesticide applications for emergent nuisance plant and noxious weed control that discharge indirectly into irrigation conveyance systems. It only covers such pesticide applications above the point of compliance.

1. The following active ingredients are allowed for use when controlling emergent vegetation:

- a. 2,4-D: 2,4-Dichlorophenoxyacetic acid, dimethylamine salt,
 - b. Glyphosate: N-(phosphonomethyl)glycine, isopropylamine salt,
 - c. Imazapyr: 2-(4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-3-pyridinecarboxylic acid, and
 - d. Triclopyr TEA: Triethylamine salt of 3,5,6-trichloro-2-pyridyloxyacetic acid.
2. Adjuvants are allowed only when controlling emergent vegetation. Only adjuvants that have been approved by the Department may be used. A list of approved adjuvants can be found at:
http://www.ecy.wa.gov/programs/wq/pesticides/final_pesticide_permits/registeredd_pesticides.html.
 3. Any pesticide used must also be registered for aquatic use in Washington State by the Washington State Department of Agriculture.

S2. Monitoring Requirements

- A. The permittee shall monitor all pesticide applications where the treated water eventually flows to points of compliance. The pesticide(s) applied shall be monitored according to the sampling schedule, Table 1

Table 1: Sampling Schedule

<i>Monitoring Site</i>	<i>Parameter</i>	<i>Method Detection Limit</i>	<i>Minimum Sampling Frequency</i>	<i>Sample Type</i>
Point(s) of Compliance	Flow	Not Applicable	Concurrent with all other samples	Measurement
Point(s) of Compliance	Copper, total dissolved	5 ug/l	2 times per treatment*	Grab
Point(s) of Compliance	Hardness (only when monitoring copper)	Not Applicable	Concurrently with copper sampling	Grab
Point(s) of Compliance	Acrolein	2 ug/l	2 times per treatment*	Grab
Point(s) of Compliance	Xylene	1 mg/l	2 times per treatment*	Grab
None	Sodium Carbonate Peroxyhydrate	Not Applicable	None	None
None	Fluridone	Not Applicable	None	None
None	Imazapyr	Not Applicable	None	None

*Both samples are intended to identify the highest concentration of the pesticide. Both samples must be taken during the peak pesticide concentration at the compliance point. Samples must be spaced at least two hours apart or spaced at 10% of the travel time of the pesticide, whichever is less.

B. Special Situations

1. The minimum sampling frequency may be reduced if specified conditions are met and written approval is granted by the Department. A permittee may provide information to the Department that indicates assurance that the travel time from location and circumstances of flow rate for a pesticide's potential maximum concentration at the point of compliance is known and reliable. If approved by the Department, the minimum sampling frequency may be reduced to no less than one sample at each of two different treatments for each treatment site every year. This sample must be taken during the peak concentration of the pesticide.

Comment [SoW18]: Slight wording changes for clarity; added last sentence for clarity

2. If treated water (any amount) is held and then released days or weeks later, monitoring according to Table 1 is required until the Department approves reduced monitoring (S2.B1). To gain approval of the Department, the permittee must document that any flows to the point of compliance are prevented for a sufficient length of time to allow the pesticide to degrade to levels below the discharge limitations in S1.B. The documentation can include any combination of information, calculations, and/or monitoring data. If approved by the Department, monitoring must still occur at least twice annually as per the reduced monitoring allowance in S2.B1.

Comment [SoW19]: Made minor changes for clarity

3. If all treated water is consumed and the end of the canal/spillway is dry, then no monitoring is required. All pesticide applications covered by this special situation must be included on the monthly discharge monitoring report (DMR). The DMR must also provide evidence (such as photos or flow records) to show that the canal was dry long enough so that all the treated water was consumed. This special situation only applies if no treated water (or water mixed with treated water) is held. If any water is simply held, this special situation does not apply.

Comment [SoW20]: Deleted redundant sentence

Comment [SoW21]: Comment recommended to add "seasonal samples", but this is not a term used in the permit. "No monitoring" is clear enough to mean no monitoring.

4. In some situations, treated water is prevented from reaching some points of compliance by closing off canals/spillways for the treated water. (For example, a gate to a spillway is closed while the primary canal is treated and all the treated water passes the closed gate.) Full monitoring (S2.A) at the points of compliance corresponding to the closed-off canals/spillways is required when the canals/spillways are reopened unless:

Comment [SoW22]: Reworked and reworded paragraph based on comments.

Comment [SoW23]: Added this special situation to address ongoing practices and per comments received at the permit advisory group. See fact sheet for supporting information.

a. The closed-off canal/spillway is kept closed for double the travel time it takes the treated water to reach the point where the canal/spillway is closed off. In this situation, no monitoring is needed. For this special situation only, the travel time is defined as the time from the end of the pesticide application to the end of the peak concentration at the point where the canal/spillway is closed off. (For example, if a treatment ends at 1:00 and the peak of the treated water is expected to pass a closed gate four hours later at 5:00, the gate must be kept closed for another four hours until 9:00 for this special situation to apply). OR

b. The department approves reduced monitoring as per S2.B1.

5. For permittees using the compliance schedule for copper in S1.B9, the 24-hour rolling average shall be determined by averaging all samples taken over a 24-hour period. The time between each sample must be evenly spaced.

Comment [SoW24]: Added to explain monitoring requirements related to 24-hour average allowed under the compliance schedule.

6. Monitoring is not required for pesticide applications covered by S1.C.

Comment [SoW25]: See S1.C

C. Time Travel Study

All monitoring conducted by this permit must be supported by a time travel study that addresses each application site. The flow conditions during the time travel study must mimic the conditions during pesticide application. The time travel studies must be less than five years old. The results of the most recent time travel studies shall be submitted to the Department by February 1 of each year.

Comment [SoW26]: Re-worked paragraph for clarity

D. Sampling and Analytical Procedures

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameters.

Sampling and analytical methods used to meet the monitoring requirements specified in this permit shall conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40 CFR Part 136* or to the latest revision of *Standard Methods for the Examination of Water and Wastewater* (APHA), unless otherwise specified in this permit or approved in writing by the Department. Acrolein testing may follow the procedures of Solid Waste Method 8260.

S3. Reporting and Recordkeeping Requirements

The Permittee shall record 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.

Comment [SoW27]: Changed "monitor" to "record"

Reports shall be sent to the Aquatic Pesticides Team, Water Quality Program, Department of Ecology, PO Box 47600, Olympia, Washington 98504-7600.

A. Discharge Monitoring Reports

1. Monitoring results shall be submitted monthly for the treatment months of April through October whether or not the facility was applying pesticides or discharging treated water. Monitoring data shall be summarized, reported, and submitted on a Discharge Monitoring Report (DMR) form provided or otherwise approved by the Department. DMR forms for each month shall be postmarked or received by the Department no later than the

Comment [SoW28]: Minor edits

30th day of the month following the completed reporting period. If there were no aquatic pesticide treatments during a month, submit the form as required with the words "no applications" entered in place of the monitoring results.

Comment [SoW29]: Reworded sentence for clarity

2. If the permittee is applying fluridone or imazapyr, DMRs shall be submitted monthly for October through March. DMR forms for each month shall be received by the Department within 30 days after the end of the month. If there were no aquatic pesticide treatments during a month, submit the form as required with the words "no applications" entered in place of the monitoring results. For each month with a fluridone or imazapyr treatment, the DMR shall state whether or not any fluridone or imazapyr treated water reach a point of compliance.
3. See S2.B for more information on DMRs for special situations.

Comment [SoW30]: Added imazapyr, and reworded paragraph for clarity

B. Annual Treatment Reports

The Permittee shall keep complete application records on a report form. A summary of pesticide application records shall be submitted to the Department no later than February 1 of each year. This report must include all applications of the pesticides listed in S1.B and S1.C.

Comment [SoW31]: The report includes the ditch bank and in-water pesticides.

C. Notification of Treatments

The Permittee shall telephone, fax, or submit electronically a list of planned treatments to the Department's appropriate regional office at least 24 hours prior to any treatment. This list shall contain the names and locations of the treatment sites. The Department does not need to be notified of treatments covered under S1.C.

Comment [SoW32]: See S1.C

D. Records Retention

The Permittee shall retain records of all monitoring information for a minimum of five (5) 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 or when requested by the Director.

E. Recording of Results

1. For each sample taken, the Permittee shall record the following information: (1) the date, exact place, method, and time of sampling and (2) the individual who performed the sampling.

2. All laboratory reports providing data for organic and metal parameters shall include the following information: (1) sampling date, (2) sample location, (3) date of analysis, (4) parameter name, (5) CAS number, (6) analytical method/ number, (7) method detection limit (MDL), (8) laboratory practical quantification limit (PQL), (9) reporting units, and (10) concentration detected. Acrolein monitoring data shall include the time of sampling, time of analysis, and method of sample transport.

F. Additional Monitoring by the Permittee

If the Permittee monitors any pollutant more frequently than required by this permit using test procedures and sampling locations specified under 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 DMR.

G. Noncompliance Notification

1. In the event the Permittee is unable to comply with any of the terms and conditions of this permit, the Permittee shall:
 - a. Immediately notify the Department within 24 hours of becoming aware that there was a failure to comply.
 - b. Immediately take action to prevent the discharge/pollution or otherwise stop or correct the noncompliance.
 - c. **Submit** a detailed written report to the Department within five (5) days of becoming aware that there was a failure to comply. 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.
2. Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

Comment [SoW33]: Comment: requested change for permittees finding out about non-compliance before laboratory results were in. Added "becoming aware" to make it more clear.

S4. Operation and Maintenance

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

S5. Integrated Vegetation Management Plan

The permittee shall submit a copy of an Integrated Vegetation Management Plan (IVMP) to the Department on or before November 1, 2008 for review and approval. The IVMP shall be implemented after acceptance from the Department.

Comment [SoW34]: Minor editorial changes.

Comment [SoW35]: Changed date to 2008

If treatment to reduce or eliminate pesticide residues is selected as a method to achieve compliance, the Permittee shall submit two copies of approvable plans and specifications in accordance with WAC 173-240 to the Department for review and approval.

S6. Spill Plan for Pesticide Storage and Application Sites

By November 1, 2008, the Permittee shall submit to the Department a spill control plan for the prevention, containment, and control of spills or unplanned discharges from the application, storage and transportation of pesticides. The Permittee shall review and update the Spill Plan, as needed, and submit an update by February 1, 2010. Changes to the plan shall be sent to the Department. The plan and any supplements shall be followed throughout the term of the permit.

Comment [SoW36]: Changed date to 2008

The spill control plan shall include the following:

- A. A description of the process that will be used to alert responsible managers and legal authorities in the event of a spill.
- B. A description of preventive measures and facilities (including an overall facility plot showing drainage patterns) which prevent, contain, or treat spills of these materials.
- C. A list of all pesticides used, processed, or stored at the facility that may be spilled into state waters.

Comment [SoW37]: Minor wording changes for clarity

PUBLIC NOTICE PROCEDURES

P1. Legal Notice Procedures

- A. The Permittee shall publish, prior to each treatment season, a notice in the legal notices section of a local newspaper of general circulation (or nearest regional paper if a local paper does not exist). These legal notices shall be published prior to the first pesticide application of the season. This notice shall include:
 1. The purpose of the pesticide application;
 2. A general description of the canals to be treated;
 3. The pesticide(s) to be used and their active ingredient(s);
 4. The approximate date(s) of treatment;
 5. The approximate location(s) to be treated;

6. Any water use restrictions or precautions;
 7. The posting procedure; and
 8. The names and phone numbers of the Permittee and the appropriate Department regional office.
- B. A dated copy of the published notice or an affidavit from the newspaper shall be mailed or faxed to the Aquatic Pesticides Team, Water Quality Program, Department of Ecology, PO Box 47600, Olympia, Washington 98504-7600. This form must be submitted no later than February 1 of the following year, and be mailed or hand delivered to the Department immediately upon request.
- C. In addition, notice can also be provided by general newsletters, special notices enclosed in the annual assessments and individual letters.

Comment [SoW38]: Changed the requirement so it is mailed to the Aquatic Pesticides Team, just like other reports in the permit. Also made modifications to the paragraph for clarity.

P2. Posting Procedures

- A. The Permittee shall post signs at all irrigation canal and drainage ditch accesses within one mile of the point of application for acrolein or xylene that are normally available to the public (such as public road crossings of canals or drainage ditches). The Permittee shall post and maintain all signs prior to the each application. The Permittee shall use good faith and reasonable effort to ensure that posted signs remain in place throughout the treatment. Signs should be printed in both English and Spanish.
- B. The signs shall include but not be limited to the following information:
1. Name and telephone number of the irrigation district;
 2. Access sites are not to be trespassed upon; and
 3. Water treatments using {the pesticide} to control aquatic plants may occur during the irrigation season.

Comment [SoW39]: Made changes to this paragraph based on comments.

Comment [SoW40]: Added sentence for both English and Spanish

- C. When posting areas for pesticides applied under S1.C, place signs within 25 feet of the canal facing away from the water at any public access area within one-half mile of the treatment site. Signs shall be posted in English and Spanish.

Comment [SoW41]: Posting for emergent vegetation. See S1.C

P3. Variations to this Procedure

The Permittee shall obtain advance written approval from the Department before making variations to the posting and notification procedures listed in this Permit.

GENERAL CONDITIONS

G1. DISCHARGE VIOLATIONS

All discharges and activities authorized by this general permit shall be consistent with the terms and conditions of this general permit. Any discharge of any pollutant more frequent than or at a level in excess of that identified and authorized by the general permit shall constitute a violation of the terms and conditions of this permit.

G2. SIGNATORY REQUIREMENTS

- A. All permit applications shall bear a certification of correctness to be signed:
1. In the case of corporations, by a responsible corporate officer of at least the level of vice president of a corporation;
 2. In the case of a partnership, by a general partner of a partnership;
 3. In the case of sole proprietorship, by the proprietor; or
 4. In the case of a municipal, state, or other public facility, by either a principal executive officer or ranking elected official.
- 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.
- C. Changes to authorization. If an authorization under paragraph G2.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 G2.B.2 above shall 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.”

G3. RIGHT OF INSPECTION AND ENTRY

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

- A. To enter upon the premises where a discharge is located or where any records shall be kept under the terms and conditions of this permit.
- B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.
- C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

G4. GENERAL PERMIT MODIFICATION AND REVOCATION

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

- A. When a change which occurs in the technology or practices for control or abatement of pollutants applicable to the category of dischargers covered under this permit;
- B. When effluent limitation guidelines or standards are promulgated pursuant to the CWA or Chapter 90.48 RCW, for the category of dischargers covered under this permit;
- C. When a water quality management plan containing requirements applicable to the category of dischargers covered under this permit is approved; or
- D. When information is obtained which indicates that cumulative effects on the environment from dischargers covered under this permit are unacceptable.

G5. REVOCATION OF COVERAGE UNDER THE PERMIT

Pursuant with Chapter 43.21B RCW and Chapter 173-226 WAC, the Director may terminate coverage for any discharger under this permit for cause. Cases where coverage may be terminated include, but are not limited to, the following:

- A. Violation of any term or condition of this permit;
- B. Obtaining coverage under this permit by misrepresentation or failure to disclose fully all relevant facts;

- C. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;
- D. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090;
- E. A determination that the permitted activity endangers human health or the environment, or contributes to water quality standards violations;
- F. Nonpayment of permit fees or penalties assessed pursuant to RCW 90.48.465 and Chapter 173-224 WAC;
- G. Failure of the Permittee to satisfy the public notice requirements of WAC 173-226-130(5), when applicable.

The Director may require any discharger under this permit to apply for and obtain coverage under an individual permit or another more specific general permit. Permittees who have their coverage revoked for cause according to WAC 173-226-240 may request temporary coverage under this permit during the time an individual permit is being developed, provided the request is made within ninety (90) days from the time of revocation and is submitted along with a complete individual permit application form.

G6. REPORTING A CAUSE FOR MODIFICATION

The Permittee shall submit a new application, or a supplement to the previous application, whenever a material change to the activity or in the quantity or type of discharge is anticipated which is not specifically authorized by this permit. This application shall be submitted at least sixty (60) days prior to any proposed changes. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not relieve the Permittee of the duty to comply with the existing permit until it is modified or reissued.

G7. COMPLIANCE WITH OTHER LAWS AND STATUTES

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

G8. DUTY TO REAPPLY

The Permittee shall apply for permit renewal at least 180 days prior to the specified expiration date of this permit.

G9. DUTY TO PROVIDE INFORMATION

The Permittee shall 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 shall also submit to Ecology upon request, copies of records required to be kept by this permit [40 CFR 122.41(h)].

G10. OTHER REQUIREMENTS OF 40 CFR

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

G11. ADDITIONAL MONITORING

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

G12. 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 ten thousand dollars (\$10,000) and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars (\$10,000) for every such violation. Each and every 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.

G13. 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. 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 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 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 S3.G; and 4) the Permittee complied with any remedial measures required under this permit.

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

G14. PROPERTY RIGHTS

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

G15. DUTY TO COMPLY

The Permittee shall 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.

G16. TOXIC POLLUTANTS

The Permittee shall 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.

G17. 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 shall, 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 shall be a fine of not more than \$20,000 per day of violation, or imprisonment of not more than four (4) years, or both.

G18. REPORTING PLANNED CHANGES

The Permittee shall, as soon as possible, give notice to Ecology of planned physical alterations, modifications or additions to the permitted activity, which will result in

- A. A significant change in the nature or an increase in quantity of pollutants discharged **or**
- B. A new point of compliance.

Comment [SoW42]: Received comment addressing a decrease in quantity of pollutants. Decreases in pollutants are encouraged, and notification to Ecology is not needed.

Following such notice, permit coverage 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.

G19. REPORTING OTHER INFORMATION

Where the Permittee 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 Ecology, it shall promptly submit such facts or information.

G20. REPORTING ANTICIPATED NON-COMPLIANCE

The Permittee shall give advance notice to Ecology by submission of a new application or supplement thereto at least forty-five (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.

G21. REQUESTS TO BE EXCLUDED FROM COVERAGE UNDER THE PERMIT

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

G22. APPEALS

- A. The terms and conditions of this general permit, as they apply to the appropriate class of dischargers, are subject to appeal by any person within 30 days of issuance of this general permit, in accordance with Chapter 43.21B RCW, and Chapter 173-226 WAC.
- B. The terms and conditions of this general permit, as they apply to an individual discharger, are appealable in accordance with Chapter 43.21B RCW within 30 days of the effective date of coverage of that discharger. Consideration of an appeal of general permit coverage of an individual discharger is limited to the general permit's applicability or nonapplicability to that individual discharger.
- C. The appeal of general permit coverage of an individual discharger does not affect any other dischargers covered under this general permit. If the terms and conditions of this general permit are found to be inapplicable to any individual discharger(s), the matter shall be remanded to Ecology for consideration of issuance of an individual permit or permits.

G23. SEVERABILITY

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