

PERMIT NO: WA0039047

Issuance Date: June 23, 2004
Effective Date: July 23, 2004
Expiration Date: July 23, 2009

**INVASIVE MOTH CONTROL
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WASTE DISCHARGE PERMIT**

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

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

**Washington State Department of Agriculture
1111 Washington Street SE
PO Box 42560
Olympia, WA 98504-2560**

is 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

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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
S3.A	Pre-treatment Report	For each treatment area	30 days prior to treatment
S3.B	Monitoring Report for each treatment area	Annually	February 1
S3.F	Noncompliance Notification	As necessary	
S4.A.	Integrated Pest Management Plan (Marine emergents only)	Once	March 1, 2005
S4.A	Integrated Pest Management Plan Update	As needed	March 1, 2006
G15.	Notice of Change in Authorization	As necessary	
G8.	Notice of Permit Transfer	As necessary	
G15.	Notice of Change in Authorization	As necessary	
G18.	Application for Permit Renewal	1/permit cycle	December 15, 2006

PERMIT COVERAGE

C1. ACTIVITIES COVERED

This permit authorizes discharges of insecticides into surface waters of the state of Washington that are consistent with the terms and conditions of this permit for the purpose of invasive moth control.

C2. GEOGRAPHIC AREA COVERED

This permit covers applications of insecticides for invasive moth control to waters in the state of Washington. The specific areas where invasive moth control activities are covered are described by the pre-treatment report submitted for permission to spray or treat. Additional aquatic areas where invasive moths are found and require control may be treated and shall be reported to the Department of Ecology (Ecology).

SPECIAL CONDITIONS

S1. DISCHARGE LIMITATIONS

A. Waste Discharges

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit.

Insecticide applications under this permit shall be for the control of invasive moths on vegetation within and overhanging aquatic environments. Control measures must follow the Best Management Practices as provided in S5 to minimize impacts to non-target organisms to the extent possible without compromising control objectives.

Beginning on the effective date of this permit and lasting through the expiration date, the permittee is authorized to discharge the insecticides and associated adjuvants which are listed in this section into surface waters of the state subject to complying with Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and pesticide label and in consideration of integrated pest management options. The permittee shall follow label directions and applicable state and federal laws and rules regarding pesticides.

The discharge of any of the following pollutants more frequently than, or at a level in excess of, that authorized by this permit shall constitute a violation of the terms and conditions of this permit. Only the formulations of insecticides and adjuvants that have been approved by Ecology and reviewed through the state of Washington State Environmental Policy Act (SEPA) register shall be allowed. The insecticides meeting this requirement are:

- *Bacillus thuringiensis* var. *kurstaki* based pesticides

Adjuvants that may be used for invasive moth control shall include any latex-based adjuvants and other registered surfactants as they are approved by Ecology and reviewed through the SEPA process.

Other insecticides may be considered for use after the pesticide use is approved by EPA FIFRA and the SEPA process is completed. The use of additional insecticides is also constrained by label requirements.

Other insecticides may be approved for use on a limited basis in the context of a research and development effort under the coverage of this permit and the jurisdiction of WSDA through the issuance of a Washington State Experimental Use Permit. All other conditions of this permit apply as to appropriate monitoring and public notification procedures.

B. Temporary Water Quality Modification

The application of insecticides allowed by this permit to control invasive moths are allowed so long as the conditions of this permit are satisfied and the transitory water quality impact is limited to the vicinity of the insecticide application and to the minimum time necessary to accomplish the desired invasive moth control objectives.

The application of insecticides authorized by this permit shall not cause long term harm to the environment.

This temporary water quality modification is allowed throughout the permit term, but its effect shall be temporary in a specific location, although locations where it is in effect may be widespread throughout the state anywhere invasive moths are subject to control and eradication.

C. Restrictions for Waters Used for Livestock Watering and Irrigation

When an EPA label has restrictions and/or precautions for livestock watering and irrigation use, the applicator must notify those who withdraw surface water as their sole source of water for such use within a four hundred- (400) foot radius of the area to be treated. This statement must identify the insecticide(s) being used, the date(s) of expected treatment, and all water use restrictions and precautions. The area cannot be treated until people who withdraw water have been notified and alternative water supply is available and provided if requested by the affected water user(s).

D. Listed and Endangered Plants or Animals

Plants or animals that are listed as rare or endangered shall not be negatively impacted by treatment of invasive moths. The Washington State Department of Natural Resources shall be consulted for rare or endangered plants and the Washington State Department of Fish and Wildlife shall be consulted for fish and wildlife prior to insecticide application when the waterbody to be treated is listed as containing rare or endangered species of plant or protected wildlife species.

S2. MINIMUM MONITORING AND REPORTING REQUIREMENTS

A. Monitoring Requirements

The permittee must monitor all pesticide application activities allowed by this permit. Minimum monitoring must include the following items or parameters.

1. Information required relating to spraying

Item or Parameter	Minimum Frequency	Type of Sample
Date and start/stop times for application	Each day when spraying occurs	Record
Total acres sprayed	Each day when spraying occurs	Record
Wind speed	Each day when spraying occurs	Record
Location of application	Each day when spraying occurs	Record
Name of applicator	Each day when spraying occurs	Record

2. Monitoring required for material sprayed

Item or Parameter	Minimum Frequency	Type of Sample
Volume of pesticide and adjuvant applied	Each day of application	Measurement
Volume of tank mix	Each day of application	Estimate

3. Public notification information

Prior to the initial planned application date, the permittee must submit a copy of the letter used to notify residents of the planned spray applications, a list of residents that received the letter, and a copy of the newspaper notification of the planned spray applications to Ecology.

4. One sampling event must be conducted per treatment season. When treatments are not conducted, no sampling is required. One grab sample of water must be tested for

concentrations pesticide active ingredient before and immediately after the application (including indirect applications) to waters. The sampling event must be specified and planned in the Pre-treatment Report required under S3A. This monitoring is required to determine impacts on the receiving environment.

B. Reporting Requirements

Monitoring results must be reported on approved forms. The reporting period is annual. Reports must be submitted to the Department of Ecology office by the first day of February, the year following treatment and contain the information required by Section S2.A.

Additional monitoring and reporting may be required to meet other needs.

S3. REPORTING AND RECORDKEEPING REQUIREMENTS

The permittee shall monitor and report in accordance with the following conditions. The falsification of information submitted to Ecology shall constitute a violation of the terms and conditions of this permit.

A. Pre-treatment Reports

The permittee shall submit to Ecology a report for each treatment area containing a map specific to treatment area, EPA labels of products proposed for use, and estimates of amounts to be used for each product. Pre-treatment reports will be submitted no less than 30 days prior to the estimated date of treatment.

B. Annual Treatment Reports

The permittee shall keep complete application records on a report form. A summary of insecticide application records shall be submitted to Ecology no later than February 1 of each year.

C. Records Retention

The permittee shall retain records of all monitoring information for a minimum of five (5) years. Such information shall include 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.

D. Noncompliance Notification

In the event the permittee is unable to comply with any of the terms and conditions of this permit due to any cause, the permittee shall:

1. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the noncompliance, and correct the problem.
2. Immediately notify the Department of Ecology of the failure to comply.

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.

S4. INTEGRATED PEST MANAGEMENT PLAN

The permittee shall submit a copy to Ecology of its Integrated Pest Management (IPM) Plan for invasive moths no later than March 1, 2005. The IPM Plan shall be implemented in all invasive moth control activities subsequently conducted under this permit. The permittee shall consult with Ecology prior to finalization of the IPM Plan, adjust the IPM Plan in accordance with directions from Ecology, and resubmit the plan according to the direction of Ecology no later than six months after written notification of a need for adjustment from the Ecology, whichever occurs latest.

The permittee shall update the IPM Plan after the 2005 treatment season, if necessary, and submit a copy of the updated IPM plan on or before March 1, 2006.

S5. BEST MANAGEMENT PRACTICES

The applicator shall comply with all pesticide label instructions. When application conditions in this permit issued by Ecology 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. All applications to waters within forested areas of the state of Washington shall be made in accordance with provisions in RCW 79.09.060(8), as amended.

Treatment Requirements:

1. Mixing and application of the insecticide will be done only by an appropriately licensed applicator and will be done only under the supervision of a WSDA treatment site monitor. Spill control kits will be on site and readily available during all applications.
2. A period of three days between treatments is required prior to re-treating the previously treated area
3. The insecticide will be applied according to label directions and the project will commence at the appropriate stage of leaf and/or larval development.

4. WSDA will consult with WA State Department of Fish and Wildlife and WA State Department of Natural Resources with regard to threatened, endangered, and candidate species on a site specific basis. When such species are found within a proposed treatment area, WSDA will further consult with responsible agencies.
5. Application over surface waters not associated with vegetation will be avoided. Hydraulic apparatus pressures will be limited to that necessary to obtain thorough coverage to the tops of the tallest trees within the treatment area.
6. Broadcast applications of insecticides shall not be made when the wind speed at the application site exceeds ten miles per hour. Wind speed shall be monitored and recorded periodically during the application of insecticide. A wind meter capable of detecting winds in excess of ten miles an hour shall be employed.
7. Residents in the affected eradication area will be notified about the proposed treatments and given the opportunity to be placed on a notification list. Recommendations concerning health and welfare issues will be included in public outreach efforts.
8. The applicator shall not cause recreational water use restrictions (i.e., restrictions on swimming or fish consumption) to occur during Memorial Day weekend, July 4 holiday, or Labor Day weekend.

S6. PUBLIC NOTICE PROCEDURES

A. RESIDENTIAL AND BUSINESS NOTICE PROCEDURES

Every residential and business occupant within or abutting a proposed treatment area will receive a mailing explaining the project and providing agency contact information.

B. LEGAL NOTICE PROCEDURES

The permittee shall publish 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) and/or in the State Register for the insecticide application in each management area during the pending treatments.

These legal notices shall be published at a frequency no less than once prior to the application season. This notice shall include:

- The month (s) of treatment,
- The area to be treated,
- Information on how locations of possible insecticide application sites can be obtained.
- The chemicals to be used, and

- The names and phone numbers of the WSDA permit coordinator or contact, information on invasive species, and Ecology's twenty-four (24) hour emergency number.

C. POSTING PROCEDURES:

1. Post signs no more than one week prior to the first application.
 - a. If no portion of the treatment site contains a publicly accessible area, signs shall be posted at normal entry points and/or gates into the treatment site.
 - b. If a portion of the treatment area contains a publicly accessible area, then place signs within 25 feet of the shoreline facing both egress and entrance of any boat launch on the waterbody that is within 1/2 mile of any treatment site. Boat launches also include sites commonly used as put-ins and take-outs for small, non-trailerred watercraft. Check the Washington State Parks and Recreation Commission publication *Public Boating Facilities in Washington State*, 2nd edition, 1988, to identify public accesses. Reference copies of this publication are available through the Washington State Library, King County Library, Gonzaga University Library, and Washington State University Library.
2. The applicator(s) shall use good faith and reasonable effort to ensure that posted signs are secured and remain in place.
3. 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.
4. The applicator is responsible for removal of all signs at the end of the treatment season. Biodegradable sign material may be used so that removal is not necessary.

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

GENERAL CONDITIONS

G1. DISCHARGE VIOLATIONS

The permittee shall be responsible at all times for continuous compliance with the terms and conditions of this permit. The permittee shall be responsible for compliance with any order, directive, or penalty issued by Ecology.

G2. PROPER OPERATION AND MAINTENANCE

The permittee shall at all times properly operate and maintain any systems of control to achieve compliance with the terms and conditions of the permit. Where design criteria have been established, the permittee shall not allow flows or waste loadings to exceed approved design criteria or approved revisions thereto.

G3. RIGHT OF 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, at reasonable times:

- A. To enter upon the premises in which a discharge is located or in which any records are required to be kept under the terms and conditions of this permit;
- B. To have access to and to copy at reasonable costs, any records required to be kept under terms and conditions of the permit;
- C. To inspect at reasonable times any monitoring equipment or method of monitoring required in this permit; and/or
- D. To sample any discharge of pollutants.

G4. NOTIFICATION OF CHANGE IN COVERED ACTIVITIES

The permittee shall submit a new Application for Coverage to Ecology when treatment activities violate the terms and conditions of this permit.

G5. REVOCATION OF COVERAGE

Pursuant to Chapter 43.21B RCW and Chapter 173-226 WAC, the director may require the discharger authorized by this permit to apply for and obtain coverage under another permit. Cases where revocation of coverage may be required include, but are not limited to the following:

- A. Violation of any term or condition of this 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 significantly 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.

Permittees who have their coverage revoked for cause according to WAC 173-226-240 may request temporary coverage under this permit during the time another permit is being developed, provided the request is made within 90 days from the time of revocation and is submitted along with a complete permit application form.

G6. PERMIT MODIFICATION OR REVOCATION

Permits may be modified, or revoked and reissued, in accordance with the provisions of Chapter 43.21B RCW and Chapter 173-226 WAC. Grounds for modification or revocation and reissuance include, but are not limited to, the following:

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

G7. REPORTING A CAUSE FOR REVOCATION OF COVERAGE

A permittee who knows or has reason to believe that any activity has occurred or will occur that would constitute cause for revocation under condition G6 or 40 CFR 122.62 shall report such information to Ecology so that a decision can be made on whether action to revoke coverage under this permit will be required.

Ecology may then require submission of a new Application for Coverage. Submission of a new application does not relieve the permittee of the duty to comply with all the terms and conditions of the existing permit until the new application for coverage has been approved.

G8. TOXIC POLLUTANTS

If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the Clean Water Act for a toxic pollutant and that standard or prohibition is more stringent than any limitation upon such pollutant in this permit, Ecology shall institute proceedings to modify or revoke and reissue this permit to conform to the new toxic effluent standard or prohibition.

G9. OTHER REQUIREMENTS OF TITLE 40 CODE OF FEDERAL REGULATIONS

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

G10. COMPLIANCE WITH OTHER LAWS AND STATUTES

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

G11. ADDITIONAL MONITORING REQUIREMENTS

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

G12. REMOVED SUBSTANCES

Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or pollution control of wastewaters shall not be re-suspended or reintroduced to the final effluent stream for discharge to state waters. Such removed substances shall be lawfully disposed in an appropriate manner and shall comply with Chapter 173-303 WAC and Chapter 173-304 WAC.

G13. USE OF ACCREDITED LABORATORIES

When accreditation is available through Ecology's Laboratory Accreditation Program, all monitoring data, except for flow, temperature, settleable solids, total residual chlorine, conductivity, pH, and internal process control parameters, shall be prepared by a laboratory registered or accredited under the provisions of, Accreditation of Environmental Laboratories, Chapter 173-50 WAC. Conductivity and pH shall be accredited if the laboratory must otherwise be registered or accredited. Soils and hazardous waste data are exempted from this requirement pending accreditation of laboratories for the analysis of these media by Ecology.

G14. DUTY TO REAPPLY

The permittee shall reapply for coverage under this permit at least one hundred and eighty (180) days prior to the specified expiration date of this permit. An expired permit continues in force and effect until a new permit is issued or until Ecology cancels it.

G15. ENFORCEMENT

Any violation of the terms and conditions of this permit, the state Water Pollution Control Act, and the federal Clean Water Act, will be subject to the enforcement sanctions, direct and indirect, as provided for in WAC 173-226-250.

G16. 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.

G17. PAYMENT OF FEES

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