

Appendix B – Fact Sheet Addendum

Response to Comments for the

Aquatic Mosquito Control

General Permit

National Pollutant Discharge Elimination System
and
State Waste Discharge General Permit

June 5, 2019

State of Washington
Department of Ecology
Olympia, Washington 98504

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1.0 INTRODUCTION

The Washington State Department of Ecology (Ecology) revised the Aquatic Mosquito Control National Pollutant Discharge Elimination System and State Waste Discharge General Permit (permit). Ecology provided a formal draft of the permit for public comment from March 6, 2019 to April 19, 2019.

This Response to Comments addresses comments received on the formal draft of the permit. It is included as Appendix B to the Fact Sheet that accompanied the formal draft permit.

Thank you to all commenters for the input they provided. Ecology considered all of the comments received prior to finalizing the permit. Ecology received comments from 11 commenters, which included approximately 40 individual comments. Comments that were similar in nature were combined and responded to as one comment. Lengthy comments were summarized. The original comments are included in Appendix C to the Fact Sheet.

The following links are provided for your reference.

- Ecology's webpage for the Aquatic Mosquito Control General Permit
www.ecology.wa.gov/mosquitopermit
- Chapter 90.48 of the Revised Code of Washington – Water Pollution Control
<https://app.leg.wa.gov/rcw/default.aspx?cite=90.48>
- Chapter 173-226 of the Washington Administrative Code – Waste Discharge General Permit Program
<https://apps.leg.wa.gov/wac/default.aspx?cite=173-226>

2.0 COMMENTS AND RESPONSES

Ecology modified the permit based on comments received. Ecology made additional non-substantive changes to wording and punctuation in the permit to improve the clarity and readability. Changes made to the permit in response to a comment are provided with the comment that initiated the change.

Table 1 – Comments Received, lists the name and affiliation of each commenter, the method of submittal, and the section in this document where each comment and response are stated.

Table 1
Comments Received

Commenter	Affiliation	Section of the Response to Comments
Angela Beehler	Benton County Mosquito Control District	2.2-2, 2.3-3, 2.5-5, 2.5-6, 2.7-10, 2.7-13, 2.9-15, 2.9-16, 2.10-18, 2.12-21
Kelly Beehler	Yakima County Mosquito Control District	2.2-2, 2.3-3, 2.7-10, 2.10-18
Ann Belchik-Moser	Grant County Mosquito Control District	2.6-8, 2.7-10, 2.8-14, 2.9-15, 2.10-17, 2.10-18, 2.10-19, 2.11-20
Wayne Clifford	Washington State Department of Health (DOH)	2.5-7, 2.7-9
Joseph Conlon	Citizen	2.7-10
David Ensunsa	Columbia Mosquito Control District	2.2-2, 2.7-10, 2.10-18
Mary Huff	Washington State Department of Fish and Wildlife (WDFW)	2.13-23
Erik Johansen	Washington State Department of Agriculture (WSDA)	2.13-22
Susan Poulosom	Environmental Protection Agency, Region 10 (EPA)*	2.1-1, 2.3-3, 2.4-4, 2.7-10, 2.7-11
George Tuttle	Washington State Department of Agriculture (WSDA)	2.7-12, 2.13-22
Dr. Kurt Vandock	Citizen	2.7-10

* = This comment was submitted after the close of the comment period.

2.1 Applicability

Comment #1: Include a statement in Special Condition S1.C that directs dischargers **not** covered by the permit to seek coverage under the EPA’s Federal Pesticide General Permit. (Special Condition S1.C)

Response: Thank you for your comment. Ecology has the authority to issue permit coverage to those dischargers directed to apply for coverage under the permit. Ecology does **not** have the authority to require dischargers **not** covered by the permit to obtain coverage under another agency’s permit.

The permit states which activities and discharges are covered by the permit, and which activities are **not** covered by the permit. For example, the permit does **not** apply to:

- Federal lands where a federal agency made the decision to apply pesticides, or is the entity applying pesticides.
- “Indian Country” as defined in 18 U.S.C. §1151 and trust or restricted lands except portions of the Puyallup Reservation.

Dischargers located in these areas (those listed in Special Condition S1.C.1 and 2) may need to apply for coverage under the EPA’s Federal Pesticide General Permit. Ecology recommends that dischargers located in these areas determine if they must apply for coverage under the EPA’s Federal Pesticide General Permit. More information is available at the following website and by contacting the EPA.

<https://www.epa.gov/npdes/pesticide-permitting-2016-pgp>

2.2 Submittal of Integrated Pest Management (IPM) Plan

Comment #2: Do **not** require permittees submit their IPM plans with their renewal applications. (Special Condition S2.C.1.d)

Response: Thank you for your comment. Section 090 of Chapter 173-226 WAC enables Ecology to require the submittal of documents required by the permit in order to demonstrate compliance with the permit.

IPM plans are important documents developed and maintained by permittees for the purpose of adequately controlling adult mosquitoes while minimizing indirect discharges to surface Waters of the State. Permittees are required to update the IPM plan as needed to reflect current practices and to make the updated IPM plan available to Ecology and the public.

Permittees are required to include important information in their IPM plan such as contact information, coverage area, procedures for reporting an emergency, action thresholds, and training procedures. Additionally, permittees must describe the mosquito control methods they will use which may include physical controls and/or source reduction, biological mosquito controls, and pesticide-based larval and adult mosquito controls.

Revision Made in Response to Comment #2: To clarify this requirement, Ecology made the following change to Special Condition S2.C.1.d and to Special Condition S8.B.1.a.

Special Condition S2.C.1.d

An ***Integrated Pest Management (IPM) plan***, if the ***applicant*** intends to use adulticides. **The IPM plan must reflect the applicant's plan to control mosquitoes at the time of submittal.** The IPM plan must meet the requirement in Special Condition S5 (Integrated Pest Management Plan).

Special Condition S8.B.1.a

Once this permit becomes effective, existing Permittees must submit a revised application for coverage in accordance with Special Condition S2.F.1. If you apply or decide to apply adulticides, include your IPM plan in your application for coverage. **The IPM plan must reflect your plan to control mosquitoes at the time of submittal.**

2.3 Federal Endangered Species Act

Comment #3: Do **not** require permittees comply with the Federal Endangered Species Act. (draft Special Condition S3.A.1, final Special Condition S4.A.2)

Response: Thank you for your comment. Many Ecology water quality general permits require permittees comply with applicable federal and state regulations. For example, the requirement to comply with the federal Endangered Species Act is included in Ecology's Aquatic Invasive Species Management General Permit, issued in 2016.

Previous versions of the Aquatic Mosquito Control General Permit required permittees comply with non-water quality regulations such as:

- The Washington Pesticide Control Act.
- The Washington Pesticide Application Act.
- The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) label.

Ecology recognizes the importance of these regulations, as well as the federal Endangered Species Act and RCW 77.15.120 and 77.15.130. Compliance with these regulations supports maintaining the beneficial uses of the waterbody.

The permit requires compliance with the regulations listed in Special Condition S4.A. If a permittee violates one of the regulations, then the permittee also violates the permit. By including these regulations, Ecology is **not** assuming authority over the regulations nor is Ecology claiming to enforce on the regulations.

If a permittee violates the regulations listed in Special Condition S4.A, Ecology will work with the permittee and the agency enforcing that regulation to correct the problem and achieve compliance.

Revision Made in Response to Comment #3: After discussing this comment with the EPA, Ecology decided to move this permit requirement to Special Condition S4 and delete the language in Special Condition S3.A.1. Ecology made the following change to Special Condition S3.A and to Special Condition S4.A.

Draft Special Condition S3.A.1

1. Ensure that the application of pesticides listed in Special Condition S4.A (Active Ingredients Authorized for Use):
 - a. ~~Does not~~ cause or contribute to a violation of the Washington State Water Quality Standards (WAC 173-201A) and the human health criteria in the National Toxics Rule (40 Code of Federal Regulation (CFR) 131.45).
 - b. ~~Complies with the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). The application of pesticides must not cause a take, as set out in Section 9 of the Act, to an individual of a species listed as threatened or endangered unless that take is exempted under section 10 of the Act by the U.S. Fish and Wildlife Service or the National Oceanic and Atmospheric Administration. The list of endangered or threatened species is presented in 50 CFR 17.11(h).~~
 - c. ~~Complies with RCW 77.15.120 and 77.15.130 and does not cause a take of a state endangered or protected fish or wildlife, unless take has been authorized by a rule of the commission, a permit issued by the department, or a permit issued pursuant to the federal Endangered Species Act. The list of state endangered wildlife species is presented in WAC 232.12.014. The list of protected (“threatened” and “sensitive”) species is presented in WAC 232-12-011.~~

Final Special Condition S4.A.1

A Authorized Discharges

1. Comply with all requirements on the FIFRA label. The requirements in this permit do **not** reduce the requirements on the FIFRA label. This permit does **not**:
 - a. Convey property rights or any exclusive privileges.
 - b. Authorize injury to private property or invasion of personal rights.
2. Ensure that the application of pesticides listed in Special Condition S4.B (Active Ingredients Authorized for Use):
 - a. Complies with the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). The application of pesticides must **not** cause a take, as set out in Section 9 of the Act, to an individual of a species listed as **threatened or endangered** unless that take is exempted under section 10 of the Act by the U.S. Fish and Wildlife Service or the National Oceanic and Atmospheric Administration. The list of endangered or threatened species is presented in 50 CFR 17.11(h).
 - b. Complies with RCW 77.15.120 and 77.15.130 and does **not** cause a take of a state endangered or protected fish or wildlife, unless take has been authorized by a rule of the commission, a permit issued by the department, or a permit issued pursuant to the federal Endangered Species Act. The list of state endangered wildlife species is presented in WAC 232.12.014. The list of protected (“threatened” and “sensitive”) species is presented in WAC 232-12-011.

2.4 Impaired Waterbodies

Comment #4: Include the following language in Special Condition S3.C in order to facilitate compliance and enforcement of the impaired waterbodies provision.

“Operators are not eligible for coverage under this permit for any discharges from a pesticide application to waters of the United States if the water is identified as impaired by a substance which either is an active ingredient in that pesticide or is a degradate of such an active ingredient.”

Response: Thank you for your comment. Ecology agrees that the permit language for this requirement needs to be revised.

During the development of the formal draft permit, Ecology searched the 303(d) database, see link included below, for impaired waterbodies. The search showed one waterbody as impaired for malathion. For more information, see Section 5.3 in the Fact Sheet.

(<https://fortress.wa.gov/ecy/approvedwqa/ApprovedSearch.aspx>)

Revision Made in Response to Comment #4: In response to Comment #4, Ecology revised Special Condition S3.C to read:

~~Ensure that the application of pesticides does not cause or contribute to further impairment of Waters of the State for any parameter for which a waterbody is listed as impaired.~~

Do not discharge any adulticide or larvicide to a waterbody where the adulticide or larvicide contains a chemical, or has a chemical degradate, for which the waterbody is listed as impaired (Category 5). The current impaired waterbody list is available at the following link.

(<https://apps.ecology.wa.gov/approvedwqa/ApprovedSearch.aspx>)

2.5 Pesticide Resistance Monitoring

Comment #5: Do **not** require permittees conduct resistance management in order to use the adulticides malathion and naled. (draft Special Condition S4.B.3.b, final Special Condition S4.C.3.b)

Response: Thank you for your comment. Special Condition S4.C.3.b states that permittees are **not** allowed to apply the adulticides malathion and naled in areas of concern—areas where known vulnerable species occur. The requirement does **not** pertain to pesticide resistance management.

Comment #6: Do **not** require permittees conduct resistance management in order to use the adulticide deltamethrin. (draft Special Condition S4.B.3.c)

Response: Thank you for your comment. For Ecology’s response to the requirement addressed by this comment, see Comment #10 (included below).

Comment #7: The Washington State Department of Health (DOH):

- Supports the concept of pesticide resistance monitoring of vector mosquitoes as part of an integrated pest management approach to aquatic mosquito control.
- Recommends resistance monitoring **not** be included as a requirement.
- Recommends that Mosquito Control Districts begin work towards funding that builds capacity for resistance testing as a business practice supporting their integrated pest management plans of operation.
- Recommends that Ecology work jointly with DOH to explore ways to support increasing statewide capacity for resistance monitoring in mosquito vector populations.

Response: Thank you for your comment. Ecology appreciates the analysis conducted by the DOH of the various methods for assessing resistance levels in mosquito populations. Additionally, Ecology supports working jointly with the DOH and permittees to identify ways to support increasing statewide capacity for resistance monitoring.

2.6 Dip Samples

Comment #8: Historically, pretreatment surveillance of mosquito breeding sites indicated a need for treatment with a minimum of one larvae/pupae in every three dip samples. The new language raises this requirement to one larvae/pupae in every dip sample. (draft Special Condition S4.B.2.a.i, final Special Condition S4.C.2.a.i)

Response: Thank you for your comment. This permit requirement is **not** a new requirement, it was also in the 2015 final permit. Ecology revised the requirement to improve readability and to adhere to the Governor's Plain Talk Standards. According to the comment, the proposed requirement differed from the 2015 permit.

- 2019 formal draft permit Special Condition S4.B.2.a.i. Pretreatment surveillance of mosquito breeding sites indicates that at least one larvae/pupae is present in a dip sample. If the area is treated and you find a larvae/pupae, you may continue pre-emptive larvicide treatments without dipping for the remainder of the treatment season.
- 2015 final permit Special Condition S4.B.4.a. Pretreatment surveillance of mosquito breeding sites indicates that at least one larvae/pupae is present in dip sample(s). In the event that the Permittee finds larvae/pupae, and the area is treated, the Permittee may continue pre-emptive larvicide treatments without dipping for the remainder of the treatment season.

The language cited in the comment is included in Appendix C (Special Condition S5 IPM Plan Criteria Examples) as an example for action thresholds for larval counts "(e.g., dip counts – 1 larval in three dips)." It is **not** a requirement.

Revision Made in Response to Comment #8: To improve clarity, Ecology changed the permit language for Special Condition S4.C.2.a.i to read:

Pretreatment **surveillance** of mosquito breeding sites indicates that at least one larvae/pupae is present in a **one or more dip** samples. If the area is treated and you find a larvae/pupae, you may continue pre-emptive larvicide treatments without dipping for the remainder of the treatment season.

2.7 Deltamethrin

Comment #9: The DOH recommends including deltamethrin in the permit.

Response: Thank you for your comment. Ecology appreciates that DOH conducted a toxicological review of deltamethrin and had numerous discussions with Ecology about the proposed active ingredient.

According to the comments provided by the DOH, deltamethrin is less toxic to humans compared to currently permitted organophosphate adulticide products. Additionally, the DOH concluded that deltamethrin appears to be a safer alternative to existing pesticides allowed in the current Aquatic Mosquito Control NPDES permit.

Comment #10: Do **not** require permittees' only apply deltamethrin in response to the development of pesticide resistance within a mosquito population.

Response: Thank you for your comment. Ecology removed the restrictions on the use of deltamethrin to resistance situations.

The formal draft permit proposed a new tool—deltamethrin—that permittees could use to control adult mosquitoes. Additionally, the formal draft permit proposed that permittees determine if a mosquito population had developed resistance to pesticides before applying deltamethrin.

Ecology's intent was for permittees to avoid using deltamethrin in quantities and frequencies in which mosquito populations developed a resistance to pesticides. This restriction would also enable permittees to have at least one tool that had **not** been overused and that could still effectively treat pesticide-resistant mosquito populations.

In their comment, the DOH supports the concept of pesticide resistance monitoring of vector mosquitoes as part of an integrated pest management approach to aquatic mosquito control. The agency reviewed three primary methods for assessing resistance levels in mosquitoes, they determined that there were several limitations for the three methods.

After their review, the DOH recommended that resistance monitoring **not** be included as a requirement in the current amendment to the Aquatic Mosquito Control NPDES permit at this time. For more information, see Comment #7 (included above).

Revision Made in Response to Comment #10: To no longer restrict permittees' use of deltamethrin, Ecology deleted draft Special Condition S4.B.3.c and modified Special Condition S5.B.7.

Special Condition S5.B.7

7. Pesticide resistance monitoring

~~Deltamethrin, malathion (larvicide), and temephos may only be applied in response to the development of pesticide resistance and in accordance with Special Condition S4.B.2.b.ii or S4.B.3.c.~~

Comment #11: The language in subsections i and iii places the decision to determine whether pesticide resistance is occurring in an area on the reporting mosquito control district before allowing for the application of deltamethrin products. However, in contrast, language on page 27 of the Fact Sheet, states that malathion may only be used for the control of mosquito larvae with Ecology approval after consultation between Ecology, the Washington State Department of Health (DOH), and the Washington State Department of Fish and Wildlife (WDFW) in response to a public health emergency or pesticide resistance in a mosquito population. It is unclear whether Ecology is requiring consultation for the use of deltamethrin in response to pesticide resistance in a mosquito population.

Response: Thank you for your comment. The formal draft permit did **not** require a consultation before permittees were allowed to use deltamethrin in response to pesticide resistance in mosquito populations. However, in the final permit, Ecology removed the restrictions on the use of deltamethrin to resistance situations.

The formal draft permit proposed numerous restrictions on permittees' use of pesticides such as malathion and deltamethrin. The formal draft permit also proposed that permittees determine if a mosquito population had developed resistance to pesticides before applying deltamethrin. The permit did **not** propose that permittees consult Ecology before applying deltamethrin.

The formal draft permit proposed that permittees only apply the larvicides malathion and temephos in response to the development of pesticide resistance within a specific larval mosquito population. The permit also proposed that before applying the larvicides malathion and temephos, the permittee must consult the WDFW and that Ecology must approve the proposed treatment.

The purpose for these restrictions is to limit the amount and number of times that malathion may be discharged to Waters of the State. Malathion is a broad-spectrum organophosphate insecticide that is highly toxic to beneficial insects and aquatic organisms. It is an important tool used to protect public health, but it should be used carefully and selectively to avoid unintended impacts to non-target species.

Comment #12: The Washington State Department of Agriculture (WSDA) agrees that reporting requirements regarding the use of deltamethrin in response to the development of pesticide

resistance within a mosquito population are a valuable addition to the permit. Reporting occurrences of pesticide resistance and the steps taken by permittees to control those populations will provide essential information to ecology and other permittees if pesticide resistance were to develop. (draft Special Condition S4.B.3.c)

Response: Thank you for your comment. Ecology agrees that data from permittees concerning pesticide-resistant-mosquito populations would help inform permittees if pesticide resistance were to develop. However, based on the comments received on the formal draft permit, Ecology decided to **not** restrict the use of deltamethrin or to require permittees collect that data before using deltamethrin.

Instead, Ecology included examples of the information that would be helpful for permittees to gather. Ecology also intends to work with the DOH and use this data and collaboration to inform the 2024 permit. For more information, see Comment #7 (included above).

Revision Made in Response to Comment #12: Ecology included an action threshold in Special Condition S5.B.5.c and provided examples of useful information in Special Condition S5.B.7.

Special Condition S5.B.5.c

c. Action thresholds for pesticide-resistant-mosquito population

If you implement a pesticide-resistance-monitoring program, identify thresholds to determine when pesticide-resistant-mosquito-population control is necessary. Describe the thresholds, the surveillance method, and the surveillance values.

Special Condition S5.B.7

7. Pesticide resistance monitoring

If you implement a pesticide-resistance-monitoring program, describe ~~it~~ the methodology used to determine that a mosquito population was resistant to pesticides. Your description may include information such as:

- Evidence that indicated that a mosquito population was resistant to pesticides.
- Steps taken to manage the pesticide-resistant mosquito population.
- Pesticides you applied that effectively/ineffectively managed the pesticide-resistant-mosquito population, the amount applied, the name of the pesticide, and EPA registration number.

Comment #13: Do **not** require permittees document—in their IPM plan and Annual Report—the names and rates of products which were effective or ineffective in managing pesticide-resistant mosquitoes. (draft Special Condition S4.B.3.c.iii)

Response: Thank you for your comment. The permit **no** longer requires that permittees only apply deltamethrin in response to the development of pesticide-resistant mosquito populations. Therefore, Ecology also removed the requirement to document the names and rates of products which were effective or ineffective in managing pesticide-resistant mosquitoes.

However, Ecology agrees with the WSDA (see Comment #12) that reporting occurrences of pesticide resistance and steps taken to control those populations will provide essential information. Therefore, Ecology suggests permittees include information such as pesticides applied that effectively/ineffectively managed pesticide-resistant mosquitoes, when describing their pesticide-resistance-monitoring program as required in Special Condition S5.B.7. See Comment #12 (included above).

Revision Made in Response to Comment #13: To match changes made to other permit requirements, Ecology removed Special Condition S4.B.3.c.iii.

2.8 Vulnerable Species

Comment #14: Do **not** require that the letter of concurrence from both the WDFW and the impacted land management agency. (draft Special Condition S4.B.4.c.i.B, final Special Condition S4.C.4.c.i.B)

Response: Thank you for your comment. Before applying pesticides to areas with known vulnerable species, the permittee must obtain two letters of concurrence—one letter from the WDFW and one letter from the land management agency. Each letter should indicate that the agency concurs with the permittee’s proposed plan for managing mosquitoes within the areas of concern.

The reason for this requirement is for the permittee to document that the land management agency is aware that the permittee proposes to apply pesticides on the land they manage which may have an effect on the vulnerable species known to occur there.

Vulnerable species occur throughout Washington State on land that is privately owned and on land that is publically owned. Vulnerable species that occur on land managed by a federal agency do **not** need to be a federally-listed endangered species for Special Condition S4.C.4.c.i.B to apply. In this situation, the permittee must obtain a letter from the federal agency indicating that the federal agency concurs with the permittee’s proposed plan for managing mosquitoes within the areas of concern.

If vulnerable species occur on land that is owned by a federal agency but that is managed by the WDFW, then the permittee would only need a letter of concurrence from the WDFW. In this situation, the letter of concurrence from the WDFW should specify the terms of the agreement or contract between the land owner (federal agency) and the WDFW. For example, what activities and decisions related to pest management are authorized by the land owner (federal agency).

2.9 Required Elements of the IPM Plan

Comment #15: Do **not** require that permittees include FIFRA product labels in their IPM plans. (Special Condition S5.B.6.c.i and d.i)

Response: Thank you for your comment. Permittees required to develop IPM plans must include specific information about the mosquito control methods they intend to use. If the permittee intends to apply pesticides to control mosquito populations, they must state the larvicide(s) and adulticide(s) they intend to use.

In addition to requiring that permittees provide the names of the larvicide and adulticide product(s) planned for use, Ecology proposed that permittees also include the FIFRA product label. The FIFRA product label is specific to each larvicide and adulticide and will provide a better indication of the pesticide the permittee intends to apply.

Revision Made in Response to Comment #15: While considering this comment, Ecology determined that permittees should have another option for providing more specific information

about each pesticide they intend to apply. For this reason, Ecology changed Special Condition S5.B.6.c.i and d.i to read:

Special Condition S5.B.6.c.i

c.i. Include **the FIFRA labels or the EPA registration number** for all larvicides used (Special Condition S4.AB)

Special Condition S5.B.6.d.i

d.i. Include **the FIFRA labels or the EPA registration number** for all adulticides used (Special Condition S4.AB)

Comment #16: Remove Special Condition S5.B.7.a.

Response: Thank you for your comment. The permit **no** longer requires that permittees only apply deltamethrin in response to the development of pesticide-resistant mosquito populations. Therefore, Ecology also removed deltamethrin from this requirement. Additionally, according to the WSDA, temephos is **no** longer registered for use in the United States. Therefore, Ecology also removed temephos from this requirement.

Revision Made in Response to Comment #16: To match other permit requirements, Ecology removed deltamethrin and temephos from Special Condition S5.B.7.a.

7. Pesticide resistance monitoring

~~Deltamethrin, malathion (larvicide), and temephos may only be applied in response to the development of pesticide resistance and in accordance with Special Condition S4.B.2.b.ii or S4.B.3.c.~~

2.10 Public Notice

Comment #17: Listing the EPA registration number for each active ingredient in the published public notification would **not** add pertinent information for the reader, but would add an unnecessary cost increase to the permittee for the publication. (Special Condition S6.A.3.a)

Response: Thank you for your comment. Permittees are required to provide public notice of mosquito control activities. These notices are important because they raise the public awareness about these activities and how permittees intend to control mosquito populations.

In addition to requiring that permittees provide the active ingredient for each larvicide and adulticide planned for use, Ecology proposed that permittees also include the EPA registration number. The EPA registration number is specific to each larvicide and adulticide and will provide a better indication of the pesticide the permittee intends to apply.

Permittees may provide the public notice via electronic methods—for instance, on their website or by distributing to known interested parties through email or electronic methods—or by publishing in a newspaper. The permit includes the electronic method so that permittees have a more cost-effective method for providing public notices.

Revision Made in Response to Comment #17: While considering this comment, Ecology determined that permittees should have another option for providing more specific information to the public about each pesticide they intend to apply. For this reason, Ecology changed Special Condition S6.A.3.a to read:

a. The larvicide(s) and adulticide(s) planned for use. Include the active ingredient and either the FIFRA label or the EPA registration number.

Comment #18: Do **not** require that permittees provide in their postings the procedures for the public to be added to a “No Spray” list. If a person is medically sensitive to pesticides, they should contact Washington State Department of Agriculture (WSDA). Permittees can then obtain that information from the WSDA. (Special Condition S6.A.3.h)

Response: Thank you for your comment. This permit requirement is **not** a new requirement, it was also in the 2015 permit. In the 2019 formal draft permit, Ecology revised the requirement to improve readability and to adhere to the Governor’s Plain Talk Standards.

According to the comment, the proposed requirement did **not** accurately represent the process that permittees follow. After additional conversations with staff of the WSDA, Ecology decided to modify the name of this “list” to match the current practice. Instead of requiring that permittees post the procedure to be added to the “No Spray” list, permittees are now required to post the procedure to be added to the Pesticide Sensitivity Registry, maintained by the WSDA.

Revision Made in Response to Comment #18: To more accurately match the current process, Ecology changed the permit language for Special Condition S6.A.3.h.

h. The procedure for a person to follow if they want to be added to the “No Spray” list **Pesticide Sensitivity Registry, maintained by the Washington State Department of Agriculture (WSDA).** Include the **WSDA’s website that provides information about the Registry and the procedure to be added to the registry.** ~~name and contact information of the person they should contact and the website for the entity that contains information about mosquito control activities.~~

Comment #19: Requiring a 24-hour notification to refuges before aerial applications will create excess work and significant loss of time. More reasonable language for this requirement is found on page 15 of the current permit. (Special Condition S6.A.5)

Response: Thank you for your comment. Ecology revised requirements from the 2015 permit to improve readability and to adhere to the Governor’s Plain Talk standards. According to the comment, the proposed requirement differed from the 2015 permit.

- 2019 formal draft permit Special Condition S6.A.5. Notify wildlife refuges of aerial applications of pesticides over the refuge. Make the notification 24 hours in advance of the application or at a time agreed upon with a representative of the refuge. Document the notification process and arrangement with the representative of the refuge.
- 2015 final permit Special Condition S6.A.5. The Permittee must notify wildlife refuges 24 hours in advance of aerial application of adulticides or larvicides over the refuge or may make mutually agreed upon alternative arrangements, with the refuge, for notice. The alternative arrangements shall be documented and maintained by the Permittee.

The permit language from the proposed formal draft (2019) is nearly identical to the permit language from the 2015 permit, with **no** change to what is required of the permittee.

2.11 Recordkeeping and Monitoring

Comment #20: It is unclear as to what type of monitoring requirements this is in reference to. (Special Condition S7.A.4)

Response: Thank you for your response. The requirements stated in Special Condition S7.A.4 apply to any permittee that conducts monitoring or collects and analyzes samples in order to comply with the requirements in the permit.

Revision Made in Response to Comment #20: To clarify this requirement, Ecology added language to Special Condition S7.A.4.

4. Monitoring

If you conduct monitoring or analyze samples in order to satisfy requirements in this permit, comply with the following requirements.

- a. Monitoring efforts conducted to satisfy requirements in this permit must comply with WAC 173-226.

2.12 Fact Sheet

Comment #21: The Fact Sheet lists Reasonable and Prudent Measures (RPMs) from the 2008 Biological Opinion, but it does **not** mention that this opinion was remanded on appeal in 2013 and is superseded by the NOAA Fisheries Opinion released in 2017.

Response: Thank you for your comment. The commenter is correct. The National Marine Fisheries Service (NMFS) issued a Biological Opinion on December 29, 2017. The Biological Opinion evaluated the effects of the EPA’s registration of the pesticides chlorpyrifos, diazinon, and malathion on the Endangered Species Act-listed species and designated critical habitats under the NMFS.

According to the 2017 Biological Opinion, “we concluded that registration of pesticides containing malathion is likely to jeopardize 38 of the 77 listed species and adversely modify 37 of the 50 designated critical habitats.”

2.13 General Comments

Comment #22: Remove all references to temephos from the permit and fact sheet.

Response: Thank you for your comment. According to the WSDA, all remaining registrations for pesticide products containing temephos in the United States were cancelled by the EPA in 2015. Additionally, the last remaining registration for temephos in Washington State was canceled by the WSDA in 2016.

Revision Made in Response to Comment #22: Because all registrations for pesticide products containing temephos in the US and in Washington State were cancelled, Ecology removed temephos from the permit. Ecology deleted “temephos” from the following Special Conditions.

- Draft Special Condition S4.A.1, final Special Condition S4.B.1
- Draft Special Condition S4.B.2.b.ii, final Special Condition S4.C.2.b.ii
- Special Condition S5.B.7.a
- Appendix B - Glossary

Comment #23: The WDFW looks forward to continuing working with the Washington State Department of Ecology to support the permit through the exchange of information about vulnerable species and areas of concern for those species.

Response: Thank you for your comment. Ecology appreciates the support of and collaboration with the staff of the WDFW, and also looks forward to continue to find solutions to controlling mosquitoes while protecting water quality, vulnerable species, and areas of concern.