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# ZOSTERA JAPONICA MANAGEMENT ON COMMERCIAL CLAM BEDS IN WILLAPA BAY GENERAL PERMIT

National Pollutant Discharge Elimination System and  
State Waste Discharge General Permit

State of Washington  
Department of Ecology  
Olympia, Washington 98504

In compliance with the provisions of  
Chapter 90.48 Revised Code of Washington  
(State of Washington Water Pollution Control Act)

and

Title 33 United States Code, Section 1251 et seq.  
The Federal Water Pollution Control Act (The Clean Water Act)

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



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Vincent McGowan, P.E.  
Water Quality Program Manager  
Washington State Department of Ecology

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# SUMMARY OF SUBMITTALS

This permit contains **bold** text indicating the first usage of acronyms, abbreviations or terms defined in Appendix A – Acronyms and Abbreviations or Appendix B - Glossary.

The table below lists the submittal requirements for this permit in chronological order and includes the permit section of the requirement. Refer to the Special and General Conditions of this Permit for additional submittal requirements. The following table is for quick reference only. Enforceable submittal requirements are contained in the permit narrative.

**Table 1: Required Permit Submittals**

Permit Condition	Submittal	Frequency	Due Date(s)
<a href="#">S2.C</a>	Application for new coverage	As necessary	At least 60 days prior to the start of discharge
<a href="#">S3.E</a>	Discharge Management Plan (DMP)	Once per coverage, or when DMP is updated	With NOI and when updated
<a href="#">S7.A</a>	Annual Pre-treatment Plan	Annually	April 15
<a href="#">S7.B</a>	Annual Report (Post-Treatment Report)	Annually	December 31
<a href="#">S7.C</a>	Noncompliance notification	As necessary	As necessary
<a href="#">S8.B</a>	Spill notification	As necessary	As necessary
<a href="#">G4</a>	Permit modification and revocation	As necessary	Within 14 days of request
<a href="#">G13</a>	Request for transfer of coverage	As necessary	As necessary
<a href="#">G18</a>	Re-Application for permit coverage (Duty to reapply)	Once per permit cycle	At least 180 days prior to the permit expiration date

# SPECIAL CONDITIONS

## S1. PERMIT COVERAGE

### A. Activities Covered Under This Permit

This general permit covers all **Zostera japonica** (*Z. japonica*) management activities that result in a **discharge** of **aquatic herbicides** containing the **active ingredient** imazamox and **marker dyes** or **tracer dyes** from **treatment** of **commercial clam beds** (excluding geoduck culture) to **surface waters of the State of Washington**.

This permit is issued for a duration of five (5) years from the effective date.

**Permittees** may apply chemicals not listed in this permit on a limited basis in the context of a research and development effort under the jurisdiction of the Washington State Department of Agriculture by obtaining a **Washington State Experimental Use Permit** (WSEUP). Project proponents must obtain coverage under this general permit for any projects conducted under a state WSEUP (Special Condition S4.E).

### B. Geographic Area Covered

This permit covers the activities listed in Special Condition S1.A in Willapa Bay. This permit does not cover activities outside of Willapa Bay.

This permit does not apply to:

1. "Indian Country" as defined in 18 USC Sec. 1151.
2. Federal lands in Willapa Bay where a federal agency made the decision to apply herbicides, or similar activities conducted by any department, agency, or instrumentality of the Federal Government of the United States, or another entity, such as a private contractor, applying herbicides on behalf of the Federal Government. (For more information, see the discussion in section 7.0 S.1 of the Fact Sheet for this permit.)

## S2. PERMIT ADMINISTRATION

### A. Who Must Apply for Permit Coverage

Coverage under this permit is for pesticide applicators (licensed by the Washington State Department of Agriculture with an aquatic pest control endorsement) and their **Sponsors** who specifically want to use imazamox to control *Z. japonica* within commercial clam beds in Willapa Bay. Coverage under this permit must be obtained before imazamox treatment begins.

## B. Qualifications for Permit Coverage

A Washington State Department of Agriculture-licensed Pesticide Applicator with an **aquatic pest control endorsement** is the **Permittee**. A Permittee must have a Sponsor for each permit coverage.

Sponsors operating under separate business licenses must obtain separate permit coverages.

Permit coverage will only be issued for tidelands that are owned or leased by the Sponsor. This permit does not allow the Sponsor to violate any aspect of their lease agreement.

## C. How to Apply for Permit Coverage

Pesticide Applicators that propose to begin *Z. japonica* control using imazamox on or after the effective date of this general permit must:

1. Submit a complete application for permit coverage at least 60 days prior to the first proposed discharge date. A complete application includes:
  - a) A complete and signed Notice of Intent (NOI).
  - b) A Pre-Treatment Plan (see Special Condition S7.A), including parcel map(s) of the commercial clam beds proposed for inclusion under permit coverage where the Sponsor has authority to manage *Z. japonica*.
  - c) A complete and signed Discharge Management Plan (DMP) using the template provided in Appendix C and process described in Special Condition S3.E.
2. Submit a complete application to Ecology in accordance with Special Condition S7.D (How to Submit Documents to Ecology).
3. Public Notice
  - a) Entities not currently covered by this Permit.
    - i. Entities that propose to discharge pesticides to surface waters of the State on or after the effective date of this Permit, must provide public notice by doing the following:
      - Use the Public Notice Template on the application for coverage.
      - Publish the public notice once a week for two (2) weeks with at least seven (7) days between publications in a single newspaper of general circulation in the county where the treatment is located.
      - Certify in their application for coverage that they met the public notice requirement.

- ii. At the time the second notice is published, a 30-day comment period begins. At the end of the thirty (30)-day public comment period, Ecology will consider any received comments about the applicability of this Permit to the applicant before issuing a decision on permit coverage pursuant to Special Condition S2.D (When Permit Coverage is Effective).
- b) Existing Permittees applying to modify their permit coverage under Special Condition S2.E (Modification of Permit Coverage) must also comply with the public notice requirements specified above.
- c) Permittees renewing their permit coverage are not required to publish another public notice, but must comply with the requirements of Special Condition S2.E. (WAC 173-226-130 (5)).

Applications for permit coverage that include multiple treatment sites may combine public notices and publish a single public notice (following guideline 3, above) as long as the public notice contains contact information about each applicant and lists all treatment sites proposed for treatment.

#### **D. When Permit Coverage is Effective**

1. Permit coverage begins on the day Ecology issues the approval letter to the applicant.
2. Ecology may need additional time to review the application if:
  - a) The application for coverage packet is incomplete.
  - b) Ecology requires additional site-specific information.
  - c) Members of the public request a public hearing about the applicability or non-applicability of this Permit to the operation proposed for coverage.
  - d) Members of the public submit comments.
  - e) More information is necessary to determine if coverage under this Permit is appropriate.
3. If the applicant does not receive notification from Ecology, permit coverage automatically commences on whichever of the following dates occurs last:
  - a) The 31st day after Ecology receives a complete application for coverage packet.
  - b) The 31st day after the end of a 30-day public comment period.
  - c) The effective date of this Permit.

#### **E. Modification of Permit Coverage**

Permittees that intend to change the activities authorized by their current permit coverage must, as soon as possible, but no later than sixty (60) days prior to the proposed changes, give notice to Ecology of planned changes to activities authorized by their permit coverage, such as expanding the original geographic area covered. The Permittee must:

1. Complete an application for coverage and sign it in accordance with General Condition G15 (Signatory Requirements). With the submittal, provide certification that the proposed change has complied with the SEPA review in accordance with Chapter 43.21C.020 Revised Code of Washington (RCW). This certification is required by WAC 173-226-200 (3)(f).
2. Submit the complete and signed application for coverage to Ecology at least sixty (60) days before implementing the proposed change. Submit the complete application for coverage to Ecology in accordance with Special Condition S7.D (How to Submit Documents to Ecology).
3. Complete the public notice requirements in WAC 173-226-130(5), as described in Special Condition S2.C.3.c above.
4. If Ecology approves the modified permit coverage, Ecology will send a letter notifying the Permittee.

## **F. How to Renew Permit Coverage**

Existing Permittees who intend to continue operations and treatments beyond the term of this Permit must submit a complete renewal application for coverage to Ecology no later than one hundred and eighty (180) days prior to the expiration date of this Permit. Submit a complete renewal application to Ecology in accordance with Special Condition S2.C (How to Apply for Permit Coverage) and General Condition 18.

Permittees renewing their permit coverage must provide an updated Annual Pre-Treatment Plan and Discharge Management Plan, but are not required to publish another public notice.

## **G. Transfer of Permit Coverage**

1. Coverage under this Permit will automatically transfer from the original Permittee (current permit holder) to the proposed Permittee if all the following conditions are met:
  - a) The existing Permittee is in compliance with all permit requirements, including providing required reports, monitoring data, and fees.
  - b) The existing Permittee and proposed Permittee must submit to Ecology a complete Transfer of Coverage form in accordance with Special Condition S8.D (How to Submit Documents to Ecology). The Transfer of Coverage form is available on Ecology's [ZJ Permit website](#)<sup>2</sup>.
  - c) The Transfer of Coverage form must contain a specific date for the transfer of permit responsibility, coverage, and liability.

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<sup>2</sup> <https://ecology.wa.gov/regulations-permits/permits-certifications/aquatic-pesticide-permits/zostera-japonica-eelgrass-management>

- d) The Transfer of Coverage form must be signed by the existing Permittee and the proposed Permittee.
  - e) The Permittee notifies Ecology at least 30 days in advance of the proposed transfer date.
  - f) If an existing permittee is not in compliance with permit requirements, including having provided all required reports, monitoring data, and fees, Ecology intends to revoke coverage instead of permitting a transfer. Therefore, in the event there are any outstanding reports, fees, or other obligations associated with permit coverage; coverage will not automatically transfer to the new permittee.
2. As part of the transfer, the previous Permittee must supply the new Permittee with copies of all permit documents. The previous Permittee should contact Ecology regarding any Confidential Business Information.
  3. The original Permittee remains responsible for, and subject to, all permit conditions and permit fees until the transfer of permit coverage is effective.
  4. Once Permit coverage has transferred, the new Permittee is required to comply with the existing permit documents provided by the previous Permittee until the new Permittee updates the documents to reflect any changes made by the new Permittee. For example, the new Permittee is required to follow the current Annual Pre-Treatment Plan until the new Permittee has submitted an amended plan to Ecology.

## **H. How to Terminate Permit Coverage**

Permittees may request Ecology terminate their permit coverage when they will no longer discharge to surface waters of the State.

1. To request termination of permit coverage, submit the complete Notice of Termination (NOT) application, found on Ecology's [ZJ Permit website](#)<sup>3</sup>. The NOT application must be signed in accordance with General Condition G15 (Signatory Requirements) and submitted to Ecology in accordance with Special Condition S7.D (How to Submit Documents to Ecology).
2. Permittees will continue to incur an annual permit fee (Chapter 173-224 WAC) until Ecology approves the signed NOT application and cancels permit coverage.
3. Ecology may deny the NOT application if it determines that the permittee does not meet the eligibility requirements. If Ecology approves the NOT application, Ecology will send a letter notifying the permittee that their permit coverage is terminated

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<sup>3</sup> <https://ecology.wa.gov/regulations-permits/permits-certifications/aquatic-pesticide-permits/zostera-japonica-eelgrass-management>

## I. Permit Actions

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 stay any permit condition.

## S3. DISCHARGE LIMITS

### A. Compliance with Standards

1. The application of imazamox must not cause or contribute to a violation of the Water Quality Standards for Surface Waters of the State of Washington (chapter 173-201A WAC), Groundwater Quality Standards (chapter 173-200 WAC), Sediment Management Standards (chapter 173-204 WAC), and human health criteria in the National Toxics Rule (40 CFR 131.36). Ecology prohibits discharges that do not comply with these standards.
2. Permittees must use **All Known, Available, and Reasonable methods of prevention, control, and Treatment (AKART)** when applying imazamox. Compliance with this permit, the **Washington Pesticide Control Act** and rules adopted thereunder, the **Washington Pesticide Application Act** and rules adopted thereunder, the requirements of the **Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)**, and the **product label** currently registered and approved for use in Washington State constitute AKART.
3. Nothing in this Permit excuses the Permittee from compliance with any applicable federal, state, or local statute, ordinance, or regulation. Examples of statutes and regulations that are possibly relevant include the following:
  - a) State Environmental Policy Act (SEPA), and WAC 173-226-200.
  - b) The Endangered Species Act of 1973, as amended (16 U.S.C. §1531 et seq.)
  - c) If unmanned aerial vehicles are used in the application of pesticides, the requirements of 14 CFR Part 137 apply. This section governs the use of aircraft, including drones, to dispense or spray substances used for pest control.
  - d) All applicable federal, state, and local laws.

### B. Temporary Exceedance of Water Quality Standards

Temporary exceedances of water quality standards are allowed under this permit, provided the Permittee complies with the provisions of WAC 173-201A-410. Permittees must condition, time, and restrict activities in a manner that will minimize water quality degradation to existing and characteristic uses.

Activities covered under this permit are allocated a temporary zone of impact on beneficial uses, but the impact must be transient (hours or days, not weeks or months) and must allow for full restoration of water quality and protection of beneficial uses upon project completion. The conditions of this permit constitute the requirements of a short-term water quality modification (WAC 173-201A-410).

### C. Impaired Water Bodies

The Permittee must ensure that treatment does not cause or contribute to further impairment of Willapa Bay for any parameter for which Willapa Bay is listed as impaired. The current impaired waterbody list is available at the [Washington State Water Quality Assessment](#)<sup>4</sup> website.

### D. Sensitive, Threatened, or Endangered Species

The Permittee must ensure treatment does not cause permanent harm to **sensitive, threatened, or endangered** animal species or rare plant populations. Please see the following resources for information on sensitive, threatened and endangered species present in or around Willapa Bay:

- Washington State Department of Natural Resources species list from the [Washington Natural Heritage Program](#)<sup>5</sup>.
- Washington State Department of Fish and Wildlife Priority species mapper at Priority Habitats and Species: [Maps | Washington Department of Fish & Wildlife](#)<sup>6</sup>
- National Marine Fisheries Service Critical Area mapper application at [National ESA Critical Habitat Mapper | NOAA Fisheries](#)<sup>7</sup>.

The application of imazamox or other products under this permit does not authorize violations of RCW 77.15.120 and 77.15.130, such as the taking of state endangered or protected plants or animals without authorization. These species are identified in WAC 220-610-010 and WAC 220-200-100.

### E. Discharge Management Plans (DMP)

The Permittee must follow their DMP.

1. The DMP must include the plan elements in Appendix B. However, equivalent elements of an Environmental Impact Statement (EIS) prepared for this activity may substitute for DMP plan elements.
2. Multiple Permittees may combine efforts to develop one DMP that applies to all their areas that may be treated in Willapa Bay. All Permittees operating under a combined DMP must follow it. If one or more of the Permittees decide to develop their own DMP they must submit a copy to Ecology.
3. The Permittee, or Permittees if combining efforts to develop one DMP, must update their DMP whenever there are changes to treatment scenarios or treatment areas and submit a copy to Ecology.

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<sup>4</sup> <https://apps.ecology.wa.gov/ApprovedWQA/ApprovedPages/ApprovedSearch.aspx>

<sup>5</sup> <https://www.dnr.wa.gov/NHPlists>

<sup>6</sup> <https://wdfw.wa.gov/species-habitats/at-risk/phs/maps>

<sup>7</sup> <https://www.fisheries.noaa.gov/resource/map/national-esa-critical-habitat-mapper>

## S4. PRODUCT USE

The Permittee must comply with all requirements on the **product label**. Pesticide product labels provide critical information about how to safely and legally handle and use pesticide products. Unlike most other types of product labels, pesticide labels are legally enforceable. In other words, the label is the law (EPA, 2024). Permit requirements do not reduce the requirements on the product label, but may have more restrictions than the product label.

Ecology prohibits treatment that causes oxygen depletion to the point of stress or lethality to aquatic biota from plant die-off, the mortality of aquatic vertebrates, or unintended impacts to water quality or biota.

This permit does not convey property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights.

### A. Pesticide Application Requirements

1. Applicator and personnel requirements
2. The Permittee must ensure that:
  - a) A properly licensed applicator has **direct supervision** responsibilities for the use of pesticides during treatment. An unlicensed person can apply under the direct supervision of a properly licensed individual. Direct supervision means the licensed applicator is physically present on the site and in voice and visual contact with the noncertified applicator at all times during the application. (RCW 17.21.020 (13))
  - b) All applicators, including those under the direct supervision of a licensed applicator, have current training in the use of the equipment used for treatment and that they use approved treatment techniques.
  - c) Appropriately trained personnel calibrate and/or maintain the equipment used for treatment.
  - d) In addition to the appropriate WSDA license the pesticide applicator must also have an aquatic pest control endorsement. (WAC 16-228-1545)
2. Herbicide Application Requirements

Some of the following requirements may be more restrictive than the product label.

The Permittee must:

- a) Only apply imazamox to commercial clam beds, excluding geoducks beds, unless use of another herbicide is authorized by an experimental use permit. (Special Condition S4.E)

- b) Only apply imazamox on commercial clam beds once *Z. japonica* levels meet or exceed the action threshold(s) in the DMP based on at least one pre-treatment survey.
- c) Only apply imazamox after the commercial clam bed is exposed by the falling tide. After imazamox application, at least one hour of dry time before tidal inundation is required.
- d) Only apply imazamox from May 15 through July 31 (dates inclusive).
- e) Not apply the active ingredient imazamox at an application rate greater than 1.4 ounces per acre.
- f) Not apply other pesticides to commercial clam beds during the four days before and after application of imazamox, even if allowed under another aquatic pesticide permit.
- g) Not treat a commercial clam bed with imazamox more than once per year. Treatment of a commercial clam bed may occur over multiple days if each area within the clam bed is only treated once per year with imazamox, or under an experimental use permit for another herbicide.
- h) Not apply imazamox using fixed wing aircraft or helicopters.
  - i. Aerial applications using **Unmanned Aerial Vehicles (UAV)** are allowed as long as the product label does not: prohibit aerial application, limit the application to only a specific type of aerial application using fixed wing or helicopter, or specify that it is to be applied by ground application only.
  - ii. The aerial application method must be accurate and precise enough to meet permit requirements.
  - iii. Aerial applications using UAV are limited to a maximum height of 50 feet above the ground.
  - iv. Aerial applications using UAV are required to use a marker dye to help ensure that the product is being applied in the intended area.
  - v. Ecology may limit or prohibit aerial applications through the issuance of an administrative order (RCW 90.48.120) on a case-by-case basis if it is concerned that this application method will result in impacts to water quality or noncompliance with this permit or state and federal law.
- i) Not apply imazamox using aerial or ground based methods when the wind speed exceeds 10 miles per hour. (RCW 90.48.445(1)(b))
- j) Not apply imazamox directly into any drainage that contains *Z. marina* and is moving water off the treatment site.

## **B. Treatment Buffers**

The Permittee must maintain a buffer inside their Sponsor's property line where treatment will not occur. See Appendix D Figure 1.

A minimum buffer width of 10 meters, measured perpendicular to the parcel boundary, is required for all treatment sites.

When different Permittees have clam beds on properties that share a common border, and both parties agree, a buffer is not required on the connecting parcel boundary. Each Permittee must indicate in their annual Pre-Treatment Plan with whom they are cooperating and on which parcel(s) (Special Condition S7.A). See Appendix D, Figure 2 for an example of this situation.

## **C. Annual Pre-treatment Plans**

The Permittee must submit a Pre-Treatment Plan to Ecology by May 15, annually, even if no treatment is planned. (see Special Condition S7.A)

## **D. Posting Requirements**

The Permittee must:

1. Use the template provided on the permit webpage. The Permittee may add additional treatment-related information to the sign, but may not remove required information.
2. The sign must include a description of the treatment area either using a polygon of the treatment site clearly labeled on a map of the area, or by listing the latitude and longitude points of the corners of the treatment area reported in decimal degrees.
3. Post signs that are at least 8 ½ by 11 inches in size.
4. Post signs at all corners of the treatment site prior to treatment, if the treatment site is within ¼ mile of a public shoreline access point.
5. Post signs at all public access areas on the waterbody that are within 400 feet of a treated area and at all public boat launches on the waterbody within one quarter mile of a treated area at least 24 hours before treatment.
6. Post signs so they are secure from the normal effects of weather and tide but cause minimal damage to private or public property. For example, signs posted on long poles so that signs are above the high tide mark.
7. Ensure that the posted signs remain in place for at least 24 hours after treatment.
8. Remove all signs by the end of the treatment season.
9. Post signs in English, and in other languages commonly spoken by the community that uses the area.

## E. Experimental Use

Experimental use of chemicals not listed in this permit may occur on a limited basis in the context of research and development efforts related to the chemical control of *Z. japonica* on commercial clam beds, if the following conditions are met.

1. The chemical use must be conducted under the coverage of this permit. See Special Condition S2 for permit application requirements.
2. The Permittee must obtain a state or federal experimental use permit (EUP). See definition in Appendix A for more details. A state individual EUP is required for pesticide applications to an aquatic site regardless of size. A federal EUP is required if the aquatic surface area is larger than 1 acre.
3. The Permittee must also comply with all other conditions of this permit.

## S5. MONITORING

### A. Sampling and Analysis

Sampling and analytical methods used to meet the monitoring requirements specified in this permit must conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136 (or as applicable in 40 CFR subchapter N [Parts 400–471] or O [Parts 501-503]) unless otherwise specified in this permit. Ecology may only specify alternative methods for parameters without limits and for those parameters without an EPA-approved test method in 40 CFR Part 136.

All samples must be analyzed by a laboratory registered or accredited under the provisions of *Accreditation of Environmental Laboratories*, Chapter 173-50 WAC. When collected in the field, the following parameters *do not* need accreditation or registration:

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

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

1. The date, exact place, and time of sampling.
2. The date and time analyses were performed.

3. Name of individual who performed the analyses and their title.
4. The analytical techniques/methods used (if any).
5. The results of such analyses.

## **B. Buffer Effectiveness Monitoring**

The Permittee must monitor the buffer area surrounding commercial clam beds after the first imazamox treatment done prior to the expiration of this permit. Ecology may require additional monitoring if off-site impacts are detected (see General Condition G10).

See Appendix D for diagrams of buffer implementation and Special Condition S4.B for when buffers are not required next to clam beds on properties that share a common border.

The Permittee must inspect the entire surrounding buffer area once the effects of treatment on *Zostera* species become visible and document all areas within the 10-meter buffer where *Zostera* species plants appear to be affected by treatment. The effects of treatment will typically be visible two to four weeks afterward, depending on environmental conditions. This documentation must include measurements of affected areas, locations and photographs as described below.

The length of all areas affected by treatment must be measured parallel to the property line, and the depth from the inner edge of the buffer, perpendicular to the buffer edge, to the first instance of healthy *Zostera* plants. In addition, Permittees must record any observations of *Zostera* plants that appear to have been affected by treatment past the parcel boundary, and if applicable measure the distance onto adjacent property.

Photographs must be taken at:

1. All locations where *Zostera* species plants appear to be affected by treatment to document the observed impacts.
2. Each property corner, looking along each property line, and at approximately 150-foot intervals along each property line. This is in addition to photographs of areas where *Zostera* species appear to be affected by treatment, to document conditions in the rest of the buffer area.

Each photograph must include the date it was taken, Global Positioning System (GPS) coordinates for latitude and longitude in decimal degrees, accuracy of the GPS unit at the time of measurement, sample site name and permit number. If the photograph is electronic, this information can be included in the file name or meta data. Otherwise record it on a card within the photographed area, or provide it with the other monitoring data included with the annual report.

If no impacts to plants within the 10 m buffer are observed after treatment, this information must also be included in the monitoring report. For situations where no eelgrass is naturally present within the buffer area (not absent due to the effects of treatment) only photographs are required, not measurements. Submit the results of the required monitoring with the annual report (S7.C.2.h)

## **S6. RECORDS RETENTION**

1. The Permittee must retain records of all permitting and monitoring information for a minimum of five (5) years. Such information must include copies of all reports required by this permit, all calibration and maintenance records, and records of all data used to complete the application for coverage.
2. The Permittee must keep records longer in the event of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by Ecology.
3. The Permittee must make the records, reports, surveys, plans, public notices (including a list of locations or addresses to which notices were delivered), and other information required by this permit available to Ecology on request.

## **S7. REPORTING**

The general reporting requirements for all activities under this permit are described below. Submittal of false or inaccurate information to Ecology constitutes a violation of the terms and conditions of this permit. The Permittee must submit information in accordance with the following conditions.

All reports submitted to Ecology must follow the signatory requirements of General Condition G15.

For new applications for coverage under this permit, the Pre-Treatment Plan for the first year of coverage must be submitted with the NOI and DMP as part of the permit application.

### **A. Annual Pre-Treatment Plan**

Permittees must submit a signed and dated copy of the annual Pre-treatment Plan required by this permit to Ecology by May 15 as described in S7.E.2, even if no treatment is planned. In addition, the permittee must also provide a mailed hard copy of the plan containing the Permittee's ink signature within one week (seven days) of the electronic submittal. Use the mailing address in special condition S7.E.4.

The plan must include:

1. Locations of acreage planned for treatment, including GPS coordinates of each corner of the area.
2. The size, in acres, of each area planned for treatment.

3. Maps delineating the locations of the areas planned for treatment. After the first year of treatment, the maps must also indicate whether the location was treated the previous year.

## **B. Pre-treatment Notifications**

The permittee must provide the following notifications prior to each herbicide treatment.

1. Notify Ecology at least 3 business days prior to treatment:
  - a) Use the pre-treatment notification form provided on Ecology's ZJ permit web page to report the estimated dates treatment will occur.
  - b) Send an electronic copy of the completed pre-treatment form to Ecology at [aquaticpesticideperm@ecy.wa.gov](mailto:aquaticpesticideperm@ecy.wa.gov), with a subject line "ZJ Pretreatment Notice –" followed by the applicable permit coverage number.
  - c) If the treatment is delayed after the original form was sent, email a revised pre-treatment form to Ecology at [aquaticpesticideperm@ecy.wa.gov](mailto:aquaticpesticideperm@ecy.wa.gov) with a subject line "REVISED ZJ Pretreatment Notice –" followed by the applicable permit coverage number.
2. Notify adjacent landowners at least 10 calendar days prior to treatment:
  - a) Using the template on the ZJ permit web page, the permittee must provide written notice to the owner of record, with the exception of the permittee themselves, of property parcels having a common boundary with the treated parcel(s).
  - b) In the treatment notification provide the estimated week treatment will occur. The treatment area must be defined either by a polygon area clearly labeled on a map of the area, or by listing the latitude and longitude points of the corners of that polygon area reported in decimal degrees.
  - c) The Permittee may provide the notice by mail, email, or handbills delivered directly to the landowner(s).
  - d) The Permittee must retain a copy of the notice, the date of distribution, and a list of addresses to which the notice was delivered. Copies of these records must be retained for a period of 5 years, and provided to Ecology upon request.

## **C. Annual Report**

1. Permittees must submit a signed and dated copy of the Annual Report to Ecology by December 31 each year as described in S7.E.2., even if no treatment or monitoring occurred during the reporting year.
2. The Annual Report must include:
  - a) Whether a treatment was conducted during the reporting year.
  - b) Date(s) treatment(s) occurred on each area treated.

- c) The size, in acres, of each treated area.
- d) Locations of acreage treated, including GPS coordinates of each corner of the area reported in decimal degrees.
- e) The amount of active ingredient applied to the treated area.
- f) The method of application (ground, UAV, etc), wind speed during application, and if aerial application was used, include the height of application.
- g) The distance from the property, parcel or lease boundary that treatment occurred for each edge of the treated site. If the treatment occurred more than 50m from the property, parcel or lease boundary, the Permittee only needs to indicate that treatment occurred more than 50m from the boundary. Indicate where a 10m buffer was not required due to cooperation with an adjacent commercial shellfish grower as allowed by Special Condition S4.B.
- h) The results of the monitoring required in Special Condition S5.A, including photographs and measurements taken of affected *Zostera* species.

#### **D. Noncompliance Notification**

Compliance with the requirements of this Special Condition does not relieve Permittees from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failing to comply. In the event the Permittee is unable to or does not comply with any part of this permit the Permittee must:

1. Immediately take action to minimize potential pollution, stop, contain, clean up unauthorized discharges, or otherwise stop the noncompliance and correct the problem.
2. Report to Ecology any noncompliance that may endanger public health or the environment within twenty-four (24) hours of the time you first become aware of the noncompliance. Contact the aquatic pesticides permit manager and Ecology's Southwest Regional Office and of the failure to comply via the regional spills telephone hotline and the aquatic pesticides permit manager's phone number below.
3. Aquatic Pesticide Permit Manager: 360-407-6600 or [aquaticpesticideperm@ecy.wa.gov](mailto:aquaticpesticideperm@ecy.wa.gov)
4. SWRO Spills Hotline: 360-407-6300
5. The Permittee must provide a written report to Ecology within five (5) business days of the time that the Permittee first becomes aware of any permit non-compliance unless Ecology requests an earlier submission. The report must contain:
  - a) A description of the noncompliance and its cause,
  - b) The period of noncompliance, including dates and times,
  - c) Whether the noncompliance has been corrected and, if not,
  - d) The estimated time when the noncompliance will be corrected, and

- e) The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

Upon request of the Permittee, Ecology may waive or extend the requirement for a written report on a case-by-case basis, if the immediate notification (S7.C.2) is received by Ecology within 24 hours. If a waiver is requested, the Permittee must obtain written confirmation of the waiver from Ecology.

- 6. The Permittee must submit the written follow-up report electronically using the Water Quality Permitting Portal or to:

Washington State Department of Ecology Water Quality Program  
Attn: Aquatic Pesticide Permit Manager  
PO Box 47696 Olympia, WA 98504-7696  
[aquaticpesticideperm@ecy.wa.gov](mailto:aquaticpesticideperm@ecy.wa.gov)

## E. How to Submit Documents to Ecology

The follow section describes methods to submit documents to Ecology. Ecology may modify this Permit to incorporate improvements to these online systems.

- 1. Application for Coverage and Modifications

Submit the complete application for coverage electronically to Ecology as described in S7.D.2 below. Information about applying for coverage is available on Ecology’s [Zostera japonica General Permit website](#)<sup>8</sup>. A responsible person must approve and sign the application for coverage in accordance with General Condition G15 (Signatory Requirements).

If a permittee is unable to submit the application for coverage electronically, see Special Condition S7.D.3 (below).

- 2. Annual Report, Pre-Treatment Plan, other submittals

Submit the Annual Report, Pre-Treatment Plan, and all other submittals to Ecology using the [Water Quality Permitting Portal \(WQWebPortal\)](#)<sup>9</sup>. All electronic submittals (documents, data, reports) must be approved and signed by a responsible person in accordance with General Condition G15 (Signatory Requirements).

To access the WQWebPortal, first register for [Secure Access Washington \(SAW\)](#)<sup>10</sup>.

For information about submitting information to Ecology, visit [WQWebPortal](#)<sup>11</sup>.

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<sup>8</sup> <https://ecology.wa.gov/regulations-permits/permits-certifications/aquatic-pesticide-permits/zostera-japonica-eelgrass-management>

<sup>9</sup> <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Water-quality-permits-guidance/WQWebPortal-guidance>

<sup>10</sup> <https://secureaccess.wa.gov/public/saw/pub/help.do>

<sup>11</sup> <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Water-quality-permits-guidance/WQWebPortal-guidance>

3. Electronic Reporting Waiver

Permittees that are unable to submit documents electronically (for example, they do not have access to the internet):

- a) Contact Ecology.
- b) Request an Electronic Reporting Waiver form.
- c) Submit the completed form to Ecology at the address included below.

If Ecology grants the Electronic Reporting Waiver, required documents and reports must be postmarked or delivered to Ecology, at the address in S7.E.4, by the reporting deadline associated with that document.

More information about submitting an Electronic Reporting Waiver or about mailing information to Ecology, is provided on Ecology's [Zostera japonica Management General Permit](#)<sup>8</sup> website.

4. Submit paper documents to Ecology at the following address.

Department of Ecology  
Water Quality Program  
Attention: Zostera japonica Permit Manager  
PO Box 47696  
Olympia, WA 98504-7696

## **S8. SPILL PREVENTION AND CONTROL**

### **A. Spill Prevention**

The Permittee must:

1. Handle, store, and use all oil, fuel, chemicals, or products authorized under this permit in a manner that prevents spills.
2. Ensure that it maintains all mobile equipment to prevent leaks or spills of petroleum products.
3. Have absorbent materials available for cleanup or the spill containment materials recommended in the Safety Data Sheet and product label for imazamox or other products, including appropriate cleanup materials for a spill of the products being used.

## B. Spill Notification Requirements

Permittees must immediately report **spills of oil or hazardous materials** to the ground or surface water to the following state and federal contacts.

1. Ecology Southwest regional office in Olympia: 360-407-6300
2. Emergency Management Division (State): 800-645-7911
3. National Response Center (Federal): 800-424-8802

See [Report a spill of oil or hazardous materials](#)<sup>12</sup> web page for more environmental reporting information. (RCW 90.56.280 and WAC 173-303-145)

## C. Spill Cleanup Requirements

1. In the event of a spill, the Permittee must begin immediate containment and cleanup using appropriate materials. Cleanup takes precedent over scheduled or typical work.
2. Cleanup includes proper disposal of any spilled materials and used cleanup materials.

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<sup>12</sup> <https://ecology.wa.gov/footer-pages/report-an-environmental-issue/report-a-spill>

# GENERAL CONDITIONS

## G1. DISCHARGE VIOLATIONS

All discharges and activities authorized by this general permit must be consistent with the terms and conditions of this permit. The discharge of any pollutant more frequently than, or at a concentration in excess authorized by this permit, constitutes a violation of the terms and conditions of this permit.

## G2. PROPER OPERATION AND MAINTENANCE

The Permittee must at all times properly operate and maintain all systems of treatment and control to achieve compliance with the terms and conditions of the general permit. Proper operation and maintenance also include adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary systems which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of this permit. The Permittee must not allow concentrations of imazamox to exceed product label requirements.

## G3. RIGHT OF ENTRY

The Permittee must allow an authorized representative of Ecology (including an authorized contractor acting as a 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 where a discharge is located or where any records must be kept under the terms and conditions of this general permit.
- B. To have access to and to copy any records that must be kept under the terms and conditions of the permit.
- C. To inspect any posting, monitoring equipment, or method of monitoring required in this permit.
- D. To inspect any collection, treatment, pollution management, or discharge facilities.
- E. To sample any discharge of pollutants.

## **G4. PERMIT COVERAGE REVOCATION**

Pursuant to chapter 43.21B RCW and chapter 173-226 WAC, the Director may require any discharger authorized by this general permit to apply for and obtain coverage under an individual permit or another more specific and appropriate general 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 general permit.
- B. Obtaining coverage under this general permit by misrepresentation or failure to disclose fully all relevant facts.
- C. Failure or refusal of a Permittee to allow entry as required in RCW 90.48.090.
- D. A determination that the permitted activity endangers human health or the environment, or significantly contributes to water quality standards violations.
- E. Nonpayment of permit fees or penalties assessed pursuant to chapter 90.48.465 RCW and chapter 173-224 WAC.
- F. Failure of a Permittee to satisfy the public notice requirements of WAC 173-226-120(5), when applicable; or 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.

## **G5. GENERAL PERMIT MODIFICATION OR REVOCATION**

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

- A. When a change 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 Federal Water Pollution Control Act or chapter 90.48 RCW for the category of dischargers covered under this general permit.
- C. When a water quality management plan containing requirements applicable to the category of dischargers covered under this general permit is approved.
- D. When information is obtained that indicates that cumulative effects on the environment from dischargers covered under this general permit are unacceptable.

## **G6. REPORTING A CAUSE FOR REVOCATION OF COVERAGE**

A Permittee who knows, or has reason to believe, that any activity has occurred, or will occur, which would constitute cause for revocation under General Condition G5 above or 40 CFR 122.62, must report such information to Ecology so that a decision is made on whether action to revoke coverage under this general permit is required. Ecology may then require the submission of a new application for coverage under this or another general permit or an application for an individual permit. Submission of a new application does not relieve a Permittee of the duty to comply with all the terms and conditions of the existing general permit until the new application for coverage has been approved.

## **G7. TOXIC POLLUTANTS**

Permittees must comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

## **G8. 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 general permit by reference.

## **G9. COMPLIANCE WITH OTHER LAWS AND STATUTES**

Nothing in this permit excuses a Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

## **G10. ADDITIONAL MONITORING**

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

## **G11. PAYMENT OF FEES**

Permittees must submit payment of fees associated with this permit as assessed by Ecology. Ecology may revoke this permit coverage or take enforcement, collection, or other actions if the permit fees established under chapter 173-224 WAC are not paid.

## **G12. REQUESTS TO BE EXCLUDED FROM COVERAGE UNDER A GENERAL PERMIT**

Any discharger authorized by this general permit may request to be excluded from coverage under this general permit by applying for an individual permit. The discharger must 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. The reasons must fully document how an individual permit will apply to the applicant in a way that the general permit cannot. The Director may either issue an individual permit or deny the request with a statement explaining the reason for the denial. When an individual permit is issued to a discharger otherwise subject to this general permit, the applicability of this general permit to that Permittee is automatically terminated on the effective date of the individual permit.

## **G13. TRANSFER OF PERMIT COVERAGE**

This permit coverage may automatically transfer to a new Permittee if:

- A. The Permittee notifies Ecology at least 30 days in advance of the proposed transfer date.
- B. The notice includes a written signed agreement between the existing and new Permittee containing a specific date for the transfer of permit responsibility, coverage, and liability between them.
- C. Ecology does not notify the existing Permittee and the proposed new Permittee of its intent to modify or revoke coverage.

## **G14. PENALTIES FOR VIOLATING PERMIT CONDITIONS**

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

## G15. SIGNATORY REQUIREMENTS

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

- A. In the case of a municipal, state, or public facility, all permit applications must be signed by a principal executive officer or ranking elected official. In the case of a corporation, partnership, or sole proprietorship, all permit applications must be signed by either a principal executive officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.
- B. All reports required by this permit and other information requested by Ecology 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 Ecology.
  2. The authorization specifies either an individual or a position having responsibility for the overall operation of a regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- C. Changes to authorization. If an authorization under paragraph B.2, above, is no longer accurate because a different individual or position has responsibility for environmental matters, a new authorization satisfying the requirements of paragraph B.2 must be submitted to Ecology 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 must make the following certification:

*I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiries 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 fines and imprisonment for knowing violations.*

## **G16. APPEALS**

The terms and conditions of the *Zostera japonica* Management on Commercial Clam Beds in Willapa Bay General Permit are subject to appeal. There are two different appeal categories:

- A. The permit terms and conditions as they apply to the appropriate class of dischargers are subject to appeal within 30 days of issuance of this general permit in accordance with chapter 43.21(B) RCW and chapter 173-226 WAC; and
- B. The applicability of the permit terms and conditions to an individual discharger are subject to appeal in accordance with chapter 43.21(B) RCW within 30 days of the effective date of coverage of that discharger.

An appeal of the coverage of this permit to an individual discharger is limited to applicability or non-applicability to that same discharger. Appeal of this permit coverage of an individual discharger will not affect any other individual dischargers. If the terms and conditions of this general permit are found to be inapplicable to any discharger(s), the matter must be remanded to Ecology for consideration of issuance of an individual permit or permits.

## **G17. SEVERABILITY**

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

## **G18. DUTY TO REAPPLY**

Permittees must reapply for coverage under this general permit at least one hundred and eighty (180) days prior to the specified expiration date of this general permit. An expired general permit continues in force and effect until Ecology issues a new general permit or until Ecology cancels it. Only those Permittees that reapply for coverage are covered under the continued permit.

# APPENDIX A – DEFINITIONS

**All definitions listed below are for use in the context of this permit only.**

**Action Threshold:** The density of, or number of individuals in, a pest population that triggers management activities.

**Adverse incident:** An unusual or unexpected incident in which:

1. There is evidence that a person or non-target organism has likely been exposed to a pesticide residue, and
2. The person or non-target organism suffered a toxic or adverse effect. Toxic or adverse effects include effects that occur within waters of the State on non-target plants, fish, or wildlife that are unusual or unexpected (e.g., effects are to organisms not otherwise described on the product label or otherwise expected to be present) because of exposure to a pesticide residue, and may include:
  - a) Distressed or dead fish.
  - b) Unexpected stunting, wilting, or desiccation of non-target submersed or emergent aquatic plants.
  - c) Other dead or visibly distressed non-target aquatic organisms (amphibians, turtles, invertebrates, etc.).

The phrase, “toxic or adverse effects”, also includes any adverse effects to humans (e.g., skin rashes) or domesticated animals that occur either from direct contact with, or as a secondary effect from a discharge (e.g., sickness from consumption of plants or animals containing pesticides) to waters of the State that are temporally and spatially related to exposure to a pesticide residue (e.g., vomiting, lethargy).

**All Known, Available, and Reasonable methods of prevention, control, and Treatment: (AKART):** A technology-based approach to limiting pollution from discharges. Described in chapters 90.48 and 90.54 RCW, and chapters 173-201A, 173-204, 173-216, and 173- 220 WAC.

**Applicant:** The WSDA-licensed Pesticide Applicator with an aquatic pest control endorsement and their Sponsor applying for permit coverage.

**Aquatic pest control endorsement:** This means the aquatic license category or classification for the control of aquatic pests in water areas including, but not limited to, canals, rivers, streams, lakes, ponds, marshes, and pipelines. (WAC 16-228-1545(3)(a)(i)). More information from WSDA may be accessed here:

<https://agr.wa.gov/services/licenses-permits-and-certificates/pesticide-license-and-recertification>

**Commercial clam beds:** Marine or estuarine areas where clams (excluding geoduck) are raised and harvested for commercial sale under a current Washington State business license. Commercial clam beds may also include other shellfish as a secondary crop, so long as clams are the primary crop on the bed.

**Days** (compliance period interval): When the compliance period is stated in days: (A) exclude the day of the event that triggers the period; (B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and (C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

**Direct Supervision:** by certified private applicators shall mean that the designated restricted use pesticide shall be applied for purposes of producing any agricultural commodity on land owned or rented by the applicator or the applicator's employer, by a competent person acting under the instructions and control of a certified private applicator who is immediately available, even though such certified private applicator is not physically present at the time and place the pesticide is applied. The certified private applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied. Direct supervision by all other certified applicators means direct on-the-job supervision and shall require that the certified applicator be physically present at the application site and that the person making the application be in voice and visual contact with the certified applicator at all times during the application. However, direct supervision for forest application does not require constant voice and visual contact when general use pesticides are applied using non-apparatus type equipment, the certified applicator is physically present and readily available in the immediate application area, and the certified applicator directly observes pesticide mixing and batching. Direct supervision of an aerial apparatus means the pilot of the aircraft must be appropriately certified. RCW 17.21.020(13).

**Discharge:** The addition of any pollutant to a water of the state.

**Discharge: Management Plan:** A plan that documents intended pest management strategies based on action thresholds using the principles of **integrated pest management**.

**Drainage:** A depression or channel in the inter-tidal surface topography that moves water down-slope as the water recedes off the tide flat as the tide ebbs.

**Experimental Use Permit:** A federal permit issued under the jurisdictions of the Environmental Protection Agency (EPA) Experimental Use Permit (federal EUP) (40 CFR 172) and/or a Washington State Experimental Use Permit (state EUP) issued by WSDA. Permittees may be required to obtain a federal EUP prior to obtaining a state EUP. An EUP is required before Permittees may apply pesticides either not registered in Washington State, or registered but with a proposed use that is not currently allowed by the current product label.

For information about federal EUPs see [EPA's exemption criteria and application requirements for federal EUPs](#)<sup>13</sup>.

For information about state EUPs see [Washington State Experimental Use Permit \(WSEUP\)](#)<sup>14</sup>.

**Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA):** The federal law that establishes uniform pesticide product labeling, use restrictions, and review and labeling of new pesticides. (7 U.S.C. §136 et seq.)

**Herbicide:** Any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any plant (see chapter 17.21.020 RCW).

**Immediate reporting:** Report permit violations immediately without delay of any interval of time from the moment the permittee becomes aware of the violation. Priority should go to stopping active noncompliance first.

**Integrated Pest Management:** A pest management strategy that incorporates pest population monitoring, multiple control methodologies including the possibility of no control, and setting action thresholds to determine when pest control will be most effective.

**Marker dyes:** Colorants sprayed onto the targeted weed along with the herbicide to mark the areas already treated.

**Notice of Intent (NOI):** The application form that Ecology specifies the applicant must use to apply for permit coverage.

**Permittee:** Any WSDA-licensed Pesticide Applicator with an aquatic pest control endorsement having coverage under this permit.

**Pesticide:** means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest; (b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and (c) Any spray adjuvant as defined in RCW 15.58.030(40). (RCW 15.58.030(31) and RCW 17.21.020(36))

**Pesticide Applicator:** An individual licensed by the Washington State Department of Agriculture under chapters 17.21 RCW and chapter 16-228 WAC to apply pesticides.

**Product label:** The label for herbicides, adjuvants, and other products authorized for use under this permit. All pesticides must be registered by WSDA prior to use in Washington state

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<sup>13</sup> <https://www.epa.gov/pesticide-registration/pesticide-registration-manual-chapter-12-applying-experimental-use-permit>

<sup>14</sup> <https://agr.wa.gov/departments/pesticides-and-fertilizers/pesticides/pesticide-registration/product-registration/special-registrations/experimental-use-permit>

**Sensitive, threatened, or endangered:**

**Sensitive:** Any species that is vulnerable or declining and could become endangered or threatened in the state without active management or removal of threats.

**Threatened:** Any species likely to become endangered in Washington within the foreseeable future if factors contributing to its population decline or habitat degradation or loss continue.

**Endangered:** Any species in danger of becoming extinct or extirpated from Washington within the foreseeable future if factors contributing to its decline continue. Populations of these species are at critically low levels or their habitats have been degraded or depleted to a significant degree.

**Unmanned Aerial Vehicle** - means a system or device used for flight in the air that is controlled by a remote operator, without the possibility of direct human intervention from within or on the aircraft. UAVs and operators must comply with applicable Federal Aviation Administration regulations, including registration, licensing and safe operation.

**Sponsor:** An individual or entity in the business of commercial production and sale of clams that has the legal authority to decide to apply herbicide to its owned or leased commercial clam beds.

**State Environmental Policy Act (SEPA):** Chapter 43.21C RCW and Chapter 197-11 WAC.

**Surface Waters of the State of Washington:** All waters within the geographic boundaries of the State of Washington defined as “waters of the United States” in 40 CFR 122.2, and all waters defined as “waters of the State” in RCW 90.48.020 excluding underground waters. These include lakes, rivers, ponds, streams, inland waters, wetlands, marine waters, estuaries, and all other fresh or brackish waters and water courses, within the jurisdiction of the State of Washington, plus drainages to those surface waters.

**Tracer Dyes:** Liquid or powdered dyes, usually fluorescent, added to another liquid or water to analyze the flow. Marker and tracer dyes are generally considered nontoxic, and make no pesticidal or pest control claims, therefore such dyes are not registered as pesticides by EPA or by WSDA.

**Treatment:** Applying an herbicide to a plant or plant population.

**Washington Pesticide Application Act:** Chapter 17.21 RCW.

**Washington Pesticide Control Act:** Chapter 15.58 RCW.

**Washington State Experimental Use Permit (WSEUP):** A permit issued by WSDA that allows the use of pesticides that are not registered or labeled for a particular use pattern for the purposes of research and development.

**Zostera japonica:** A seagrass species in the family Zosteraceae that is listed as a Class C noxious weed in Washington.

**In the absence of other definitions set forth herein, the definitions set forth in 40 CFR Part 403.3 or in chapter 90.48 RCW apply.**

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# **APPENDIX B – DISCHARGE MANAGEMENT PLAN FOR ZOSTERA JAPONICA CONTROL ON COMMERCIAL CLAM BEDS**

The following elements are the minimum requirements for a Discharge Management Plan (DMP). The applicant must prepare a DMP and submit it to Ecology along with the Notice of Intent (NOI) for review and approval. The Permittee must revise the DMP whenever there are changes in the quantity of chemicals discharged or if it adds additional treatment sites. Changes to the DMP must be made and submitted to Ecology prior to the discharge or as soon as possible thereafter. The Permittee must follow its DMP. Multiple Permittees may combine efforts to produce a single DMP that covers the discharge of imazamox in all areas the Permittees plan to treat. Elements from other documents such as Environmental Impact Statements (EIS) may substitute for equivalent elements of the DMP.

## **A. Discharge Management Plan Team**

The DMP must identify the people (including name and contact information) as well as each person's individual responsibilities, including the person(s) responsible for:

1. Managing the *Z. japonica* control project.
2. Developing and revising the DMP.
3. Developing, revising, and implementing corrective actions and other permit requirements.
4. Applying the herbicide (licensed applicators with license numbers and license expiration dates).

When changes to the DMP team occur, the Permittee must provide updated contact information to Ecology.

## **B. Problem Identification**

1. Discuss the problems caused by the growth of *Z. japonica* on commercial clam beds.
2. Identify the commercial clam beds affected by *Z. japonica* and characterize the extent of the problem.
3. Include a general location map or maps that identify the geographic boundaries of the area to which the plan applies and the locations of the commercial beds.
4. Establish action thresholds that trigger the need to remove *Z. japonica*. Include the data used in developing the action thresholds and the methods to determine when the action threshold is met.

## **C. *Zostera japonica* Management Options**

The DMP must provide an evaluation of the following management options, including a combination of these management options, considering impacts on water quality, impacts to non-target organisms (particularly in relation to native eelgrass and associated organisms), feasibility of implementation, and cost-effectiveness:

1. No action
2. Prevention
3. Mechanical or physical methods
4. Cultural methods
5. Biological control agents
6. Herbicides

## **D. Herbicide Use**

The DMP must detail the surveillance procedures that the Permittee will use to determine:

1. When the action threshold is met.
2. Treatment efficacy on *Z. japonica*.
3. Non-target impacts to native eelgrass.

## **E. Response Procedures**

The DMP must detail procedures that the Permittee will use to determine:

1. Compliance with labeled rates (equipment calibration and maintenance).
2. The schedule and procedures for preventing spills and leaks of chemicals or petroleum products (oil, gasoline, and hydraulic fluid) associated with the chemical application.

## F. Signature Requirements

The DMP must include a signature statement and the signature of the Permittee. The signature statement to read:

*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 those persons directly responsible for gathering information, the information in the DMP is, to the best of my knowledge and belief, true, accurate, and complete and will be updated as necessary. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment of knowing violations.*

\_\_\_\_\_

Signature

Date

# APPENDIX C – FIGURES

Figure 1: Buffers on single parcel

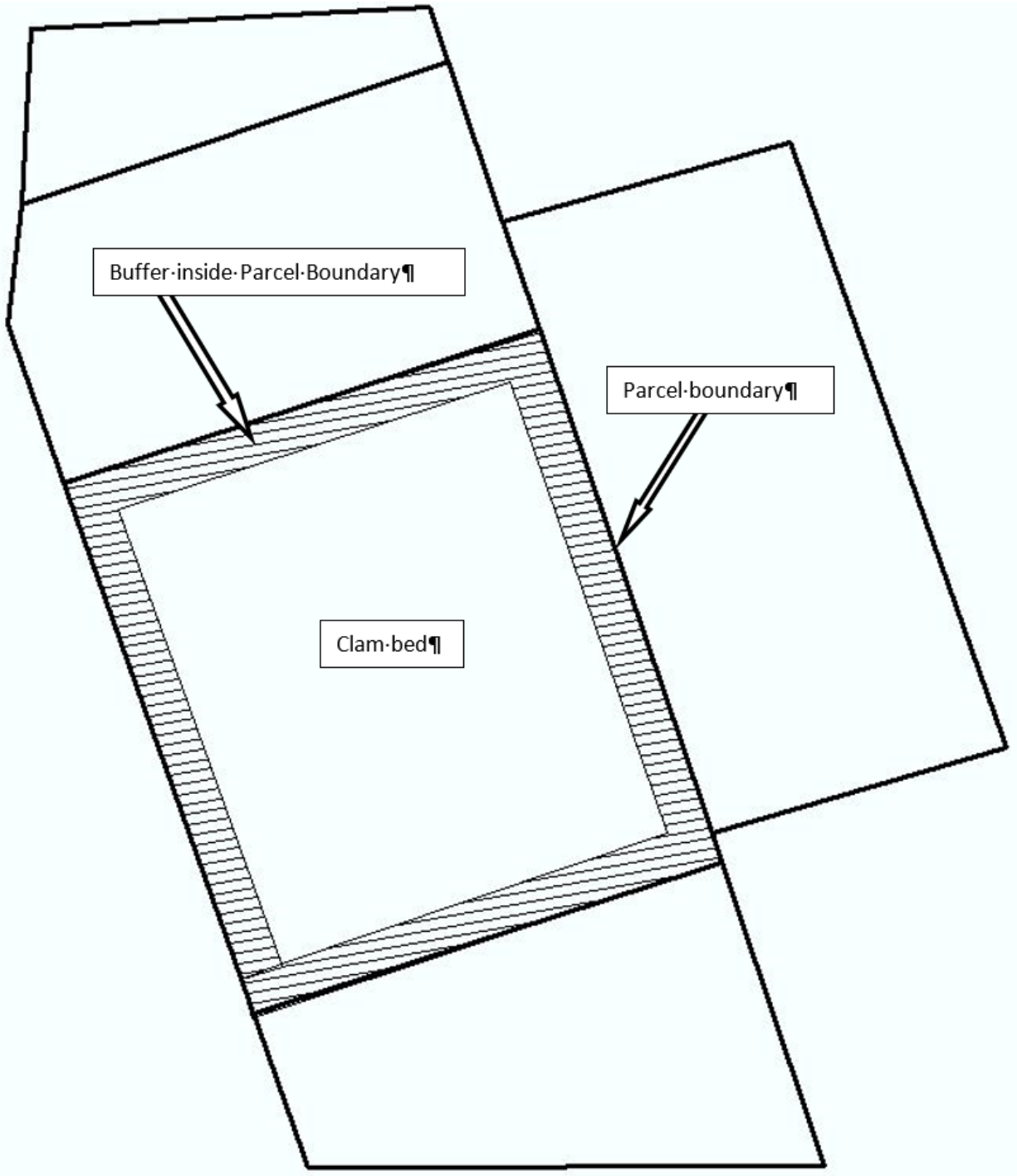


Figure 2: Buffers on Contiguous Clam Beds under same Ownership/Lease

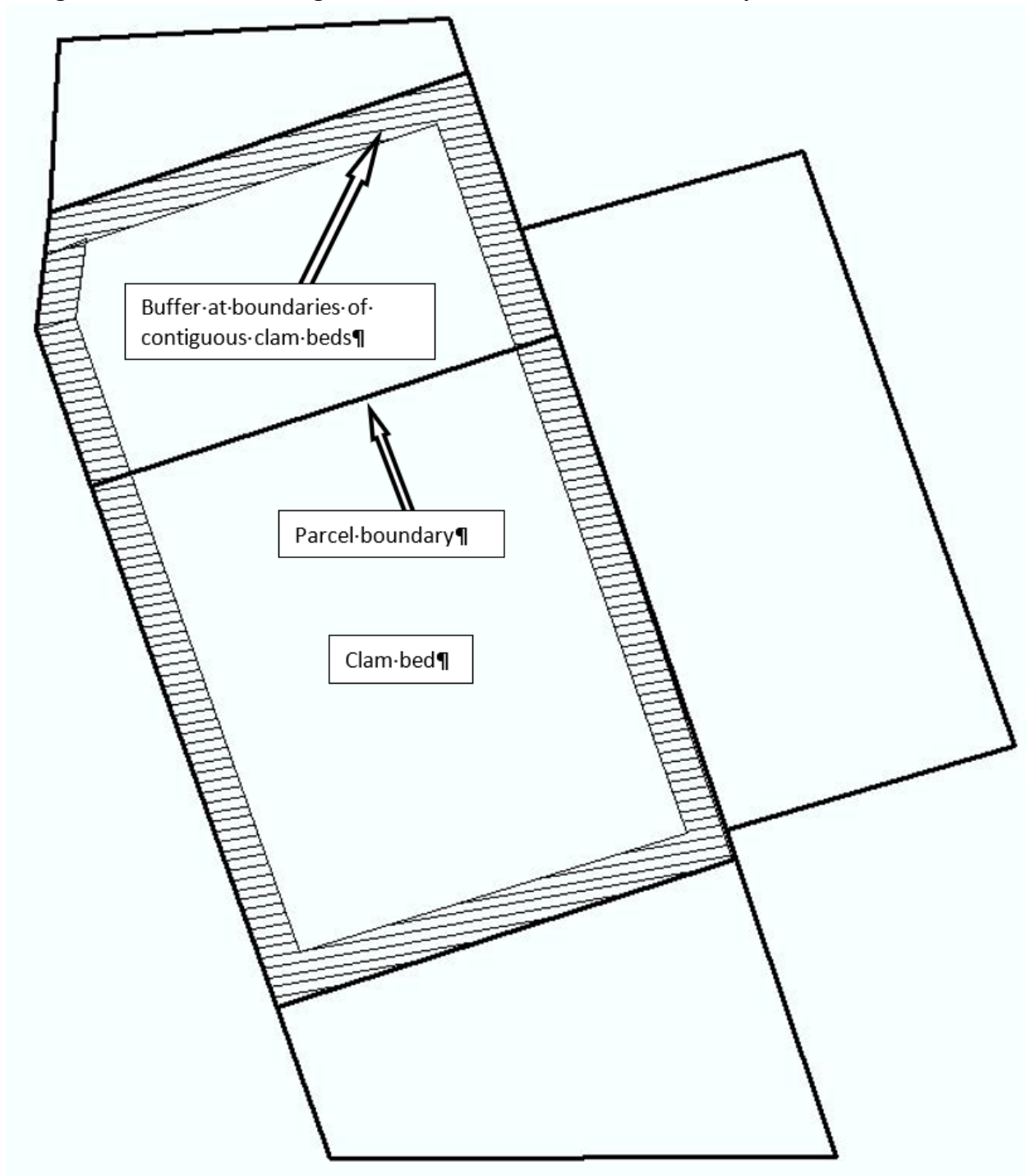


Figure 3: Buffer Location and Monitoring

