



State of Oregon Department of Environmental Quality

# 2000J NPDES General Permit Response to Comments

Comment period: July 4, 2019 through Aug. 12, 2019

DEQ accepted public comment on the proposed 2000J general permit, a permit from July 4, 2019 through August 12, 2019. This is a new general permit for pesticide use within irrigation system boundaries. This document provides a summary of each comment and a response from DEQ.

Public Comment for the proposed 2000J permit did not include a public hearing.

The following individuals or entities submitted written comments by fax and email.

List of commenters		
#	Commenter	Affiliation
1	Nina Bell	Northwest Environmental Advocates
2	Danette Faucera	Oregon Department of Fish and Wildlife
3	April Snell	Oregon Water Resources Congress
4	Mary Anne Cooper	Oregon Farm Bureau
5	Katie Fast	Oregonians for Food & Shelter

Public comments received by the close of the public comment period are organized by commenter or by topic if more than one comment was made about the same topic. DEQ's response follows the summary comment. Original comments are on file with DEQ.

This permit and fact sheet contains formatting minor editing updates. Notable formatting and editing updates in the permit include:

- Moving the Table of Contents from page 1 to page 2 and rewording 'attached schedules as follows,' with 'set forth in this permit.'
- Replacing the alphabetical list in the Coverage and Eligibility section with a numerical list on pages 6 and 7.
- Updating initial annual report due dates in Schedule B condition 19 on page 24.

## Comment Topics

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Commenter ID#	Comment	DEQ Response
<b>Definitions</b>		
1	The phrase irrigation system is not defined in the permit.	A definition of irrigation system is provided on page 3 in the permit. It is further described on the first page of the fact sheet.
1	A distinction between “natural waterways” and other waters is not allowed. A definition of natural water is not in the permit.	This permit regulates a point source discharge of any pesticide to waters of the state. Irrigation Districts, Water Improvement Districts and Water Control Districts are required to register for this permit. A list of these entities are provided in Appendix A of the fact sheet for this permit. For purposes of this permit, there is a definition of ‘Natural Water’ on page 3 of the permit. Natural water is defined for sampling purposes.
<b>Coverage and Eligibility</b>		
1	<p>The permit provision that does not provide permit coverage for a discharge to a stream segment that is listed as water quality limited waters is not protective enough for several reasons as follows:</p> <ul style="list-style-type: none"> <li>• It should address narrative criteria and combined effects of pollutants,</li> <li>• A discharge can occur to a segment upstream of a listed water, and</li> <li>• DEQ’s 303(d) lists are not timely or sufficient.</li> </ul>	<p>This permit does not provide coverage for a point source discharge to water quality limited water that is listed for that pesticide or its degradates. This provision is protective of water quality limited water because it requires alternative pesticide product use or an alternative pest control and does not allow an addition of that listed pollutant in that stream segment.</p> <p>Any residue from a point source discharge of a pesticide must not violate water quality standards. Schedule A.1.a and b. are protective of a 303(d) listed water for that pesticide, because it does not allow for the violation of water quality standards from pesticide residual from a product that is applied upstream.</p> <p>This permit does not provide coverage when a specific pesticide or multiple pesticides are listed as a cause for a waterbody’s biological impairment.</p> <p>DEQ’s 2018/2020 Integrated Report is in progress.</p>

1	<p>DEQ should require monitoring of the receiving water to assess water quality prior to authorizing the discharge to those waters. Assess water quality data to determine synergistic effects of other pollutants on copper, for example.</p>	<p>DEQ prepares an Integrated Report that includes an assessment of water quality. More information on DEQ's assessment of water quality and its Integrated Report is available on its web page at: <a href="https://www.oregon.gov/deq/wq/Pages/2018-Integrated-Report.aspx">https://www.oregon.gov/deq/wq/Pages/2018-Integrated-Report.aspx</a>.</p>
3	<p>Do not jeopardize a potential registrant's lawful discharge of pesticide residues. Allow applicants that have preexisting individual permits and/or a 2300A pesticide general permit authorization to operate under these same permits until registration under the 2000J is approved and any administrative or judicial challenge is approved. Commenter provides reference to OAR 340-045-0033(8) and (9).</p>	<p>OAR 340-045-0033(8) allows a permittee with coverage under an individual permit to request coverage under a general permit and cancellation of its individual permit. OAR 340-045-0033(9) allows a person to apply for an individual permit if that person does not wish to have coverage under a general permit.</p> <p>The permittee may decide to request coverage under a general permit, when that permittee has an individual permit. There are individual permittees that also have coverage under the expired 2300A.</p> <p>This general permit will replace the requirements under the expired 2300A for irrigation systems organized under ORS Chapter 545, Water Improvement Districts organized under 552 and Water Control Districts organized under ORS 553. This permit provides for transfer from the 2300A to this general permit. Unlike the 2300A that provides automatic coverage without registration, this general permit requires registration. An irrigation district must register to receive its authorization to discharge. New operators have 60 days after the effective date of the permit or 30 days prior to a pesticide application to register.</p>
4 and 5	<p>A Land Use Compatibility Statement Form is for new projects so that land use approval is in place before authorizing operations. A LUCS is not necessary for ongoing maintenance tied to these long-standing continued operations.</p>	<p>OAR 340-018-0030(5)(d) lists the issuance of NPDES and WPCF permits as a program effecting land use. Commission or Department actions listed under OAR 340-018-0030 require a determination that action is compatible with local government acknowledged comprehensive plans. The most straightforward way to complete this determination is through the submittal of a LUCS.</p> <p>These permits and activities are listed on the LUCS form. A single LUCS can be used if more than one DEQ permit or approval is being applied for concurrently. Permit modifications or renewals also require a LUCS.</p> <p>DEQ provides a form and information on when a LUCS is required on its web page. DEQ's Land Use Compatibility web page <a href="https://www.oregon.gov/deq/Permits/Pages/LUCS.aspx">https://www.oregon.gov/deq/Permits/Pages/LUCS.aspx</a>.</p>

1	Provide public notice of an application so that the public can inform DEQ of its concerns. Commenter references a Petition for Reconsideration for a permit assigned to Fairview Lake Property Owners Association submitted to DEQ in 2012.	Further public notice is not required for coverages under this permit as all coverages are similar in nature and must comply with the same set of conditions and requirements.  A requirement in this general permit, Schedule B.7 requires an irrigation system to provide notification to the general public as part of its operating practice when using an acrolein-, copper- or xylene-based pesticide.
<b>Schedule A – Discharge Limitations</b>		
3	Allow an operator to show a chemical pesticide does not leave a residue. Add language to this condition as follows: “residue once the pesticide product has performed its purpose, unless the operator can show otherwise. Applications of chemical pesticides that do not leave a residue are not subject to this permit’s requirements.	Residues are the aquatic herbicide itself, its degradates and an excess or off-target application. As such, in addition to a residue that may remain after a proper pesticide application, its degradates, an excess and off-target application are subject to this permit’s requirements.  DEQ is not aware of a process established by other states or EPA for this type of determination suggested by the commenter.
1	This permit should not adopt EPA’s approach in its pesticide general permit that uses narrative water quality-based effluent limits for pesticides.  Use of narrative water-quality based effluent limits and corrective action requirements are not effluent limits and is unlawful. EPA’s permit is national and Oregon is not national and EPA’s use of the narrative approach may not be legal.  A violation of narrative criteria is only apparent after a “toxic or adverse effect” is created and only after having killed beneficial uses.	This permit contains numeric-water quality based effluent limits and specifies pest management practices. This permit is also consistent with EPA and other states permits that contain a narrative water quality-based effluent limit as follows: ‘the point source discharge must not cause or contribute to a violation of water quality standards.’  Permit conditions include pest management practices, corrective action and other requirements to ensure protection of water quality and beneficial uses This permit does not allow a point source discharge to cause a “toxic” or “adverse effect.” The use of narrative criteria in a permit condition is not changed based on the comment.
1	The requirement for consistency with a total maximum daily load implementation plan is not clear. In this condition, include assumptions and requirements of the TMDL, where to find an applicable TMDL and how to	Because this permit authorizes pesticide use for the purpose of controlling weeds that affect irrigation supply water and because vegetation control in a riparian area is not

	interpret it. Explain its consistency in the fact sheet; the example in the fact sheet is not clear.	addressed by this permit, proposed condition Schedule A1.d is removed from the permit. Schedule A 1.e. is renumbered as condition 1.d. in the final permit.  Compliance with applicable TMDLs is also addressed by the limitation on discharges to water quality limited streams on p.5 of the permit. Some irrigation district are separately required by TMDLs to develop TMDL implementation plans.
1	Where a TMDL that does not contain a wasteload allocation for this permit, the TMDL allocation is zero.	
4 and 5	This TMDL temperature requirement goes beyond what is required in a pesticide permit because it regulates a pollutant that does not require a point source permit. This permit already has measures that apply to irrigation districts for any applicable TMDL around temperature.	
3	Remove this condition. Pollutants being regulated are pesticide residues. DEQ has not identified an instance in which the application of an aquatic pesticide could result in a situation that is inconsistent with a TMDL. Aquatic weeds that choke and retard irrigation systems are not riparian vegetation.	
3	If this condition remains, then include a process similar to a 1200Z general permit where DEQ determines whether an applicant proposes to discharge to water with a temperature TMDL. If there is no temperature TMDL, then the analysis is complete. If there is an applicable temperature TMDL, then conditions DEQ would use to approve registrations could include either of the following determinations: a determination that the TMDL does not establish irrigation system wasteload or load allocation for temperature or the TMDL does establish irrigation system wasteload for temperature with reserve capacity to allow for the irrigation system discharge.	

1	DEQ should provide latest actions on the court case referred to in Schedule A, Condition 1.e.i. in the fact sheet for this permit.	Please note: proposed Schedule A 1.d. is removed so that Schedule A 1.e. is renumbered as Condition 1.d. in the final permit.
1	Schedule A, Condition 1.e.i. does not contain the reasonable and prudent measures and conservation recommendations in the biological opinions that remain applicable.	The no-spray zone buffers established by the US District Court in Northwest Center for Alternatives to Pesticides v. EPA are included in the section referenced.
3	A requirement for compliance with EPA Endangered Species Protection Bulletins are already provided for under federal law. Tracking these bulletins are burdensome and not clear to operators. If this condition remains, then DEQ should identify applicable bulletins during registration.	The fact sheet for this permit appropriately provides a reference to an Oregon Department of Agriculture web page where there is information on meeting required no-spray buffers. This general permit fact sheet provides the following web link <a href="https://www.oregon.gov/ODA/programs/Pesticides/Water/Pages/Buffers.aspx">https://www.oregon.gov/ODA/programs/Pesticides/Water/Pages/Buffers.aspx</a> for this purpose.  This same ODA web page provides resources that link a viewer to EPA’s latest information on this court case. Information on bulletins is also available from this same ODA web page. See the response below. Per Schedule A Condition 4.a, An operator is required to follow these readily available bulletin requirements even after submittal of an application to DEQ.
1	This condition does not contain the reasonable and prudent measures and conservation recommendations in the biological opinions that remain applicable.	This general permit incorporates litigation-related assessments, such as buffers, and measures that are also applicable through labels or bulletins. Schedule A 4.a.. requires an operator to follow current label requirements that includes any implementing measures to protect listed species required by Biological Opinions published by the National Marine Fisheries Service or the U.S. Fish and Wildlife Service and any EPA issued Endangered Species Protection Bulletins applicable to the applied pesticide. These best management practices are protective of water quality.
1	This permit relies on FIFRA labeling and registration to ensure protection of designated beneficial uses, when there are also biological opinions issued by National Marine Fisheries Commission. An evaluation on what is meant by “aquatic life” and “wildlife” uses needs to be discussed in the fact sheet. Commenter references a Petition to Initiate Rulemaking and Take Other Actions to Protect Existing and Designated Uses of Fish and Wildlife From Point and Nonpoint Sources of Pesticides submitted to DEQ in 2012.	In addition, this permit retains biological opinion requirements contained in Klamath Irrigation District individual permit (former NPDES permit number 102541) as contained in condition Schedule A.10.

3	<p>Numeric effluent limitations for acrolein, copper and xylene are more stringent than necessary or appropriate. The stringent approach is not supported by the available scientific data or any controlling policy justification. Revise the proposed effluent limits Commenter references exhibit A. a 2016 letter to DEQ that provided comment on a proposed 2300A pesticide general permit.</p>	<p>Each effluent limit is appropriately applied as explained in the fact sheet in Sections 4.0, 5.0 and 7.0.</p> <p>DEQ applied its human health criteria for acrolein. Domestic water supply as a beneficial use applies in most waters of the state including in water used for irrigation. In developing effluent limits, the more stringent of the water quality criteria applies.</p> <p>Human health water quality criterion for acrolein is more stringent than an aquatic life value. A use attainability analysis is required to change a beneficial use established in DEQ's water quality standards for a surface water of the state.</p> <p>The acrolein water quality criteria for human health is lower than that for aquatic life, which resulted in an effluent limit that is lower than the permit limit in the individual permits. Similarly, the most recent EPA Office of Pesticides Programs Reregistration Eligibility Decision for xylene established a "safe" concentration of 0.04 mg/L (40 µg/L) in receiving water, which is based on potential exposure to aquatic organisms resulting from the discharge of xylene treated irrigation water into natural water bodies.</p> <p>This permit contains effluent limits for copper that are based on DEQ's revised copper criteria. The biotic ligand model for copper provides a more accurate prediction of copper toxicity than DEQ's previous criteria, which was based on hardness alone.</p> <p>The individual permit conditions for irrigation systems required compliance with permit conditions for a point source discharge of a residual or excess pesticide. Limits were set within the irrigation system but outside of the treatment area during the treatment period, or within the irrigation system and treatment area after the treatment period elapsed. A mixing zone was not provided. This general permit includes these same requirements.</p>
1	<p>Commenter has concerns that permit authorizes a discharge of a pollutant that may harm aquatic life other than fish, that people may come in contact with water in a treatment area at unsafe levels.</p>	<p>This permit appropriately addresses the point source discharge of a pollutant and is protective of the beneficial uses of water. FIFRA label laws may contain additional protections for concerns regarding direct human contact.</p>
1	<p>The effluent limit that prohibits discharging or causing or contributing to a violation of water quality standards "within the irrigation system but outside of the treatment area during the treatment period" is a limitation that allows a discharge to violate water quality standards that</p>	<p>This phrase 'within the irrigation system but outside of the treatment area during the treatment period' is protective of water within the irrigation system that is not part of the treatment area and is not receiving treatment.</p>



	apply to waters of the US within the treatment area during treatment.	
1	Include label limits in the permit. For example, holding requirements for acrolein should be included in the permit limits.	Holding in Schedule A. 7.f.i. is one acceptable best management practice. Schedule A 2.a.i., recognizes that best management practices such as holding or turnover may be used to manage irrigation water after treatment for compliance with the effluent limit.
1	Regional BLM copper limits should be derived using 10 <sup>th</sup> percentile DOC in Cascade and Coastal regions. There is no explanation of how temperature was used in the calculation of the ambient copper criteria.	<p>This permit uses 20th percentile regional default input parameters and the monthly geometric mean temperature for these sites. This is consistent with regional default input parameters for Cascades, Coastal and Willamette Valley Regions and Columbia River main stem as explained in DEQ’s Implementation Procedures and Default Values on its web page <a href="https://www.oregon.gov/deq/wq/Pages/WQ-Standards-Copper.aspx">https://www.oregon.gov/deq/wq/Pages/WQ-Standards-Copper.aspx</a>. These regional default values are then used in a reasonable potential analysis to determine the effluent limit.</p> <p>EPA evaluated the protectiveness of the default input values and found they provided a protective level for the resulting criteria.</p>
3	Schedule A.2.a.i. and A.2.b.i should be revised to state that only that, “Compliance with the daily maximum limit is based on meeting the {respective} QL.” An operator should not have to meet best management practices in addition to satisfying the analytical requirements of a QL.	This permit contains these special conditions to help assure a limit, which is below an analytical level, is met. It is an approach recommended in EPA’s Technical Support Document for Water Quality-based Toxics Control, EPA, March 1991.
3	<p>For acrolein, these best management practices are set forth in Schedule A: 7.b, 7.e, 7.f.i, 7.f.iii., 7.g, 7.h, and 7.i.</p> <p>For copper, they are outlined in Schedule A: 7.c, 7.e, 7.f.iii, 7.g, 7.h, and 7.i.</p> <p>How would an operator show these practices are being followed.</p> <p>Compliance with both 7.f.i. “and” 7.f.iii. is required when only one is necessary.</p>	<p>Compliance with these conditions is expected. Compliance can essentially be determined through documentation available for review. As required in Schedule D.4.a., a pesticide discharge management plan will contain action thresholds with methods used to determine that action threshold based on (7.b. and 7.c.). Pesticide use practices (7.f.i. or 7.f.iii.) associated with sample results are reported with monitoring results. In 7.e. and 7.g., recordkeeping is required for irrigation systems with gates. Schedule B also contains reporting requirements including information in 7.i. on the pesticide applicator.</p> <p>The condition 7.h., is a requirement that does not require recordkeeping. Schedule A.2.a.i and Schedule A.2.b.i. is modified to remove 7.h. as one of the best management practices.</p> <p>Schedule A.2.a.i. is rewritten to clarify that either 7.f.i. or 7.f.iii. are best management practices to be followed.</p>
1	It should be clear that the xylene permit limit in Table A3, overrides the permit label allowing a higher level.	This permit’s effluent limit of 0.04 mg/L (40 µg/L) is clearly stated in Schedule A.2.c.of this permit. As explained in the fact sheet in Sections 5.0 Antidegradation

		and Section 7.3., the xylene permit limit can be achieved by following holding requirements as directed by its label. A best management practice for holding xylene is contained in Schedule A.f.i.
1	This fact sheet should not indicate that there is no criterion for xylene because there is narrative criteria. Narrative criteria exists to fill a gap when there is no numeric criteria.	In the fact sheet in section 7.3, there is an explanation of the criteria used to establish an effluent limit for xylene. Both OAR 340-041-0033(4) and OAR 340-041-0007(10) are referenced. In section 5. Antidegradation, effluent limits are established to protect the most sensitive beneficial uses of Oregon waters. This section explains that under the toxics substances rule DEQ can establish permit or other regulatory limits for toxic substances for which criteria are not included in Tables 20, 33A, or 33B, using the guidance values in Table 33C, public health advisories, and other published scientific literature.
1	DEQ cannot use a quantitation limit for a water quality-based effluent limit of acrolein or copper.	Commenters seem to conflate water-quality based effluent limits with the availability of a procedure to measure the presence of the pollutant. Clarification to permit language in Schedule A.2.a.i. and Schedule A.2.b. to describe the procedure associated with analytical quality assurance is provided in response to the comment below.  Quantitation limits for acrolein, copper and xylene are based on sufficiently sensitive methods that are achievable at commercial laboratories in Oregon.
3	Quantitation Limits (QL) for copper and xylene have been reduced: Xylene QL is reduced from 2 µg/l to 1 µg/L and copper from 10 µg/L to 2 µg/L. There is no justification for a QL.	
1	This fact sheet does not compare results from water quality monitoring reports from individual permits with newly established permit limits. Do the reported amounts and quantitation limits associated with the reported amounts prevent DEQ from determining if water quality standards and effluent limits are exceeded with acrolein and copper.	A comparison of analytical results from the individual permits is not provided. Sample results data from individual permit is limited and the individual permits did not contain quantitation limits.
3	Include a note to allow a registrant the opportunity to demonstrate a higher QL.	Schedule B Condition 5.e. contains this information. No changes were made to the permit.
3	Quantitation Limit for Acrolein is not adequately justified and Quantitation limits for copper and xylene have been reduced with no justification.  The only mention on fact sheet level derivation is “ DEQ does not have current data using a quantitation limit for compliance, but expects the 5 µg/L to be achieved based on the provisions of 40 CFR §136.”	The excerpt from the fact sheet just explains that quantitation limits are based on analytical methods that can be achieved using provisions of 40 CFR Part 136. This permit requires the analysis of acrolein and copper using EPA 40 CFR Part 136 methods at an analytical level that is sufficiently sensitive. A separate technical analysis of a test method in this fact sheet is not necessary.  This permit contains a limit for acrolein and a limit for copper in the cascade region. The effluent limit for acrolein in Schedule A 2.a., Table A1 is set at 0.9 µg/L with a

	<p>Xylene QL is reduced from 2 µg/l to 1 µg/L and copper from 10 µg/L to 2 µg/L.</p> <p>Reconsider these QLs until DEQ completes a technical analysis of the test methods.</p>	<p>quantitation limit of 5 µg/L. The effluent limit for copper in Schedule A 2.b., Table A2 in the cascade region is set at 0.65 µg/L with a quantitation limit of 2 µg/L. Each of these limits is below the analytical level and will be evaluated for compliance using a quantitation level. The permit limit for xylene is significantly above its quantitation level so that an evaluation for compliance using a quantitation level is not necessary.</p> <p>This permit will not specify a particular method to achieve a quantitation level, but 40 CFR Part 136 methods are required for analysis in a NPDES permit.</p> <p>For acrolein, Schedule A.2.a.i. is rewritten to clarify that there is minimum quantitation level and that DEQ will use the quantitation limit to evaluate compliance as follows:</p> <p><i>Schedule A.2.a.i. DEQ has established a minimum Quantitation Limit of 5 µg/L for acrolein. In cases where the daily maximum limit for acrolein is lower than the Quantitation Limit, DEQ will use the reported Quantitation Limit as the compliance evaluation level as long as best management practices associated with acrolein-based pesticide use in Schedule A: 7.b., 7.e., either 7.f.i. or 7.f.iii, 7.g. and 7.i. are followed.</i></p> <p>For copper, Schedule A.2.b.i. is rewritten to clarify that there is minimum quantitation level and that DEQ will use the quantitation limit to evaluate compliance as follows:</p> <p><i>Schedule A.2.b.i. DEQ has established a minimum Quantitation Limit of 2 µg/L for copper. In cases where the daily maximum limit for copper is lower than the Quantitation Limit, DEQ will use the reported Quantitation Limit as the compliance evaluation level as long as best management practices associated with copper-based pesticide use in Schedule A: 7.c., 7.e., 7.f.iii, 7.g. and 7.i. are followed.</i></p>
1	<p>The conditions that require a permittee to use label amounts to prevent pest resistance and minimize frequency of discharges is not explained.</p>	<p>Section 6.3 of the fact sheet will contain the following explanation:</p> <p><i>DEQ requires operators to use the optimal amount of pesticide consistent with the pesticide label directions to reduce the potential for development of pest resistance and to minimize the frequency of pesticide applications necessary to control the target pest. Using the right amount of pesticide is paramount to pest control. Using the pesticide product as intended and following the label will result in the efficient use of the pesticide and prevent pest resistance. For example, Pesticide use at a dose that is intended to kill the pest population will prevent genes responsible for a resistance trait from spreading. Footnote added <a href="https://www.epa.gov/sites/production/files/2017-09/documents/prn-2017-1-pesticide-resistance-management-labeling.pdf">https://www.epa.gov/sites/production/files/2017-09/documents/prn-2017-1-pesticide-resistance-management-labeling.pdf</a></i></p>

3	<p>Consistent with the temporal qualification included in Schedule A.5.c, operators should be required to take corrective action only after becoming aware of any leak or spill. OWRC therefore requests that Schedule A.5's first clause be revised to state: "Upon becoming aware of a leak or spill, operators must take <u>Corrective Action . . .</u>" (Underline denotes new proposed language for Schedule A.5.)</p>	<p>Scheduled A.5.c., states upon becoming aware of a leak or spill, the operator must take immediate corrective action to stop and contain leaks or spills of pesticides. Therefore, a temporal qualification is included for this type of corrective action.</p> <p>Schedule A.5. explains that corrective action involves steps such as review and evaluation of pest management measures for situations in Schedule A.5.a., and implementing changes before starting a subsequent pesticide application as required in Schedule A.5.b. This condition was unclear and is modified as follows:</p> <p>5. An operator must take <u>Corrective Action</u> for all pesticide applications under this permit by reviewing and evaluating the pest management measures in Schedule A: 4 through 11 <b>and implementing changes as follows: <del>and taking immediate corrective action for leaks or spills as follows:</del></b></p> <ul style="list-style-type: none"> <li>a. Where appropriate, revise the pest management measures to ensure that the situations listed below are eliminated and will not be repeated <ul style="list-style-type: none"> <li>i. A spill, leak, or unpermitted point source discharge;</li> <li>ii. A point source discharge that causes or contributes to a violation of water quality standards;</li> <li>iii. A failure to follow pest management measures;</li> <li>iv. Pest management measures that are not sufficient to meet the <u>pest management measures and water quality-based effluent limitations in the permit</u>; and</li> <li>v. A reportable adverse incident.</li> </ul> </li> <li>b. If the operator determines that revisions to the Pest Management Measures in Schedule A: 4 through 11, are necessary for any situation that was identified above, the operator must implement changes to the pest management measures before proceeding with any subsequent pesticide applications.</li> <li>c. Upon becoming aware of a leak or spill, the operator must take immediate corrective action to stop and contain leaks or spills of pesticides.</li> </ul>
3	<p>Pest Management measure includes a phrase 'at a more intensive level.' It is unclear what that phrase is intended to convey. Omit this language.</p>	<p>The phrase 'at a more intensive level' is removed from Schedule A.6.</p>
1	<p>With the exception of acrolein-, copper- and xylene-based aquatic pesticides, permit limits are self-imposed.</p>	<p>DEQ will continue to rely on self-monitoring and adherence to permit conditions. Because compliance with the monitoring and reporting requirements is critical to</p>
1	<p>Corrective action can occur without public notification, public review and comment.</p>	

		protecting water quality, violation of these requirements is considered by DEQ to be among the most serious of violations.
1	Without reasonable potential analysis DEQ cannot authorize the discharge of pollutants.	Pest management measures are narrative technology based effluent limits that will minimize the discharge of a pesticide. Information on using narrative technology based effluent limits, as a reasonable approach to control pesticide discharges, is located in sections 4.1.2 and section 6 of this fact sheet.
1	DEQ's narrative criteria should be used to address mixtures of pesticides in the environment from other sources.	This permit will minimize pesticide use from point source discharges of pesticides and sets limits and practices in place to be protective of water quality standards and beneficial uses.
1	Research and development activities cannot legally be exempted from pest management practices.	See section 6.4 of the fact sheet. For research and development purposes, commonly used pest management measures may not be appropriate. Consistent with EPA's pesticide general permit, these operators implement pest management measures in the permit to the extent that implementation of the pest management measure does not compromise the research design.
1	This permit does not consider the role of excess nutrients that cause aquatic weeds.	Schedule A 6.a. requires an operator to identify possible factors, including nutrients, which may cause or contribute to a pest problem.

Schedule B - Minimum Monitoring and Reporting Requirements		
1	<p>This permit should have temperature monitoring and reporting in Schedule B because temperature effects the efficacy of pesticides and the impact of toxic pollutants on beneficial uses.</p>	<p>This permit includes requirements to follow a FIFRA label; a FIFRA label may contain a temperature range for efficacy. Because the timeframe for a pesticide application is seasonal and coincident with a temperature range for the pesticide application, temperature monitoring is not required.</p> <p>In addition, Schedule A.4.e, requires a pesticide application be consistent with a label requirement such as water temperature. Any pesticide application that does not meet a label requirement may result in a permit violation.</p>
1	<p>DEQ should use a monitoring regime that uses stabilized liquid membrane technology. Commenter provided two ambient monitoring studies to support this concept:</p> <ul style="list-style-type: none"> <li>• Washington Department of Ecology, <i>Integrated Ambient Monitoring Pilot Report: Potential Causes for Impairment of Rainbow Trout Early Lifestages and Loss of Benthic Biodiversity in Indian Creek</i>, 22 (Jan. 2012);</li> <li>• W.G. Brumbaugh, <i>et al.</i>, <i>Stabilized Liquid Membrane Device(SLMD) for the Passive, Integrative Sampling of Labile Metals in Water</i>, <i>Water, Air, and Soil Pollution</i> 133: 109–119 (2002).</li> </ul> <p>Suggests EPA’s Great Lakes Rule as a model strategy.</p>	<p>Suggestions for DEQ to require or use ambient monitoring and set up a model strategy based on EPA’s Great Lakes Rule are beyond the scope of this permit.</p> <p>Operators of irrigation system are responsible for monitoring per Schedule B at representative times and locations. This permit appropriately requires operators to take a grab sample for analysis. This permit does not provide coverage for a pesticide application outside an irrigation system boundary.</p>
1	<p>Condition a discharge of a pesticide based on a calculation of the amount of pesticide applied and flow. Require the permittee to submit the calculations.</p>	<p>This permit has a pest management measure that requires compliance with FIFRA label requirements. Schedule A.4.a., requires an operator to meet FIFRA label instructions, which may include a calculation of the amount of pesticide product and water volume, or flow. This permit requires record of a pesticide application rate in Schedule B, Condition 15, so that, DEQ will have information on application rate.</p> <p>It is illegal to use a registered pesticide inconsistent with its labeling. If operators are found to have applied a pesticide in a manner inconsistent with any relevant water-quality related FIFRA labeling requirements, that is a violation of the effluent limitation to minimize pesticides discharges under this NPDES permit.</p> <p>Management of a pesticide residual is based on flow rate in a canal, so that, for application of acrolein-, copper-, or xylene-based pesticides this permit requires recordkeeping to support turnover and travel time in a treatment area. As required in Schedule D.6.d., an operator will submit the results of the most recent time of travel</p>

		study with a monitoring report. No change is made to the permit based on this comment.
1	This permit contains a time of travel study that allows permittees to set their own permit limits.	A time of travel study supports the proper use and management of a pesticide. As stated in section 9 of the fact sheet, knowing the flow or travel time in the irrigation system is important for meeting an effective concentration and in that way minimizes pesticide use.
1	Monitoring, reporting, limitations and effluent limits should be incorporated into the proposed permit to address a release of nutrients from aquatic plants that die and depress dissolved oxygen levels.	Monitoring for dissolved oxygen so that it correlates with a release nutrients would be impractical. A release of nutrients may contribute to growth of another aquatic plant or algae that is not targeted, but not necessarily contribute to dissolved oxygen reduction. Dissolved oxygen may be reduced due to rapid decomposition of plant matter and not the release of nutrients in the water.
2	Perform visual assessments during and/or immediately after all treatments because adverse effects of treatments may be able to be minimized or reversed. Awareness of an adverse effect can be more difficult to assess over time.	Schedule B.2. does require a visual assessment during the application of pesticides when considerations for safety and feasibility allow.
2	ODFW recommends registrants consult with ODFW prior to the application of a pesticide. ODFW may be able to assess the risk to fish, wildlife, and habitats and recommend a means to avoid or minimize impacts, when appropriate. Screens are required in accordance with (ORS 498.306(1)), but older canals remain unscreened and fish can gain entry to an irrigation system from the lower end of a canal. Fish that are listed as federally endangered species and other native fish and wildlife may be present with or without a working screen.	DEQ encourages registrants to consult with ODFW to determine specific risks to fish, wildlife and habitats in an application area. The permit has been edited to remind registrants of this option.  Pest Management Options Evaluation, in Schedule D 2.c., of the permit requires an operator to include a description of the active ingredients evaluated for pesticide use. In this section of the permit, operators are encouraged to consult with ODFW to determine specific risks to fish, wildlife and habitats in an application area.
1	A permit condition that requires an inspection to be documented should also require a photograph. For example, demonstrate fish screens are in place using a photograph and document any fish kill with a photograph.	An operator is required to be in compliance with this permit. Schedule B3., requires an operator to check and keep a record to indicate a fish control structure or other management practice is in place.  Schedule B10.c., requires an operator to provide a written report of an adverse incident which includes reporting species affected, number dead, distressed along with their sizes.
3	So long as the first representative sample (for acrolein-, copper-, and xylene-based pesticides, respectively) in a calendar year is at or below the applicable numeric	When sampling is complete, is a question that is applicable to the system as a whole and is dependent upon a number of considerations. How often sampling is required is dependent upon release to natural water, size of treatment area, results of sampling

	<p>effluent limit for that pesticide residual and the operator is in compliance with the time of travel study and recordkeeping requirements, no additional sampling is required for additional applications of that particular pesticide for the rest of that calendar year. representative sample (for acrolein-, copper-, or xylene-based). Does DEQ’s interpretation differ and why?</p>	<p>and recordkeeping. Schedule B.5. contains an explanation for sample requirements when considering the system as a whole. Each first point of release is required to be sampled in a calendar year.</p> <p>Further explanation is provided in Appendix D and Appendix E of the fact sheet.</p> <p>Schedule B.6, contains monitoring requirements for a pollutant at a first point of discharge for example sample frequency is dependent upon each first point of discharge, sample type is a grab sample and analysis requirements are per 40 CFR Part 136.</p> <p>Tables in Scheduled B. 6 a.,b., summarize sample location and frequency. This information is revised as follows: <i>“Take a sample that is representative of the first release in a calendar year from the irrigation system to natural water from a first point of discharge that is nearest to natural water.”</i></p>
3	<p>Add language to reduce monitoring requirements. Commenter suggests that when an operator demonstrates compliance with the applicable numeric effluent limits in one calendar year, then the next year, sampling should not be required next year for the same type of pesticide at the equivalent rate in the same location.</p>	<p>This permit provides for reduced sampling in a calendar year. DEQ will require sampling each year that permit is in effect. Data is required to show compliance with the permit limits and data is also used to make informed decisions about point sources in a watershed. No changes were made to the permit based on this comment.</p>
3	<p>Confirm that when a representative sample (for acrolein-, copper-, xylene-based pesticides, respectively) in a calendar year is at or below the applicable numeric effluent limit for that pesticide residual and the operator is in compliance with the time of travel study and recordkeeping requirements, no additional sampling is required for additional applications of that particular pesticide for the rest of that calendar year.</p>	<p>The number of samples will vary for each registrant. Sampling in a calendar year is based on number of potential discharge locations identified in the application for this permit, timing of that discharge e.g. first discharge from that discharge location and type of pesticide. This question is a request to clarify repeated monitoring requirements in Schedule B.6. This condition is changed to clarify that repeated monitoring is not required when a sample result is below the effluent limit or its corresponding quantitation limit.</p> <p>Schedule B.6.e is revised to correctly reference Schedule A: 2.a., 2.b., 2.c, or 3 and refer to effluent limit or its corresponding quantitation limit as follows:  <i>If a sample result is above an effluent limit or its corresponding quantitation limit in Schedule A: 2.a., 2.b., 2.c, or 3 an operator must take corrective action as required in Schedule A condition 5 and repeat the sampling requirement for that pesticide at the next application.</i></p> <p>Schedule B.6.f.i. is revised as follows: <i>‘One sample result for either acrolein, copper or xylene is at or below the effluent limit or its corresponding quantitation limit in Schedule A: 2.a., 2.b., 2.c, or 3;’</i></p>



3	DEQ did not provide specific direction regarding which section of 40CFR Part 136 contains methods for analysis for acrolein, copper and xylene. Do Oregon labs provide service for these analysis? Commenter provides an excerpt from 40 CFR Part 136 for Acrolein Method 624.1 and Copper Method 200.8 and Xylenes Method 624.1 and requests confirmation that the excerpt is correct.	Schedule A.2.a.i. and Schedule A.2.b.i. are rewritten and the term ‘specified method’ is removed. Tables B1, B2 and B3 in Schedule 6. do not specify a test method. See also the response to comment on quantitation limits. There are commercial laboratories in Oregon that provide services for analysis of pollutants following 40 CFR Part 136 methods.
3	Schedule A.7.d. should not apply to an operator that does not have a means to control the water’s flow to a user requesting stoppage or if stoppage would harm other users seeking water. Revise the condition to add the phrase, ‘as is practicable,’ to require a water user to stop water deliveries to that user, as is practicable, during pesticide application.	Schedule B.7.a. requires an irrigation system operator to notify each water user served by the irrigation system of its intent to apply aquatic pesticide(s), when using acrolein-, copper- or xylene-based pesticide within the irrigation system. Schedule A.7.d. requires a district to stop water deliveries to a water user during pesticide application when requested to do so in writing. An end user should understand the irrigation systems ability to satisfy it needs as part of the working relationship between those entities. DEQ would not expect an end user to request stoppage if it were not practicable. No change was made to Schedule A.7.d.
4 and 5	The requirement to notify a drinking water supplier is confusing and unnecessary. A registration and label is sufficient to protect downstream uses of water. If a label prohibits pesticide use within a specified distance of a drinking water source and it is complied with, then would notice to a potential drinking water source still be required.	<p>The permit does include a notification requirement to drinking water sources to be protective of the beneficial use of drinking water.</p> <p>An irrigation system operator may choose not to use a pesticide with a label that contains a potable water use restriction. If a pesticide has a potable water use restriction on the label, then an operator must be prepared to notify any private and domestic water user that may be impacted if that potable water use restriction is not met. If a label prohibits pesticide use within a specified distance of a drinking water source and it is complied with, then notice is not required.</p> <p><u>Schedule B 9 is revised as follows to provide clarity:</u>  <i>An operator who plans to use a pesticide with a label that contains a potable water use restriction must identify users of known public or private drinking water suppliers and notify a public or domestic drinking water supplier if any potable water use restriction, is not met. Notification is not required when the potable water use restrictions on a label are met.</i></p> <p><del><i>Prior to an application of pesticides with potable water use restrictions on the label, an operator must identify and provide notification to the users of known public or private drinking water supplied from surface waters of the state where these applications may impact the drinking water source. Notification is not required if the</i></del></p>

		<p><del>FIFRA label requires setbacks and the setbacks are satisfied. Drinking water source information tools are available from DEQ's Drinking Water Protection Program and the Oregon Department of Water Resources, to identify downstream intake locations.</del></p> <p>A record of notification is removed from the Pesticide Discharge Management Plan in Schedule D 2.f. Schedule B 15.b. is revised to include a record of notification as follows: Name of the public or private drinking water supplier <del>identified in</del> notified per Schedule B, condition 9.</p> <p>Notification of recordkeeping requirement is removed from Schedule D 2.f: <del>Record of notifications to sources of public and private drinking water intakes.</del></p> <p>Response Procedures in the Pesticide Discharge Management Plan in Schedule D 2.e.iii., which includes procedures to notify drinking water intake contacts, did not change.</p> <p>Clarification regarding Schedule B condition 9 is provided in section 8.2 of the fact sheet on page 34 as follows: If a pesticide has a potable water use restriction on the label, then the operator must notify private and domestic water users who withdraw drinking water from the receiving water <i>in accordance with</i> <del>See</del> condition No. 9.</p> <p>A revision regarding Schedule B condition 15 b. is provided in section 8.3 of the fact sheet on page 35 as follows: Condition 15.b., the name of the public or private drinking water supplier is recorded when <i>notification of</i> a pesticide with potable water use restriction applies.</p>
3	<p>Monthly reporting is required even months when operators do not apply any aquatic pesticides. This provision is burdensome, NetDMR is cumbersome and the importance of receiving monthly reporting requirements is unclear.</p> <p>Monthly reporting exposes an operator to additional compliance risks. Delete the monthly reporting requirement. Or make a monthly reporting requirement conditioned upon an operators 'irrigation season' as follows: "The operator shall submit a monthly monitoring report during each month in the operator's irrigation season and any other month outside the irrigation season in which the permit registrant actually applies aquatic pesticides."</p>	<p>DEQ must receive a discharge monitoring report for each month to indicate if a discharge occurred. If there is no discharge, DEQ must receive a signed DMR for each month that states, "no discharge."</p> <p>DEQ will migrate to an electronic data management system for general permits. In the future, when directed by DEQ, electronic reporting will be required. Reporting 'no discharge' in a monthly monitoring report during times when no irrigation occurs will be easier with an electronic reporting system. Monthly reporting will also serve to maintain an active user profile.</p> <p>Permit requirements are revised to remove reference to EPA's NetDMR in Coverage and Eligibility section 1.h. (formerly section A.8), Schedule B 18. and Schedule B 20.</p>

4 and 5	Delete the monthly reporting requirement. It is not necessary because DEQ cannot expect to receive new information on a monthly basis. Monthly reporting is expensive and time consuming and cumbersome through EPA's Net DMR.	
<b>Schedule D –Special Conditions</b>		
1	<p>Provide public notice on the pesticide discharge management plan. A summary of the reasons are provided below:</p> <ul style="list-style-type: none"> <li>• An enforceable action to revoke general permit authorization and compliance is tied to this plan.</li> <li>• A plan could be pertinent to future permit limits.</li> </ul>	<p>In Section 9 of the fact sheet, DEQ explains that the Pesticide Discharge Management Plan is a tool for operators, but does not impose on the operator an obligation to comply with the PDMP. This permit does not require an owner or operator to submit their plan, but DEQ may request a plan be submitted or review a plan during a site visit. As such, public notice of the PDMP is not required.</p>
1	<ul style="list-style-type: none"> <li>• It is an effluent limit with an impermissible permitting scheme and a treatment area and treatment period can be defined by the operator.</li> <li>• The plan contains restrictions that must be subject to public and permit writer review.</li> <li>• DEQ should not have relied on EPA's rationale.</li> <li>• Non-numeric effluent limits in this permit are not clear, the plans are effluent limits</li> </ul>	

<b>General Comments</b>		
3, 4 and 5	Do not make this permit more stringent than the corresponding conditions in the existing individual NPDES permits and the 2300A general permit.	This general permit includes basic requirements of the 2300A pesticide general permit and individual permits for irrigation systems. As explained in the fact sheet, this permit contains water-quality based effluent limits and pest management measures that are protective of water quality standards and its beneficial uses.
4 and 5	Eliminate any conditions that are more restrictive.	This is a statewide general permit that does not provide for site-specific allowances that may be considered in an individual permit. To be protective of water quality and its beneficial uses, this general permit includes current requirements, such as, water quality criteria that have changed. A general permit is one option for permit coverage. Any person may apply for an individual permit.
1	An irrigation system is being treated like a mixing zone. This permit excludes all waters within the defined 'irrigation systems' from compliance with water quality standards.	The permit does not allow for a "mixing zone" as it requires water quality standards to be met throughout the irrigation ditch. This permit is for a point source discharge of a pesticide for pest control in irrigation systems. As explained in Section 7 of the fact sheet, management practices for acrolein-, copper- and xylene-based pesticides that are consistent with the permit conditions in individual irrigation district permits issued in 2005 and 2006 are included in this general permit. Individual permits issued in 2005 and 2006 do not have a mixing zone. Management practices such as holding and turnover are set to keep pesticides at levels that would not violate water quality standards. Although sampling occurs at a point of discharge nearest to natural water, DEQ does not expect the inert ingredients or product degradates to be present at levels that would violate water quality standards in the irrigation system prior to discharges to natural waters. In addition, sampling is a requirement in gate-managed systems when holding or turnover management practices are not used. For these reasons, the permit requirements do not treat the irrigation system as a mixing zone.
1	<p>Because 'treatment area' is only determined by a permittee and without DEQ approval or public review enforcement is impossible.</p> <p>Treatment area is the water where there is a prohibition on a discharge that causes or contributes to violations of water quality standards.</p> <p>There are no protections for waters that are outside irrigations systems because all of the prohibitions on causing or contributing to violations of water quality standards only apply 'within the irrigation system.'</p>	<p>Treatment area is appropriately defined in the permit. Treatment area is where a pesticide application is intended to provide pesticidal benefits. Pesticidal benefits includes proper application of pesticide, the target pest and other pest management measures.</p> <p>These same conditions will be protective of water quality outside an irrigation system.</p> <p>Sampling at a juncture with natural water will ensure pesticides are not being applied outside the irrigation system boundary.</p>

1	This permit illegally exempts ‘treatment areas’ from compliance with water quality standards and other CWA requirements because this permit allows a permittee to add pesticides throughout the ‘treatment areas’ of irrigation systems. A treatment area is allowed to be defined by the permittee.	This permit conditionally allows the use of a pesticide product in water in a treatment area. Also see the response above.
1	The antidegradation discussion in the fact sheet needs to evaluate whether the discharge will result in full support of existing uses.	As the fact sheet in Section 5.0 explains, the effluent limits in this permit are designed to protect the most sensitive beneficial uses of Oregon waters. Therefore, in waters where existing uses are more sensitive than the uses specifically designated for the waterbody, the permit limits and requirements will protect the more sensitive existing use.
2	ODFW may have the right to pursue compensation for natural resource losses, or destruction and injury, of fish, wildlife, and their habitat related to pollution or violation of the condition of any permit, order or rule of the Environmental Quality Commission of the state of Oregon (OAR 635-410-0000 to 635-410-0035)	Thank you for your comment. No changes are made to this permit based on this comment.