

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

**Authorization to Discharge under the
National Pollutant Discharge Elimination System (NPDES)**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et seq.*, as amended by the Water Quality Act of 1987, P.L. 100-4, the “Act”,

Tribal Enhancement and Federal Research Marine Net Pen Facilities

Within Puget Sound

which are described in Part I of this general NPDES permit are authorized to discharge to Waters of the United States, in accordance with discharge points, effluent limitations, monitoring requirements and other conditions set forth herein.

This permit does not apply within Swinomish Indian Tribal Community Waters.

This General Permit shall become effective May 20, 2022

This General Permit and the authorization to discharge shall expire at midnight, May 19, 2027

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Schedule of Submissions

The following is a summary of the items the Permittee must submit during the term of this permit.

Item	Due Date
Notice of Intent	<p>Existing dischargers must submit a NOI to EPA (and to the Lummi Nation and the Tulalip Tribes, as appropriate) within 90 days of the effective date of this permit.</p> <p>New dischargers must submit a NOI to EPA (and to the Lummi Nation and the Tulalip Tribes, as appropriate) 180 days prior to commencing operations (Part II).</p>
24 Hour Reporting	<p>The Permittee must report spills (ie. drugs, pesticides, feed, maintenance related pollutants, other) resulting in discharges to waters of the U.S. and any noncompliance that may endanger health or the environment to EPA (and to the Lummi Nation, Port Gamble S’Klallam Tribe, and the Tulalip Tribes, as appropriate) within 24 hours from the time the Permittee becomes aware of the circumstances (Part V.B).</p> <p>The Permittee must report fish disease epidemics, mass mortalities, and fish escape of any magnitude (from research facilities) to EPA, the Northwest Indian Fisheries Commission (NWIFC), the Washington Department of Fish and Wildlife (WDFW), the Washington Department of Agriculture (WSDA) and the Washington Department of Health (WSDOH), (and the Port Gamble S’Klallam Tribe, as appropriate) within 24 hours from the time the Permittee becomes aware of the circumstances (Part V.B).</p>
Five Day Reporting	<p>The Permittee must also report to EPA, in writing, any event for which 24 Hour Reporting is required, including the corrective actions being taken, within 5 days of becoming aware of the circumstances (Part V.B).</p>
Annual Report	<p>[Enhancement Facilities] Annual reports must be submitted to EPA and the National Marine Fisheries Service (NMFS) (and to the Lummi Nation and the Port Gamble S’Klallam Tribe, as appropriate) every year, within 60 days after the release of fish from the enhancement facility at the end of the growing season (Part VI.B, Appendix B).</p> <p>[Research Facilities] Annual reports must be submitted to EPA and NMFS (and to the Lummi Nation and the Port Gamble S’Klallam Tribe, as appropriate) every calendar year by January 20 (Part VI.B, Appendix B).</p>
Accident Prevention and Response Plan	<p>The permittees must develop an Accident Prevention and Response Plan, including spill and mass mortality response. The plan must be developed within 180 days of the effective date of this permit, must be kept onsite and must be made available to EPA (and to the Lummi Nation and the Port Gamble S’Klallam Tribe, as appropriate) upon request (Part III.F.2).</p>

Fish Escape Plan [Research Facilities Only]	[Research Facilities Only] The permittee must develop a Fish Escape Prevention and Response Plan. The plan must be developed within 180 days of the effective date of this permit, must be kept onsite and must be made available to EPA and the Washington Department of Ecology (Ecology) upon request (Part III.F.1)
Drug, Pesticide and Chemical use Report	Records of all drug usage, including low regulatory priority drugs, pesticides or other chemicals released to waters of the U.S. must be maintained. This information must be included in the Annual Report (Part VI.A, Part VI.B and Appendix B).

I. Permit Coverage

A. Eligibility

1. Facilities eligible for coverage under this General Permit are marine cold water net pen facilities in Puget Sound that are either:
 - a. Tribally owned or operated enhancement facilities raising salmonids native to the water body in which the facility is located (enhancement facilities);
 - b. Federally owned or operated research facilities raising finfish native to the water body in which the facility is located (research facilities).
2. The General Permit applies to those enhancement or research facilities that meet the following criteria:
 - a. Feed at least 5,000 pounds of food during the calendar month of maximum feeding; and
 - b. Operate thirty (30) or more days per year; and
 - c. Production thresholds:
 - i. Facilities that produce between 20,000 and 99,999 pounds release or harvest weight of fish per year (no growing period limit);
 - ii. Enhancement Facilities that produce between 100,000 and 200,000 pounds release weight of fish per year released after a growing period of no longer than four (4) months.
3. EPA may designate a smaller net pen facility as a significant contributor of pollution to Waters of the United States based on other considerations (40 CFR §122.24(c)). Under such circumstances, the designated facility is subject to the limitations and conditions of this permit and must submit a NOI if requested by EPA.
4. The General Permit does not automatically apply to discharges from net pen facilities which produce less than 20,000 harvest weight pounds of aquatic animals per year or to net pen facilities which feed less than 5,000 pounds of food during the calendar month of maximum feeding. Such net pen facilities may voluntarily submit the information required in a Notice of Intent (NOI) with a cover letter requesting to be covered by the permit.
5. This permit does not apply within Swinomish Indian Tribal Community waters.

B. Authorized Discharges

The General Permit authorizes discharges to Waters of the United States from facilities described in Part I.A., above. During the effective period of the permit, authorized discharges are subject to the requirements and conditions set forth in this permit. The General Permit does not authorize the discharge of any waste streams, including spills and other unintentional or non-routine discharges of pollutants, that are not part of the normal operation of the facility, as disclosed in the Permittee's NOI, or any pollutants that are not ordinarily present in such waste streams.

C. Limitations on Coverage

1. The General Permit does not apply to discharges to water designated by the State of Washington as Tier 3, or by a Tribe as an Outstanding National Resource Water.
2. The General Permit does not authorize new or increased discharges to impaired waters for pollutants of concern, whether there is a total maximum daily load (TMDL) in place or not. (40 CFR 122.44(d)(1)(vii)).
3. The General Permit does not authorize any discharge for the purpose of nutrient enhancement.

D. Permit Expiration

This General Permit will expire five years after its effective date, as specified on the cover page of the permit. In accordance with 40 CFR §122.6, if this permit is not reissued by the expiration date, the conditions of this General Permit will continue in force and effect until a new General Permit is issued. Only those facilities authorized to discharge under this expiring General Permit will remain authorized to discharge under the administratively continued permit. Permittees must apply for and obtain coverage as required by the reissued General Permit once EPA reissues it.

II. Obtaining Authorization to Discharge under this General Permit

A. Deadlines for NOI submittal

Owners or operators seeking coverage under this General Permit must submit to EPA Region 10 a completed Notice of Intent (NOI) by the appropriate deadlines identified below:

1. Existing enhancement facilities with coverage under the previous net pens general permit must submit a NOI no more than 90 days following the effective date of this General Permit.
2. New enhancement or research facilities that begin operations after the effective date of this General Permit must submit NOIs at least 180 days prior to initiation of operations. Operations may not commence until permit coverage has been obtained.

B. Required NOI Information

A complete NOI must contain the following information for each facility.

1. The legal name, address and telephone number of the owner and operator of the facility;
2. The name and location of the facility, including the latitude and longitude to the nearest tenth of a second;
3. A chart showing the exact location, average low water depth, and configuration of pen moorings systems and support platforms;

4. The directions of prevailing currents and average current velocity;
5. A description of the number, type, size and configuration of net pens that may be used, along with associated structures, and the minimum clearance to the sea floor;
6. The species, maximum number, stocking density and total weight of fish at stocking and release or harvest to be contained in the facility at any time;
7. A list of all drugs, pesticides and other chemicals that the facility anticipates may be used, including anticipated method of application, maximum daily use and frequency of use;
8. A description of the bottom type(s), e.g., substrate material and vegetative cover, beneath the net pen, and within 150 feet in all directions;
9. The amount, rate of use and typical additives of fish feed;
10. A description of the system(s) to be used to dispense and monitor the consumption of feed and to detect the loss of uneaten feed;
11. A description of the method(s) used to dispose of fish mortalities;
12. Information showing intended sampling locations with GPS coordinates to meet monitoring requirements of this General Permit;

Failure to submit all required NOI information may result in finding the NOI incomplete, which may delay processing or result in denial of the permit coverage.

C. Where to Submit the NOI.

1. The Permittee must apply for coverage using the EPA's eNOI system. Instructions on how to electronically sign and submit this form are found at:

<https://cdx.epa.gov>

2. **[Within Lummi Nation and Tulalip Tribes waters]** A copy of the NOI must be provided to:

Lummi Nation (karak@lummi-nsn.gov)

Tulalip Tribes (knelson@tulaliptribes-nsn.gov)

3. A waiver from electronic reporting may be requested by contacting EPA at the address below to obtain an 'Electronic Reporting Waiver Request' application:

US EPA Region 10
Attn: NPDES Permitting Section, WD19-C04
1200 Sixth Avenue, Suite 155
Seattle, WA 98101-3140

D. When the Permittee is Authorized to Discharge

A discharger will be authorized to discharge on the date that EPA provides written authorization.

E. Requirements for an Individual Permit

1. EPA may notify any permittee authorized by the General Permit, or seeking coverage under the General Permit, that it is required to apply for or continue coverage under an individual NPDES permit:
 - a. Whenever the Permittee is not, or is not reasonably expected to be, in compliance with the conditions of this General Permit;
 - b. Whenever a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source, therefore causing limitations of the General Permit to be inappropriate for the control or abatement of pollutants from the point source(s); or
 - c. If a water quality management plan, including a TMDL, containing requirements applicable to the point source is approved after the effective date of the General Permit
2. The Permittee may request to be excluded from coverage under the General Permit.
 - a. Applying for an Individual Permit. Any owner or operator required to seek coverage under the General Permit may request to be excluded from coverage under the General Permit by applying for an individual permit. If the reasons cited by the owner or operator are adequate to support the request, EPA may grant the request by issuing an individual permit.
 - b. Requesting termination of coverage. Any Permittee whose production and/or feed levels drop below and are expected to remain below the eligibility thresholds in Part I.B.2, above, may request termination of coverage under this permit by submitting a revised NOI with a cover letter requesting the change and including information on projected levels of production and feed for the following five years.

III. Prohibited Practices, Prohibited Discharges and Discharge Controls

A. General

1. Visible oil sheen, foam, discoloration, floating solids, or settleable solids that would impair the designated uses of the receiving water must not discharge to waters of the U.S.
2. Solid wastes shall be collected for transport, recycling and/or disposal at a recycling or disposal facility and must not be discharged to waters of the U.S.
3. Fuel, drugs, pesticides and other potential pollutants must be stored off-site and conveyed to the facility in daily quantities only, with the exception of feed which may be conveyed in weekly quantities (See Part III.D.3 regarding on-site storage).
4. **[Research Facilities Only]** The release of fish from the net pens to waters of the U.S. is prohibited.
5. Compliance with Tribal Water Quality Standards
 - a. **[In Lummi Nation Waters]** In accordance with the Tribe's CWA Section 401 certification, any Permittee that discharges to waters of the Lummi Nation shall be responsible for achieving compliance with the Water Quality Standards for Surface Waters of the Lummi Indian Reservation.
 - b. **[In Port Gamble S'Klallam Tribe Waters]** As per the Tribe's CWA Section 401 certification, any Permittee that discharges to waters of the Port Gamble S'Klallam Tribe shall not cause exceedances of Port Gamble S'Klallam Surface Water Quality Standards narrative or numeric criteria.
 - c. **[In Tulalip Tribes Waters]** As per the Tribe's CWA Section 401 certification, any Permittee that discharges to waters of the Tulalip Tribes shall be responsible for achieving compliance with applicable sections of the Tulalip Tribe's Water Quality Standards, Tidelands Management Policy, and Environmental Infractions Policy.

B. Cleaning and Maintenance

1. **[Research Facilities Only]** Permittees shall maintain flow through the nets such that there is no impedance and drag on the nets that threatens the structural integrity of the net pen array. Predator exclusion nets shall be cleaned in-situ as needed but not less frequently than at 6-month intervals when nets are in the water. Fish containment nets shall be replaced with new nets as needed but not less frequently than at 6-month intervals while nets are in the water. Alternatively, fish containment nets may be cleaned in situ as needed but not less frequently than at 4-month intervals. During the fallowing period between fish cohorts, the fish containment nets shall be removed from the water and cleaned at an upland location. Between each cohort of fish, net pens must be fallowed for at least six weeks. See Part III.B.2 through III.B.4 for more information regarding cleaning.

2. To the maximum extent possible, when the net pens are empty, facilities should allow the nets to dry over water and then remove them for upland cleaning. If infeasible to move the net pens to an upland location prior to cleaning, *in situ* mechanical cleaning (e.g., brushing and power washing) of nets, frames and anchor structures to remove solids *in situ* is allowed under conditions that will disperse solids and prevent concentrated bottom settling (i.e., high tide, rapid current). Only biofouling solids are allowed to be dispersed. All other solid wastes must be collected and removed for land-based disposal (see Part III.A.2). *In-situ* net cleaning of discreet portions of the net must be phased over a sufficient period of time in order to avoid a significant discharge of material during a single cleaning event.
3. The use of biocidal chemicals to disinfect nets is prohibited for all facilities unless prescribed by a veterinarian or so determined by the Northwest Indian Fisheries Commission Fish Health Specialist, as necessary to prevent the spread of disease.
4. Runoff or solids from upland cleaning of nets are prohibited from being discharged to waters of the U.S.
5. **[Research Facilities Only]** Permittees are required to have inspections completed by a professional engineer every two years, when the net pen sites are fallow, to assess the structural integrity of the walkways, attachment points and pilings. The resulting report, and any previous studies related to structural integrity, are required to be kept onsite and made available to EPA and Ecology upon request. Any changes related to escapement potential and structural integrity since the previous inspection shall be documented in the annual report for that year. Any issues identified in the inspection that could impact permit compliance should be addressed by the permittee in a timely manner in accordance with Part V of this permit (Corrective Action).
6. Nets and anchoring structures are prohibited from impeding the current flow or tidal exchange so as to contribute to the deposition of solids that would impair water quality standards.
7. Fueling, lubrication and other general maintenance of boats and other mechanical equipment are prohibited at the net pen facility, with the exception set forth in Part III.C.4 regarding fueling during fish transport.
8. **[Within waters of the Port Gamble S'Klallam Tribe]** In accordance with the Port Gamble S'Klallam Tribe's CWA Section 401 certification:
 - a. Motorized boats in use for net pen operations shall be in good repair at all times when in use.
 - b. All marine anti-fouling compounds used shall be copper-free.

C. Fish Transport, Mortalities and Harvest

1. Fish harvesting is prohibited at enhancement facilities, other than for the purposes of removing fish to evaluate growth, health or other sub-sampling for evaluation purposes. Fish harvesting at research facilities is permitted (See Part III.C.2).
2. Discharge associated with transport or harvesting of fish, including blood, viscera, carcasses, transport water containing blood, and leachate from these materials are prohibited from being discharged to waters of the U.S.
3. Water used in rearing and holding units or hauling trucks that is disinfected with chlorine or other chemicals shall be treated before it is discharged to waters of the U.S (i.e., dechlorinated).
4. Gas powered water pumps used during fish transfer to the net pens on a the transportation barge, which takes approximately two weeks, may be refueled on-site as long as refueling takes place within secondary containment. Spill response procedures must also be established and the necessary supplies must be in place at all times (See Part III.F.2).
5. Fish and other animal mortalities are required to be removed and disposed of in leak-proof containers at least once per week. Disposal shall be to an approved land-based facility/operation, e.g., composting facility, properly maintained dumpster, incineration facility. No dead animals, fish, fish tissue or fish products shall be released to the water.

D. Fish Feed

1. Fish feeding will occur according to protocols that ensure that excess feeding and accumulation of uneaten food below the net pens does not occur, through a combination of:
 - a. Calculated feed conversion ratios based on fish size;
 - b. Direct fish feeding observations designed to immediately cease feeding when the fish are not eating; and
 - c. Other monitoring practices that ensure feeding rates are appropriate.
2. Used feed bags shall be collected for transport, recycling and/or disposal at a recycling or disposal facility and must not be discharged to waters of the U.S.
3. Large quantities of food are required to be stored off-site and conveyed to the facility only in weekly quantities. On-site storage must be in covered and locked facilities on the storage barge.
4. **[Within waters of the State]** All tribal enhancement facilities, as well as federal research facilities where it is suspected that ingredients used to formulate fish feed could contain PCBs, must implement purchasing procedures that give preference for fish feed or ingredients that contain the lowest amount of PCBs that is economically

and practically feasible to reduce the content of PCBs in fish feed and from feeding activity.

E. Drugs, Pesticides and Disease

1. All drugs and pesticides are required to be used in accordance with applicable label directions (FIFRA or FDA), except under the following conditions, both of which must be recorded and reported to EPA in accordance with Part VI.A and VI.B, below:
 - a. Participation in Investigational New Animal Drug (INAD) studies, using established protocols; or
 - b. Extra-label drug use, as prescribed by a veterinarian.

2. **[Salmonid Facilities Only]** Disease surveillance, prevention, and treatment for facilities rearing salmonids shall be consistent with the requirements of *The Salmonid Disease Control Policy of the Fisheries Co-Managers of Washington State*, revised July 2006. Any facility that is not already party to the Policy is expected to become a formal co-operator of the Policy. See Part V.B for contact information. The Policy stipulates several requirements including:
 - a. The health of each fish stock will be monitored monthly for regulated pathogens by a Fish Health Inspector.
 - b. Significant fish losses suspected due to an infectious agent must be promptly investigated by the facility manager and a Fish Health Inspector, and preventative drug, pesticide or other chemical use must be implemented.
 - c. Transfer requirements must be met to prevent the spread of endemic fish pathogens.

Disease epidemic notification requirements can be found in Part V.B. Drug, pesticide and other chemical use recordkeeping and reporting requirements can be found in Parts VI.A and VI.B.

3. **[Non-Salmonid Facilities Only]** Permittees are required to take the following steps to mitigate disease spread:
 - a. Complete daily inspections of fish by net pen technicians and weekly inspections by the net pen manager to look for any irregularities in fish behavior or conditions (e.g., lesions) that would suggest health issues requiring subsequent pathogen analysis and a veterinarian;
 - b. Carry out a mandatory health inspection of the fish and net pen system by a fish health specialist or veterinarian every 6 months during fish net pen occupancy;
 - c. Ensure controlled water quality rearing conditions for broodstocks, eggs, and larvae leading to the production of juveniles for net pen stocking;
 - d. Ensure segregation of age classes (no co-culture of >1 generation);
 - e. Employ standard biosecurity protocols (e.g., tank, net, and equipment disinfection) during rearing on land and during movement from land to net pens.

Disease epidemic notification requirements can be found in Part V.B. Drug, pesticide and other chemical use recordkeeping and reporting requirements can be found in Parts VI.A and VI.B.

F. Accident Prevention and Response Planning

1. **[Research Facilities Only]** Permittees must have a plan in place to prevent fish escape and to react in the event of escape in accordance with WAC 220-370-110 and WAC 220-370-120. The plan must be developed within 180 days of the effective date of this permit, kept onsite and made available to EPA and Ecology (and the Lummi Nation and Port Gamble S'Klallam Tribe, as appropriate) upon request. The plan must include the following:
 - a. Routine procedures to minimize escape during day to day operations;
 - b. Procedures to minimize escape during cleaning, repair, or other maintenance of net pens;
 - c. Training procedures on escape prevention for employees;
 - d. Procedures for reporting fish escape within 24 hours of knowledge of escape in accordance with Part V.B of this permit;
 - e. Procedures to recapture escaped fish;
 - f. Procedures to minimize the number of escaped fish; and
 - g. Procedures for monitoring fish mortality, predation, and escape.

See Part V.B for notification requirements in the event of fish escape.

2. Permittees must have an Accident Prevention and Response Plan in place. The Plan must be developed within 180 days of the effective date of this permit, kept onsite and made available to EPA (and the Lummi Nation and Port Gamble S'Klallam Tribe, as appropriate) upon request. The plan must include the following:
 - a. Spill prevention and response procedures; necessary materials for responding to spills must also be on-site and readily available for immediate action.
 - b. Mass mortality response procedures including plans for disposal of large quantities of fish mortalities.
 - c. Measures to recover any materials, structural elements or debris that may be lost in an accident, storm or other event.
3. Relevant personnel must be trained on fish husbandry, feeding, equipment operation, spill prevention and response, and other management provisions stipulated in this permit.

IV. Monitoring Requirements

A. Sediment Characterization

Facilities that operate fewer than six months per year must characterize the sediments beneath and in proximity to the net pens once during the permit term. Facilities that operate six or more months per year must characterize the sediments twice during the permit term.

Permittees that operate fewer than six months per year must conduct their one sediment characterization survey during the second full season of operation under this permit while the facility is near peak biomass (within 30 days prior to fish release/harvest). If fish are released early during the second year of the permit term (from facilities required to carry out a single sediment

characterization), the study may be postponed until the following year. Permittees that operate for more than six months per year must conduct one of their sediment characterization surveys near peak biomass (within 30 days prior to fish release/harvest) and the other must be conducted during the summer critical period between August 15 and September 30. See Part IV.D for evaluation thresholds, Part IV.E for monitoring procedures and Part IV.F for records contents. See Part V for corrective action and Part VI for recordkeeping and reporting of sediment characterization. The characterization must include:

1. Analysis: characterize the sediments beneath the net pens for the following:
 - a. Total organic carbon (TOC)
 - b. Percent silt-clay particles (percent dry weight)
2. Sample type: samples must be grabs or cores. Analysis must be on a homogenization of the top 2 centimeters of sediment.
3. Sample location: samples must be taken in at least three locations beneath the net pens or within 10 meters of the perimeter of the net pens in a down-current direction. Five replicates must be collected at each sampling location and analyzed distinctly.
4. Sample information: in addition to items in Part IV.F *Records Contents*, the following information must be collected for each sample:
 - a. Location: latitude and longitude to the nearest one-tenth second
 - b. Water depth at the location the sample is taken

B. Visual Assessments

Visual assessments must be conducted either directly through diving, or with the use of underwater photography, or with an underwater viewer when the bottom is easily viewable from the platform at low tide. See Part IV.D for evaluation thresholds, and Part IV.F for records contents. See Part V for corrective action and Part VI for recordkeeping and reporting of visual assessments. The permittee must visually assess:

1. Benthos: within 30 days prior to release of the fish each season (or within 30 days prior to maximum annual capacity), visually assess the benthos for the following:
 - a. Sediment type and color, including an assessment for anoxic sediments. Provide a descriptive report.
 - b. The presence of feed or other debris originating from the net pen facility. Provide a descriptive report.
 - c. The presence of *Beggiatoa* or other benthic bacterial/fungal mats. Provide an estimate of the % coverage of these mats beneath the net pen and within 150 feet of its perimeter in a down-current direction.
2. Water Column: at a minimum frequency of once per week, during the entire period in which fish occupy the net pen, the Permittee will evaluate the water column around the nets for floating debris, or other signs of solids, sheens, or discoloration originating from the net pen facility. Provide a descriptive report, including the source of any identified discharge.

C. Surface Water Monitoring

The Permittee is required to evaluate the water column beneath and around the net pen for dissolved oxygen according to Table 1. For each sampling event, the permittee must take at least six total samples at a minimum of two locations and two depths. At least one sample location must be at least 15 feet beneath the water surface, or within the bottom half of the water column if shallower than 15 feet. See Part IV.D for evaluation thresholds, Part IV.E for monitoring procedures and Part IV.F for records contents. See Part V for corrective action and Part VI for recordkeeping and reporting of surface water monitoring results.

Table 1: Dissolved Oxygen monitoring frequency

Timeframe	Frequency
January 1 – August 14 (Only while fish occupy the net pens)	1/Month
August 15 – September 30 (Only while fish occupy the net pens)	1/Week

1. Sample information: in addition to the items in Part IV.F *Records Contents*, the following information must be collected for each sample:
 - a. Location: latitude and longitude to the nearest one-tenth second
 - b. Water depth at the location the sample is taken

D. Evaluation of Monitoring Data

Monitoring data must be evaluated against the action thresholds in Table 2:

Table 2: Sediment and water quality threshold values

Pollutant Indicator	Action Threshold
Sediment Total Organic Carbon	Exceeds relevant Puget Sound reference value (See Table 3 below) or facility baseline level by a statistically significant amount (t-test, $p \leq 0.05$)
Presence of anoxic sediments	25% or more of the area under the net
Presence of bacterial/fungal mats	25% or more of the area under the net
Water column dissolved oxygen concentration	7.0 mg/L or less, anywhere in the water column; if baseline DO is < 7.0 mg/L, the action threshold is a decrease of ≥ 0.2 mg/L from baseline

Sediment Total Organic Carbon levels must be evaluated against the relevant Puget Sound reference value in Table 3 below or the facility baseline level by a statistically significant amount (t-test, $p \leq 0.05$)

Table 3: Puget Sound Reference Total Organic Carbon Values
(compare measured TOC values to these values) [WAC 173-
204-412 (3)(b)].

Silt-Clay Particles (percent Dry Weight)	Total Organic Carbon (percent Dry Weight)
0-20	0.5
20-50	1.7
50-80	3.2
80-100	2.6

If at any time indicator pollutants exceed the associated action threshold, the permittee is required to take immediate action to address the problem(s), per Part V, Corrective Action. EPA may also request the Permittee to undertake additional monitoring to determine the cause or extent of a problem. If there is an exceedance of an action threshold and the facility neglects to take corrective action in response, then the exceedance would be considered a violation of the corrective action condition of the permit.

E. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless another method is required under 40 CFR subchapters N or O, or other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5.

F. Record Contents

Records of monitoring information must include:

1. the date, exact place, and time of sampling and measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements;
3. the date(s) analyses were performed;
4. the names of the individual(s) who performed the analyses;
5. the analytical techniques or methods used; and
6. the results of such analyses.

G. Representative Sampling (Routine and Non-Routine Discharges)

Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for

those parameters limited in Part III and IV of this permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent is discharged. The samples must be analyzed in accordance with paragraph IV.E (“Monitoring Procedures”). The permittee must report all additional monitoring in accordance with paragraph IV.H (“Additional Monitoring by Permittee”).

H. Additional Monitoring by Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the permittee must include the results of this monitoring in the calculation and reporting of the data submitted in the Annual Report.

Upon request by EPA, the permittee must submit results of any other sampling, regardless of the test method used.

V. Corrective Action

If at any time the Permittee becomes aware, through inspections, observations or monitoring, or when so notified by the EPA, of a water or benthic quality problem, suboptimal performance/ implementation of one or more required discharge control(s) in Parts III and IV of this permit, or a disease epidemic, mass mortality or fish escape (from research facilities) the following steps must be undertaken:

A. Problem Identification and Corrective Action

The source of the problem must be immediately identified. Should net pen activities be the cause of the problem, adequate measures must be taken to abate the discharge of pollutants, including repairing or replacing equipment, modifying procedures or processes, or implementing additional measures. Implementation of corrective actions does not provide enforcement relief.

B. Twenty-four Hour Notice of Noncompliance Reporting

1. Spills of any kind (ie. drugs, pesticides, feed, maintenance related pollutants) resulting in a discharge to waters of the U.S., any noncompliance that may endanger health or the environment, any unanticipated bypass (See Part VII.J), and any upset (See Part VII.K) should be reported to EPA (and to the Lummi Nation, the Port Gamble S’Klallam Tribe, and the Tulalip Tribes, as appropriate) as soon as possible but within 24 hours from the time the permittee becomes aware of the circumstances:

U.S. Environmental Protection Agency Region 10
24 Hour Compliance Reporting Line
206-553-1846

And, as appropriate, to:

Lummi Natural Resources Department
Executive Director
360-410-1706

Port Gamble S'Klallam Tribe
Natural Resources Department
360-297-6293 (if not available, then call 360-297-6288)

Tulalip Tribes
360-716-5911

2. Disease epidemic, mass mortality, and fish escape (from research facilities) should be reported to the following five entities as soon as possible but within 24 hours from the time the permittee becomes aware of the circumstances. An epidemic is characterized as an occurrence of an infectious disease resulting in at least 0.1% mortality for five (5) consecutive days. The threshold for notification of a mass mortality is 5% mortality of fish on hand. Fish escape (from research facilities) of any magnitude must be reported. The permittee is solely responsible for these notifications being made in a timely manner. The permittee may allow other third-party individuals to make the notifications on behalf of the permittees; however, the permittee remains responsible for compliance with the notification requirement if the other individual fails to provide the notification.

Washington Department of Fish and Wildlife
Dr. Jed Varney, Lead Veterinarian
360-522-2830

Washington Department of Agriculture
Dr. Brian Joseph, State Veterinarian
360-902-1881

Northwest Indian Fisheries Commission
Marcia House, Tribal Fish Health Program Manager
360-951-2794

U.S. Environmental Protection Agency Region 10
24 Hour Compliance Reporting Line
206-553-1846

Washington Department of Health
Shellfish Program
360-236-3330 (during business hours); 360-789-8962 (after business hours)

3. The permittee must also provide written Corrective Action and Non-compliance Notifications within five days of the time that the permittee becomes aware of any event required to be reported under subparts 1 and 2 above. The written submission must contain:

- a. a description of the noncompliance and its cause;
- b. the period of noncompliance, including exact dates and times;
- c. the estimated time noncompliance is expected to continue if it has not been corrected; and
- d. steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

4. The Director of the Enforcement and Compliance Assurance Division may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Hotline in Seattle, Washington, by telephone, (206) 553-1846.

5. Corrective Action and Non-compliance Notifications must be submitted as follows:

Email to EPA and NMFS:

U.S. Environmental Protection Agency, R10 Enforcement

R10enforcement@epa.gov

Subject Line: CWA NPDES WAG13200# Corrective Action (where # is the permittees individual permit number)

File Name of Electronic Attachment: YYYY_MM_DD_WAG13200#_Corrective Action (where YYYY_MM_DD is the date that the permittee submits the written notification and # is the permittees unique identifier under the general permit)

National Marine Fisheries Service

projectreports.wcr@noaa.gov

Subject Line: WCRO-2020-03567 Net Pen Corrective Action

And, as appropriate, mail to:

Lummi Natural Resources Department

ATTN: Water Resources Manager

2665 Kwina Road

Bellingham, WA 98226

Port Gamble S'Klallam Tribe Natural Resources Department

31912 Little Boston Rd. NE

Kingston, WA 98346

Tulalip Tribes Natural Resources Department

6406 Marine Dr.

Tulalip, WA 98271

6. Requests to become a formal co-operator of *The Salmonid Disease Control Policy of the Fisheries Co-Managers of Washington State*, per Part III.E.2 of this permit, should be directed to:

U.S. Fish and Wildlife Service
Andy Goodwin, Fish Health Specialist
andrew_goodwin@fws.gov
503-231-6784.

C. Documentation in Annual Reports

The problem and its final resolution must be documented in the annual report.

VI. Recordkeeping and Annual Reporting

A. Record Keeping

The following records must be kept for 5 years in addition to those required in Part VIII.K:

1. Feed amounts and numbers and weights of fish to calculate feed conversion ratios.
2. Drug, pesticide and other chemical use, including dates and amount applied.
3. The frequency of cleanings, inspections, maintenance, and repairs.
4. All monitoring locations, dates, methods and data as required per Part IV.
5. Any other information necessary to complete the Annual Report per Part B of this section.
6. **[Research Facilities Only]** Fish Escape Prevention and Response Plan.
7. Accident Prevention and Response Plan

B. Annual Reports

Annual Reports must be submitted to EPA and NMFS (and to the Lummi Nation and the Port Gamble S'Klallam Tribe, as appropriate) within 60 days after the release of fish from the enhancement facility at the end of the growing season. Annual reports from research facilities must be submitted each calendar year prior to January 20th of the following year. The annual report template form and submittal information can be found in Appendix B of this permit. All reports must include the following:

1. Name and contact information of the person preparing the report and/or person who can be contacted by the EPA if additional information is needed.

2. Date that fish were added to the net pen(s), and date that fish were finally released from the net pen(s).
3. Species of fish in the net pen(s) during the season.
4. Summary of fish mortalities. If mass mortality occurs, the report should include dates, causes of death, and pounds or numbers of fish mortalities.
5. Total weight of the fish when added to the net pen(s) and total weight of the fish when released from the net pen(s).
6. Feeding rates, and total amount of feed used during the season, by week.
7. Types of drugs and pesticides applied, including INAD and extralabel drug use. Include date and amount applied.
8. All monitoring data, including locations, dates collected and methods used for collection and analysis, per Part IV of this permit.
9. Documentation of any spills, discharges or releases not accounted for by feeding or drug and pesticide applications.
10. Documentation and explanation of the use of any chemicals, processes or materials not accounted for by feeding or drug and pesticide applications.
11. All corrective actions taken.

C. Changes in Discharge of Toxic Pollutants

The permittee must notify the Director of the Water Division as soon as it knows, or has reason to believe:

1. That any activity has occurred or will occur that would result in the discharge, on a **routine or frequent** basis, of any toxic pollutant that is not limited in the permit, if that discharge may reasonably be expected to exceed the highest of the following “notification levels”:
 - a) One hundred micrograms per liter (100 ug/l);
 - b) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - c) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - d) The level established by EPA in accordance with 40 CFR 122.44(f).
2. That any activity has occurred or will occur that would result in any discharge, on a **non-routine or infrequent** basis, of any toxic pollutant that is not limited in the

- permit, if that discharge may reasonably be expected to exceed the highest of the following “notification levels”:
- a) Five hundred micrograms per liter (500 ug/l);
 - b) One milligram per liter (1 mg/l) for antimony;
 - c) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - d) The level established by EPA in accordance with 40 CFR 122.44(f).
3. The permittee must submit the notification to the Water Division at the following address:

US EPA Region 10
Attn: NPDES Permitting Section Manager
1200 Sixth Avenue
Suite 155, 19-C04
Seattle, Washington 98101-3188

VII. Compliance Responsibilities

A. Duty to Comply

The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

B. Penalties for Violations of Permit Conditions

1. **Civil and Administrative Penalties.** Pursuant to 40 CFR Part 19 and the CWA, any person who violates CWA §§ 301, 302, 306, 307, 308, 318 or 405, or any permit condition or limitation implementing any such sections in a permit issued under CWA § 402, or any requirement imposed in a pretreatment program approved under CWA §§ 402(a)(3) or 402(b)(8), is subject to a civil penalty not to exceed the maximum amounts authorized by CWA § 309(d) and the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. § 2461 note; Pub. L. 101-410) as amended by the Debt Collection Improvement Act of 1996 (31 USC § 3701 note) and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. § 2461 note, Pub. L. 114-74) (currently \$59,973 per day for each violation).
2. **Administrative Penalties.** Any person may be assessed an administrative penalty by the Administrator for violating CWA §§ 301, 302, 306, 307, 308, 318 or 405, or any permit condition or limitation implementing any of such sections in a permit issued under CWA § 402. Pursuant to 40 CFR Part 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by CWA § 309(g)(2)(A) and the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. § 2461 note; Pub. L. 101-410) as amended by the Debt Collection Improvement Act of 1996 (31 USC § 3701 note) and the Federal Civil Penalties Inflation

Adjustment Act Improvements Act of 2015 (28 U.S.C. § 2461 note, Pub. L.114-74) (currently \$23,989 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$59,973). Pursuant to 40 CFR Part 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by CWA § 309(g)(2)(B) and the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. § 2461 note; Pub. L. 101-410) as amended by the Debt Collection Improvement Act of 1996 (31 USC § 3701 note) and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. § 2461 note, Pub. L.114-74) (currently \$23,989 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$299,857).

3. Criminal Penalties.

- a. Negligent Violations. The Act provides that any person who negligently violates CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any of such sections in a permit issued under CWA § 402, or any requirement imposed in a pretreatment program approved under CWA §§ 402(a)(3) or 402(b)(8), is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both.
- b. Knowing Violations. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.
- c. Knowing Endangerment. Any person who knowingly violates CWA §§301, 302, 303, 306, 307, 308, 318 or 405, or any permit condition or limitation implementing any of such sections in a permit issued under CWA § 402, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in CWA § 309(c)(3)(B)(iii) shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
- d. False Statements. The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The CWA further provides that any person who knowingly makes any false statement,

representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

C. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this permit.

D. Duty to Mitigate

The Permittee must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance

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

F. Bypass of Treatment

1. Bypass not exceeding limitations. The Permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Paragraphs 2 and 3 of this Part.
2. Notice.
 - a. Anticipated bypass. If the Permittee knows in advance of the need for a bypass, it must submit prior notice, if possible at least 10 days before the date of the bypass.
 - b. Unanticipated bypass. The Permittee must submit notice of an unanticipated bypass as required under Permit Part V.B.1 of this permit
3. Prohibition of bypass.
 - a. Bypass is prohibited, and the Director of the Enforcement and Compliance Assurance Division may take enforcement action against the Permittee for a bypass, unless:
 - i. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during

normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance; and

- iii. The Permittee submitted notices as required under paragraph G.2 of this Section.
- b. The Director of the Enforcement and Compliance Assurance Division may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph G.3.a of this Section.

G. Upset Conditions

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the Permittee meets the requirements of Paragraph 2 of this Part. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
2. Conditions necessary for a demonstration of upset. To establish the affirmative defense of upset, the Permittee must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the Permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The Permittee submitted notice of the upset as required under Part V.B.1 of this permit; and
 - d. The Permittee complied with any remedial measures required under Permit Part VII.D (“Duty to Mitigate”).
3. Burden of proof. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

H. Toxic Pollutants

The permittee must comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Act within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

I. Planned Changes

The permittee must give notice to the Director of the Water Division as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR § 122.29(b);
or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements under Part VI.C (“Changes in Discharge of Toxic Pollutants”).

J. Anticipated Noncompliance

The Permittee must give advance notice to the Director of the Enforcement and Compliance Assurance Division of any planned changes in the permitted facility or activity that may result in noncompliance with this permit.

VIII. General Provisions

- A. Permit Actions.** This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR §§ 122.62, 122.64, or 124.5. The filing of a request by the Permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- B. Duty to Reapply.** As described in Part I.D, if a permittee wishes to continue an activity regulated by this permit after the expiration date, the permittee must be covered under the expiring permit. The permittee must apply for and obtain authorization as required by the reissued permit once EPA reissues it.
- C. Duty to Provide Information.** The Permittee must furnish to EPA, within the time specified in the request, any information that EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee must also furnish to EPA, upon request, copies of records required to be kept by this permit.
- D. Other Information.** When the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or in any report to EPA, it must promptly submit the omitted facts or corrected information in writing.
- E. Signatory Requirements.** All applications, reports or information submitted to EPA must be signed and certified as follows:
 1. All permit applications must be signed as follows:
 - a. For a corporation: by a responsible corporate officer.
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
 - c. For a municipality, state, federal, Indian tribe, or other public agency: by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by EPA must 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:
 - a. The authorization is made in writing by a person described above;
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company; and
 - c. The written authorization is submitted to the Director of the Enforcement and Compliance Assurance Division.
3. Changes to authorization. If an authorization under Paragraph 2 of this Part is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Paragraph 2 of this Part must be submitted to the Director of the Enforcement and Compliance Assurance Division prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. 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 gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

F. Availability of Reports. In accordance with 40 CFR Part 2, information submitted to EPA pursuant to this permit may be claimed as confidential by the Permittee. In accordance with the Act, permit applications, permits and effluent data are not considered confidential. Any confidentiality claim must be asserted at the time of submission by stamping the words “confidential business information” on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice to the Permittee. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR 2, Subpart B (Public Information) and 41 Fed. Reg. 36924 (September 1, 1976), as amended.

G. Inspection and Entry. The Permittee must allow the Director of the Enforcement and Compliance Assurance Division, EPA Region 10 or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

H. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, nor any infringement of state or local laws or regulations.

I. Transfers. This permit is not transferable to any person except after written notice to the Director of the Water Division at the below address. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory).

U.S. EPA Region 10
Attn: NPDES Permitting Section Manager
1200 Sixth Avenue, Suite 155, WD 19-C04
Seattle, WA 98101-3188

J. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

K. Retention of Records. The permittee must retain records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of Annual Reports, a copy of the NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of EPA at any time.

IX. Definitions

Action Threshold is a quantifiable measure of a water quality indicator. Action thresholds are both compliance indicators and corrective action triggers.

Anoxic Sediments are bottom sediments depleted of oxygen, and consist of dark colored or significantly darkened sediment in comparison to natural conditions in the area, and/or the formation of hydrogen sulfide or methane gas as characterized by emission of gas bubbles, “pimpled sediments” or odors in the sediment.

Discharge when used without qualification means the “discharge of a pollutant.”

Discharge of a Pollutant means any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source,” or any addition of any pollutant or combination of pollutants to the waters of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any “indirect discharger” [40 CFR 122.2].

Enhancement Facility, for purposes of this permit, is a native salmonid-rearing marine net pen operation owned or operated by a tribe that releases fish to supplement native populations. Fish are not harvested from the net pens.

EPA is the United States Environmental Protection Agency.

Indian Tribe, or Tribe, means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian Reservation [40 CFR 122.2].

Research Facility, for the purposes of this permit, is a native finfish rearing marine net pen operation owned or operated by a federal agency that raises fish to be harvested in order to assess the growth, survival, economics, and/or environmental impact of growing certain species in net pen systems.

Appendix A: Notice of Intent Information

Note: Unless a waiver is obtained following the process described in Part II.C.2. of the Permit, the applicant must apply for coverage using the EPA's eNOI system at <https://cdx.epa.gov>. This appendix contains a summary of information required by the eNOI system.

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Notice of Intent

for

Tribal Enhancement and Federal Research Marine Net Pen Facilities in Puget Sound

I. Owner and Operator Information

Owner Name:	
Mailing Address:	Contact person:
	Title:
	Phone No:
	E-Mail address:

Operator Name:	
Mailing Address:	Contact person:
	Title:
	Phone No:
	E-Mail address:

II. Facility Information

Facility Name:	
Tribal Organization:	
Mailing Address:	
Location address:	
<i>Show latitude and longitude to the nearest tenth of a second</i>	
Latitude	Longitude

Attach an Area Map showing the exact location of the facility, and configuration of pen moorings systems and support platforms. Indicate the directions of prevailing currents.

Describe the number, type and size of net pens, along with associated structures, and the minimum clearance to the sea floor.	
Describe the bottom type(s), e.g., substrate material and vegetative cover beneath the net pen and within 150 feet in all directions.	
Mean Low Water Depth:	Average Current Velocity:
During What Months of the Year Does the Facility Operate:	

III. Production

List the species grown or held at your facility and provide estimates of the maximum numbers, stocking densities and weight of fish at stocking and at release. The estimate can be a range over the next five years, if appropriate.

Species	Date Stocked	Date Released	Maximum Number Stocked	Maximum Stocking Density	Fish Stocked (pounds)	Fish Released or Harvested (pounds)
If fish are released anywhere other than to Puget Sound, indicate the location and waterbody:						

IV. Feed

Describe your facility's use of feed. This may be a range expected over the next 5 years.

Use of Feed			
Feed Type	Typical Additives	Maximum Monthly Feed Use (lbs)	Average Annual Feed Use (lbs)
Describe the method(s)/system(s) used to dispense and monitor the consumption of feed and to detect the loss of uneaten feed:			

V. Drugs, Pesticides and other Chemicals

Describe your facility's anticipated use of drugs, pesticides and other chemicals, including feed additives or other ingested drugs, including anticipated method of application, daily amount used and frequency of use.

Use of Drugs, Pesticides and other Chemicals				
Drug, Pesticide or Chemical	Reason for Use	Method of Application	Maximum Daily Amount Used	Frequency of Use

VI. Disposal of Fish Mortalities

Describe how fish mortalities are disposed. Quantity can be characterized in number, weight or volume.

Fish Mortalities Disposed			
Method of Disposal	Typical Quantity Disposed	How Frequently	Where

VII. Monitoring

Dissolved Oxygen Monitoring

Provide location information for dissolved oxygen sampling. In lieu of providing the information in this table, it may be included on the Area Map described in Part I of this form.

Dissolved Oxygen Sampling		
<i>Show latitude and longitude to the nearest tenth of a second</i>		Water Depth (feet)
Latitude	Longitude	
Notes:		

VIII. Signature and 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 evaluate and gather the information submitted. Based on my inquiry of the person or persons, who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature	Date
Printed Name	Title

IX. Submittal Information

Note: Unless a waiver is obtained following the process described in Part II.C.2. of the Permit, the applicant must apply for coverage using the EPA's eNOI system at <https://cdx.epa.gov>. This appendix contains a summary of information required by the eNOI system. If Permittee has a waiver, use the following address:

US EPA Region 10
Attn: NPDES Permitting Section, WD-19-C04
1200 Sixth Avenue, Suite 155
Seattle, WA 98101-3140

And, as appropriate, to:

Lummi Natural Resources Department
ATTN: Water Resources Manager
2665 Kwina Road
Bellingham, WA 98226

Tulalip Tribes Natural Resources Department
6406 Marine Dr.
Tulalip, WA 98271

Appendix B: Annual Report Format

ANNUAL REPORT OF OPERATIONS FOR YEAR _____ <i>Tribal Enhancement and Federal Research Facilities in Puget Sound</i>						
I. Facility Name:				NPDES #		
Operator Name (<i>Permittee</i>):				Phone:		
Address:				E-Mail:		
Owner Name (<i>if different from operator</i>):				Phone:		
Address:				E-Mail:		
II. Annual Production	Species of fish in the net pen(s) during the year:					
	Date Fish Stocked:			Date Fish Released:		
	Total Weight Stocked (lbs):			Total Weight Released (lbs):		
III. Feed Summary	Week (Dates)	Feed (Pounds)	Week (Dates)	Feed (Pounds)	Week (Dates)	Feed (Pounds)
	1		10		19	
	2		11		20	
	3		12		21	
	4		13		22	
	5		14		23	
	6		15		24	
	7		16		25	
	8		17		26	
	9		18		27	

VI. Fish Mortalities

Describe Method of Mortality Disposal. If standard disposal method(s) differ from mass mortality disposal method(s) please clarify:

Summarize standard mortality rates, i.e., approximate number per week, causes:

Mass Mortalities: include description & dates of mass mortalities (more than 5%/week), the reasons for each incident, and the steps taken to correct the problem. Attach additional pages, if necessary. Include total mortalities from all causes.

Date	Cause of deaths	Pounds of fish

VII. Monitoring Results	
Sediment Characterization (Part IV.A of the Permit)	<p><i>Was the sediment characterization study conducted in this reporting year:</i></p> <p><input type="checkbox"/> No, study was completed in _____ (calendar year)</p> <p><input type="checkbox"/> No, study to be undertaken in a future year</p> <p><input type="checkbox"/> Yes, study conducted this reporting year (answer next 2 questions)</p>
	<p><input type="checkbox"/> <i>If Permittee conducted the study this year, check here to indicate that the characterization study is attached and includes all of the elements required in Part IV.A. of the permit</i></p>
Visual Assessment (Part IV.B of the Permit)	<p><i>Describe sediment type and color, including a percent coverage assessment for anoxic sediments:</i></p>
	<p><i>Do anoxic sediments occur at 25% or more of the area under the net?</i></p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes, provide additional information in Part VIII.</i></p>
	<p><i>Describe the presence of feed or other debris originating from the net pen:</i></p>
	<p><i>Provide an estimate of the % coverage of Beggiatoa or other benthic bacterial/fungal mats beneath the net pen and within 150 feet of its perimeter in a down-current direction:</i></p>
	<p><i>Do benthic bacterial/fungal mats occur at 25% or more of the area under the net and within 150 feet of its perimeter in a down-current direction?</i></p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes, provide additional information in Part VIII.</i></p>

Dissolved Oxygen Monitoring (Part IV.C of the Permit) <i>(Attach additional pages as necessary)</i>	Sample Date	Sample Time	Sample Location		Sample Depth (feet)	Dissolved Oxygen (mg/L)
			Latitude	Longitude		
<i>Do any water samples have a concentration of less than 7 mg/L dissolved oxygen?</i> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <i>If yes, provide additional information in Part VIII.</i>						

VIII. Noncompliance and Corrective Action Summary

Include description & dates of spills, discharges, releases, exceedances of monitoring pollutant indicator action thresholds or permit noncompliance, the reasons for such incident, and the steps taken to correct the problem. Attach additional pages, if necessary.

X. Signature & 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 the qualified personnel properly gather and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Signature:

Title/Company:

Print Name:

Date:

Email to EPA and NMFS:

U.S. Environmental Protection Agency, R10 Enforcement

R10enforcement@epa.gov

Subject Line: CWA NPDES WAG13200# Annual Report (where # is the permittees individual permit number)

File Name of Electronic Attachment: YYYY_MM_DD_WAG13200#_Annual Report (where YYYY_MM_DD is the date that the permittee submits the annual report and # is the permittees unique identifier under the general permit)

National Marine Fisheries Service

projectreports.wcr@noaa.gov

Subject Line: WCRO-2020-03567 Annual Report

And, as appropriate, mail a copy to:

Lummi Natural Resources Department

ATTN: Water Resources Manager

2665 Kwina Road

Bellingham, WA 98226

Port Gambe S’Klallam Tribe

Natural Resources Department

31912 Little Boston Rd. NE

Kingston, WA 98346