

April 21, 2022

Mr. Matt Lee, President
Aqua Test, Inc.
28620 Maple Valley Black Diamond Road Southeast
Maple Valley, WA 98038

RE: Product Registration Renewal #3 – Notice of Interim Conditional Product Registration for Proprietary Treatment Product Listing

Description: Sewage Treatment System, Attached and Suspended Growth
Manufacturer: Aqua Test, Inc.
Product Name: The NIBBLER®
Model Number: Model SBP (Square Back-flush Pod) and Model CBP (Cylinder Back-flush Pod)
Product Listing: Category B (high strength sewage)

Dear Mr. Lee:

Thank you for your application for product renewal for The NIBBLER Model Series, which includes the following models: The NIBBLER Model SPB (Square Back-flush Pod) and Model CBP (Cylinder Back-flush Pod).

In accordance with Minnesota Rules Chapter 7080 through 7083, the Minnesota Pollution Control Agency (MPCA) has reviewed Aqua Tests' submitted materials requesting registration for Category B (high strength sewage) treatment product listing of The NIBBLER Model Series in this application. Based on the submitted documentation, the MPCA finds that The NIBBLER Model Series is eligible for Interim Conditional Product Registration as meeting the following treatment level:

- **Treatment Level C** (cBOD₅ of 125 mg/L, TSS of 60 mg/L and Oil & Grease of 25 mg/L)

The NIBBLER Model Series is conditionally registered with a design rated capacity of 0.81 pounds of BOD₅ per day per NIBBLER Pod, as shown in Table 1, for residential and commercial high strength wastewater applications, with design flows to 10,000 gallons per day.

Subject to this determination, The NIBBLER Model Series, including Model SBP and Model CBP, will be placed on the List of Registered Subsurface Sewage Treatment System (SSTS) Products for High Strength Wastewater. The product information listed in this Notice of Interim Conditional Product Registration for Proprietary Treatment Product Listing will be maintained on the MPCA website and may not be altered or misrepresented by the manufacturer or any other person without permission by the MPCA.

Table 1. The NIBBLER Model Series

Product Name Model	Treatment Process	BOD5 Applied to Pods (lbs/day)	Registered Treatment Level	Important Product Use Information
The NIBBLER Model SBP	Attached and Suspended Growth	0.81*	C	<ul style="list-style-type: none"> ● Notice of Interim Conditional Product Listing <ul style="list-style-type: none"> ○ MPCA Letter ○ Conditions of Registration ○ Expiration Date ● The NIBBLER Manual <ul style="list-style-type: none"> ○ Submitted Drawings ○ Known Limitations ○ Installation ○ Operation & Maintenance ○ Owners Information ○ Regulators Checklist ○ Service Contract
The NIBBLER Model CBP	Attached and Suspended Growth	0.81*	C	<ul style="list-style-type: none"> ● Management Plan ● Operating Permit Template

* The NIBBLER Model Series is registered for residential and commercial high strength wastewater applications with design flows to 10,000 gallons per day. The design capacity, per NIBBLER Pod, is 200 gallons per day when the O&G is ≤ 50 mg/L and 137.5 gallons per day when the O&G is > 50 mg/L.

The registration of the treatment products in Minnesota is contingent upon compliance with the following conditions:

1. Products must be used in compliance with the MPCA rules and the plans and design information provided during the period of initial product application.
2. The manufacturer shall have readily accessible information, specific to a product’s registered use in Minnesota, for designers, regulators, installers, system owners, service providers and other interested parties for the following items: a) product manual; b) design instructions; c) installation instructions; d) information regarding operation and maintenance; e) homeowner instructions; and f) list of representatives and manufacturer-certified service providers, if any, as required by Minn. R. 7083.4040 (H).

3. The design parameters for pounds of BOD₅ applied to The NIBBLER Model Series (Model SBP and Model CBP) are as follows for commercial and residential high strength applications:
- a. Commercial Applications:
 - 1) 0.81 pounds BOD₅ per day per pod for The NIBBLER Model SBP (137.5 gpd per pod if Fats, Oils and Grease [FOG] is greater than 50 mg/L);
 - 2) 0.81 pounds BOD₅ per day per pod for The NIBBLER Model SBP (200 gpd per pod if Fats, Oils and Grease [FOG] is equal to or less than 50 mg/L);
 - 3) 0.81 pounds BOD₅ per day per pod for The NIBBLER Model CBP (137.5 gpd per pod if Fats, Oils and Grease [FOG] is greater than 50 mg/L);
 - 4) 0.81 pounds BOD₅ per day per pod for The NIBBLER Model CBP (200 gpd per pod if Fats, Oils and Grease [FOG] is equal to or less than 50 mg/L)
 - b. Residential High Strength Applications:
 - 1) The NIBBLER pods are sized based on organic loading with a maximum hydraulic loading.
 - 2) The maximum hydraulic rating is based on the presence of oil and grease relative to high BOD₅ values in the effluent and the fact that high maintenance is typically required when these values are exceeded.
 - 3) With respect to residential high strength waste, the BOD₅ and oil and grease concentrations are substantially lower. As a result, the maximum hydraulic loading to a single CBP pod would be 350 gallons per day. Because there is a unique flow and a waste strength associated with each system, the table below indicates various acceptable flows and waste strengths while the ultimate organic load remains constant.

Organic Load per POD (lbs per day BOD₅)	BOD₅ Prior to Treatment (mg/L)	Corresponding Flow Rate (gal/day)
0.81	277	350
0.81	324	300
0.81	388	250
0.81	486	200
0.81	647	150

4. The manufacturer's designated representative is required to review all designs provided by Advanced Designers (i.e.: evaluation worksheets for high strength wastewaters) for treatment systems proposed to use The NIBBLER Model Series. Advanced Designers need to work directly with the manufacturer to ensure the wastewater is properly characterized and that The NIBBLER high strength wastewater treatment products, and other related components used in treatment train (i.e.: grease interceptors, septic tanks, surge tanks and clarifier tanks), are properly sized and compatible to meet designed performance requirements.
5. The manufacturer's designated representative will issue a review letter to the Advanced Designer documenting: 1) details of the manufacturer's review, and 2) agreement that the product is an appropriate fit for the planned system at the facility. The review letter will be signed by the manufacturer's designated representative.
6. Sewage tank capacity, tank geometry, burial depth, and other tank requirements shall meet the manufacturer's requirements. Sewage tank(s) shall be designed to withstand the pressures to which it will be subjected. Tanks and all pipe penetrations, risers, and other connections to tanks shall be watertight. The external grease interceptor (also known as external grease trap and grease tank) shall be sized according to the manufacturer's size requirements.
7. Systems installed using The NIBBLER Model series are typically timed-dosed. Adequate storage capacity shall be provided in the surge tank to prevent nuisance high water conditions from occurring. An alarm is required on tanks in the event the pump malfunctions.
8. Each system must be delivered with an installation manual and owner's manual for The NIBBLER Model Series (Model SBP and Model CBP). Each component must be installed in accordance with the manufacturer's installation manual.
9. Aqua Test, Inc., or its designated representative, along with the Advanced Designer and Installer, are responsible to ensure that proper flow splitting devices are used to split flows between two or more units in parallel. Flow splitting devices must meet the following criteria: a) designed specifically and reliably to split wastewater flows; b) accessible for on-going operation and maintenance; c) monitored to determine flow rates; d) adjustable after construction should settlement occur; and e) have infinite or continuous adjustment features.
10. To protect for potential system malfunction, all systems shall be designed and operated with (a) suitable alarm device(s) that monitors The NIBBLER Model Series (Model SBP and Model CBP) and its various components.
11. The treatment products contained in this notice of product registration are considered a Minnesota-registered product for Type IV systems.
12. The NIBBLER Model Series (Model SBP and Model CBP) is registered to be used in systems to achieve Treatment Level C. The effluent loading rates to the soil, method of distribution, and vertical separation requirements shall meet the minimum requirements contained in Minnesota Rules Chapter 7080.2150 for flows less than 5000 gpd. For flows greater than 5000 gpd, final treatment and dispersal must also meet Minnesota Rules Chapter 7081.0270.

13. All systems shall be designed and operated with a manufacturer approved effluent screen, as specified in the Design Manual. All systems shall be designed and operated with a suitable alarm device(s) should the effluent screen malfunction.
14. Systems may only be designated as Type IV systems when designed and installed per the drawings submitted as part of the Application for Registration, dated December 20, 2009, and subsequent documents submitted prior to this registration.
15. As a Type IV system, the system must be constructed and operated under the required local permits.
16. As specified in the Owner's Manual, limitations of the product are identified. The manufacturer is responsible to provide a listing of other known limitations, to be made available on the company's website or other means. The level of maintenance required for The NIBBLER Model Series shall be as specified in the products Operation and Maintenance Manual.
17. Training shall be provided to MPCA-licensed Subsurface Sewage Treatment System practitioners before designing, installing, or providing service to The NIBBLER Model Series (Model SBP and Model CBP) treatment systems registered for use in Minnesota.
18. At the time of product renewal during the year 2024 and according to the "Proprietary treatment technology registration guidance – high strength waste". Manufacturers must submit data in accordance with the HSW verification protocol for each system installed under this protocol. If product manufacturers fail to submit data as outlined in the HSW verification protocol for each system installed their registration will be discontinued until submission of the required data. Renewal requirements as stated in this guidance will be communicated to manufacturers in a letter from the MPCA prior to their expiration deadline. Product manufacturers must submit renewal materials as specified in their renewal letters.
19. During the period of product registration and as part of the renewal process, systems using registered treatment products are subject to an audit by the MPCA.

HSW verification protocol

An established set of requirements to verify product performance is necessary to set a consistent standard among all registered HSW treatment technologies. This protocol (table 1) takes one full year to complete and as mentioned previously must be completed on every system installed after registration, in perpetuity, until such time that the TAP modifies, expands, alters, or cancels the protocol requirements.

Table 1. HSW verification protocol

Item	Description
Sample identification	Third-party sample reports must clearly indicate from which system/facility the samples were derived. Reports must also contain sample dates and times, sample location information, name of sampler, chain of custody information, sample collection method, and sample transportation information (time/container/temperature).
Sampling intervals	Four (4) sampling events (for both influent and effluent analysis as described below) must be taken quarterly each calendar year. The TAP will consider alternate intervals on seasonal use facilities to ensure required sampling events align with peak usage. Example: Q1: Jan – Mar, Q2: Apr – Jun, Q3: Jul – Sep, and Q4: Oct – Dec.
Influent sampling	Influent BOD ₅ , TSS, and O&G composite/grab samples must be taken at the first location of sewage collection within the system and be representative of the waste being discharged from the facility. Each of these three constituents must be sampled at each sampling event per facility.
Influent waste characterization	For each set of influent data provided, the waste must be characterized as HSW in accordance with Minn. R. 7080.1550 Subp. 2 B (1). Raw sewage must exceed 300 mg/L BOD ₅ , 200 mg/L TSS, and/or 50 mg/L O&G in order to be considered high strength waste.
Effluent sampling	Effluent cBOD ₅ (or BOD ₅), TSS, and O&G composite/grab samples must be taken after the treatment device and before discharge to the soil dispersal area. Each of these constituents must be sampled for each sampling event per facility.
Effluent waste results	In all cases, the effluent waste concentrations must meet, at a minimum, the outlined parameters for Treatment Level C: BOD ₅ of 170mg/L (or cBOD ₅ of 125mg/L), TSS of 60mg/L, and O&G of 25mg/L.
Flow measurements	Daily flow for thirty (30) days prior to each sampling event must be provided.
Third-party testing	All sampling results must be submitted on original reports from third-party entities (e.g. certified laboratories).
O&M summary	Create an O&M summary specifying the maintenance performed throughout the test period, such as pumping events or adjustments made, and include a list of tasks necessary for the product to adequately perform within the specified parameters in all configurations. Tasks should be given a specific frequency for when each shall occur (e.g. every 6 months).
Summary report	<p>Items 1-5 below shall be prepared in order for each system/facility:</p> <ol style="list-style-type: none"> 1. Cover page with facility name, address, product model, and design flow 2. Influent results 3. Effluent results 4. Flow measurements 5. O&M summary <p>Combine the summary reports for each system/facility into one PDF document, and submit to the agency</p>

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Full registration

A product will be granted full product registration once the manufacturer completes the Proprietary Treatment Product Application for Registration, undergoes formal review, and is verified through nationally recognized testing protocols in accordance with Minn. R. 7083.4010. Renewal for full registrations will be every three (3) years.

Final review and determination

The TAP will provide review of the summary reports submitted, and make recommendations to the agency for conditional or full product registration. The TAP has full discretion in their recommendations based on the intricacies surrounding each product's situation and registration at the time of review. Based on the recommendation from the TAP, the agency will make a final determination and develop a product registration letter reflecting their registration parameters and requirements.

Please be advised that this registration expires December 31, 2024. Manufacturers desiring to continue product registration beyond this date must obtain MPCA renewal according to the requirements in Minnesota Rules Chapter 7083.4040 (E). If the product has changed or is retested according to the protocol required for registration, renewal shall be based on the most recent test results. If the MPCA finds the product has changed in any way that may affect performance, it may not be renewed and must meet the requirements for initial registration.

The MPCA is in no way endorsing these products or any advertising, and is not responsible for any situation which may result from its use or misuse. The MPCA is not liable for any product failure and these statements are not intended and cannot be relied upon to establish any substantive or procedural rights with the state of Minnesota or the MPCA, either express or implied, that can be enforced in litigation or any administrative proceeding.

If you have any questions, please contact Katie Dowling at 651-757-2301 or by email at Katie.Dowling@state.mn.us.

Sincerely,

Katie Dowling

This document has been electronically signed.

Katie Dowling
Environmental Specialist
Municipal Division

KD:lam

cc: File