

FACT SHEET

APPLICATION FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT TO DISCHARGE TO WATERS OF THE STATE OF ALABAMA GENERAL PERMIT

Date: March 1, 2011

Prepared By: Dale P. Mapp

NPDES Permit No. ALG870000

1. Description of Category:

This permit is available to operators who discharge to waters of the State from the application of (1) biological pesticides or (2) chemical pesticides that leave a residue, when the pesticide application is for one of the following pesticide use patterns: (a) Mosquito and Other Flying Insect Pest Control, (b) Weed and Algae Control, (c) Nuisance Animal Control, or (d) Forest Canopy or Other Area-Wide Pest Control.

2. Geographic area covered:

State of Alabama

3. Receiving waters:

All Waters of the State

4. Types of discharge:

Discharge from the application of biological pesticides or chemical pesticides that leave a residue into, over or near a water of the State, when the pesticide application is for one of the following pesticide use patterns: (a) Mosquito and Other Flying Insect Pest Control, (b) Weed and Algae Control, (c) Nuisance Animal Control, or (d) Forest Canopy or Other Area-Wide Pest Control as defined in Part I.B.1 of the proposed general permit.

5. Permit Conditions:

The permit conditions are based on the draft EPA pesticide general permit of June 2, 2010, required by the January 26, 2009, ruling in National Cotton Council, et al, v. EPA by the U.S. Sixth Circuit Court of Appeals.

On November 26, 2006, the USEPA issued an aquatic pesticide rule which states that a Clean Water Act (CWA) permit is not required for the application of pesticides directly to water in

order to control pests or for the application of pesticides to control pests that are present over or near water, where a portion of the pesticide will unavoidably be deposited in the water in order to target the pests (i.e., spraying to control non-native plants growing on the water's edge because some of the pesticide would unavoidably enter the water). EPA argued that the CWA as it applies to pesticides is ambiguous and that pesticides applied according to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), requirements are not pollutants and therefore are not subject to NPDES permitting.

On January 19, 2009, the U.S. Sixth Circuit Court of Appeals vacated the rule in *National Cotton Council, et al, v. EPA*.

In response to this decision, on April 9, 2009, EPA requested a two-year stay of the mandate to provide the Agency time to develop general permits, to assist NPDES-authorized states to develop their NPDES permits, and to provide outreach and education to the regulated communities. On June 8, 2009, the Sixth Circuit granted EPA the two-year stay of the mandate. The stay of the mandate will expire on April 9, 2011.

On March 3, 2011, the U.S. Environmental Protection Agency (EPA) requested an extension to allow more time for pesticide operators to obtain permits for pesticide discharges into U.S. waters. EPA requested that the deadline be extended from April 9, 2011 to October 31, 2011.

On March 28, 2011, the U.S. Sixth Circuit Court of Appeals granted EPA's request for an extension of the deadline for when permits will be required for pesticide discharges into U.S. waters from April 9, 2011 to October 31, 2011.

6. Procedures for the formulation of final determinations

a. Comment Period

The Alabama Department of Environmental Management proposes to issue a General NPDES Permit subject to the conditions outlined above. These determinations are tentative.

Interested persons are invited to submit written comments on the permit application or on proposed determinations to the following address:

Russell A. Kelly, Chief
Permits and Services Division
Alabama Department of Environmental Management
1400 Coliseum Blvd
(Mailing Address: Post Office Box 301463; Zip 36130-1463)
Montgomery, Alabama 36110-2059
(334) 271-7714

All comments received prior to the closure of the public notice period (see attached public notice) will be considered in the formulation of final determinations with regard to this application.

b. Public Hearing

The Department has scheduled a public hearing to be held **April 4, 2011**, at 10:00 a.m. in the Main Hearing Room at the ADEM Central Office location at 1400 Coliseum Blvd. in Montgomery. The public hearing is to be held to receive data, views, and arguments from interested persons regarding the proposed permit. Attendance at the hearing is not necessary to present such data, views, arguments, or comments as the same may be submitted in writing, but must be received by the Hearing Officer prior to 5:00 p.m. on May 6, 2011. Written submissions and other inquiries should be directed to: ADEM Hearing Officer, Office of General Counsel, Alabama Department of Environmental Management, P.O. Box 301463, Montgomery, AL 36130-1463 (street address: 1400 Coliseum Boulevard, Montgomery, AL 36110-2059) or by email at hearing.officer@adem.state.al.us.

c. Issuance of the Permit

Upon the expiration of the comment period and completion of the public hearing process a response to all significant comments will be prepared. After consideration of all comments received during the notice period or as the result of a public hearing, the response to comments, and of the requirements of the Alabama Water Pollution Control Act and appropriate regulations, the Director will make a final decision regarding permit issuance. **The permit record, including the response to comments, will be available to the public and an appointment to review the record may be made by writing the Permits and Services Division at the above address.**

Unless a request for a stay of the permit or permit provision is granted, the proposed permit contained in the Director's determination shall be issued and effective; and will be the final action of the Alabama Department of Environmental Management.

d. Appeal Procedures

Any person adversely affected by the Director's final decision may submit an appeal or a request for a stay of the permit or one or more provisions of the permit. Such requests should be received by the Environmental Management Commission within thirty days of issuance of the permit. Requests should be submitted to the Chairperson at the following address:

Alabama Environmental Management Commission
1400 Coliseum Blvd
(Mailing Address: Post Office Box 301463; Zip 36130-1463)
Montgomery, Alabama 36110-2059

All requests must:

- (i) State the name, mailing address and telephone number of the person making such request;
- (ii) Identify the interest of the appellant which is affected by the proposed issuance, denial or modification of the permit contained in the determination of the Director, and explain how and to what extent that interest would be directly and adversely affected by such determination;
- (iii) Identify any persons whom the request represents;
- (iv) State with particularity the issues proposed to be considered at the hearing;
- (v) Include any terms and conditions with which the appellant proposes to revise or replace the determinations of the Director;
- (vi) State the name, mailing address and telephone number of the attorney for the person making the request, if represented by an attorney; and
- (vii) An original signature of the person making the request or such person's attorney.

The Commission may rule on the appeal or may hold an appeals hearing prior to making a ruling.

NPDES PERMIT RATIONALE

Pesticide General Permit

NPDES Permit No: **ALG870000**

Date: March 1, 2011

Permit Applicant: This permit is available to operators who discharge to waters of the State from the application of (1) biological pesticides or (2) chemical pesticides that leave a residue, when the pesticide application is for one of the following pesticide use patterns: (a) Mosquito and Other Flying Insect Pest Control, (b) Weed and Algae Control, (c) Nuisance Animal Control, or (d) Forest Canopy or Other Area-Wide Pest Control.

Location: State of Alabama

Draft Permit is: Initial Issuance: X
Reissuance due to expiration:
Modification of existing permit:
Revocation and Reissuance:

Introduction: On November 26, 2006, the USEPA issued an aquatic pesticide rule which states that a Clean Water Act (CWA) permit is not required for the application of pesticides directly to water in order to control pests or for the application of pesticides to control pests that are present over or near water, where a portion of the pesticide will unavoidably be deposited in the water in order to target the pests (i.e., spraying to control non-native plants growing on the water's edge because some of the pesticide would unavoidably enter the water). EPA determined that the CWA as it applies to pesticides is ambiguous and that pesticides applied according to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requirements are not pollutants and therefore are not subject to NPDES permitting.

On January 26, 2007, the Rule became effective. However, on January 19, 2007, EPA received petitions for review of the Aquatic Pesticides rule from both environmental and industry groups. The case, *National Cotton Council, et al, v. EPA*, was assigned to the Sixth Circuit Court of Appeals.

On January 19, 2009, the U.S. Sixth Circuit Court of Appeals held in *National Cotton Council, et al, v. EPA*, that the final Aquatic Pesticides rule was not a reasonable interpretation of the CWA and vacated the rule. Reversing EPA's November 2006 Aquatic Pesticides Rule, the Sixth Circuit held that CWA permits are required for all biological and chemical pesticide applications that leave a residue in water when such applications are made in, over, or near waters of the U.S.

In response to this decision, on April 9, 2009, EPA requested a two-year stay of the mandate to provide the Agency time to develop general permits, to assist NPDES-authorized states to develop their NPDES permits, and to provide outreach and education to the regulated communities. On June 8, 2009, the Sixth Circuit granted EPA the two-year stay of the mandate. The stay of the mandate will expire on April 9, 2011.

On March 3, 2011, the U.S. Environmental Protection Agency (EPA) requested an extension to allow more time for pesticide operators to obtain permits for pesticide discharges into U.S. waters. EPA is requested that the deadline be extended from April 9, 2011 to October 31, 2011.

On March 28, 2011, the U.S. Sixth Circuit Court of Appeals granted EPA's request for an extension of the deadline for when permits will be required for pesticide discharges into U.S. waters from April 9, 2011 to October 31, 2011.

State and Federal

Permit Requirements: This permit follows the Sixth Circuit Court of Appeals decision in *National Cotton Council, et.al, v. EPA*.

Permit Procedures: Today's draft permit has been developed in accordance with all applicable procedures of ADEM Admin. Code r. 335-6-6-.20, 335-6-6-.21, and 335-6-6-.23.

Effluent Standards and Limitations:

The technology-based effluent limitations contained in the pesticides general permit are non-numeric and constitute the levels of control that reduce the impacts caused by the discharge of pesticides to waters of the State. Additionally, these limitations provide for the protection of applicable numeric and narrative State water quality standards.

The water quality-based limitations contained in the permit are also non-numeric and require the control of discharges as necessary to meet applicable numeric and narrative State water quality standards.

Notice of Intent: Coverage under this general permit will be initiated by submitting a Notice of Intent (NOI) for any operator who will exceed an annual treatment area threshold defined in Part I.C.2 of the general permit. Pursuant to ADEM Admin Code r. 335-6-6-.23(15)(c), and given the type and expected number of discharges, the Department is proposing that other operators that do not exceed an annual treatment threshold may be authorized to discharge under this general permit without having to submit a NOI.

Prepared by: Dale P. Mapp



NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT GENERAL PERMIT

DISCHARGE AUTHORIZED: DISCHARGES FROM THE APPLICATION OF PESTICIDES INTO,
OVER OR NEAR A WATER OF THE STATE

AREA OF COVERAGE: THE STATE OF ALABAMA

PERMIT NUMBER: ALG870000

RECEIVING WATERS: ALL WATERS OF THE STATE OF ALABAMA

In accordance with and subject to the provisions of the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§1251-1378 (the "FWPCA"), the Alabama Water Pollution Control Act, as amended, Code of Alabama 1975, §§ 22-22-1 to 22-22-14 (the "AWPCA"), the Alabama Environmental Management Act, as amended, Code of Alabama 1975, §§22-22A-1 to 22-22A-15, and rules and regulations adopted thereunder, and subject further to the terms and conditions set forth in this permit, the Permittee is hereby authorized to discharge into the above-named receiving waters.

ISSUANCE DATE:

EFFECTIVE DATE:

EXPIRATION DATE:

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Part I Coverage Under This General Permit

A. Permit Coverage

This permit covers any Operator that meets the eligibility requirements identified in Part I.B and if so required, submits a Notice of Intent (NOI). This permit does not negate the requirements under FIFRA and its requirement to use registered pesticides consistent with the product's labeling. The Operator must comply with all other applicable State laws and regulations that pertain to the application of pesticides.

B. Eligibility

1. Activities Covered

This permit is available to Operators who discharge to waters of the State from the application of (1) biological pesticides or (2) chemical pesticides that leave a residue, when the pesticide application is for one of the following pesticide use patterns:

(a) Mosquito and Other Flying Insect Pest Control

This permit authorizes point source discharge(s) from the application of pesticides to control public health/nuisance and other flying insect pests (including pathogens such as fungi and bacteria) that develop or are present during a portion of their life cycle in or above standing or flowing water. Public health/nuisance and other flying insect pests in this use category include, but are not limited to, mosquitoes and black flies.

(b) Weed and Algae Control

This permit authorizes point source discharge(s) to control invasive or other nuisance weeds and algae in water and at water's edge, including irrigation ditches and/or irrigation canals. Also includes pathogens such as fungi and bacteria.

(c) Nuisance Animal Control

This permit authorizes point source discharge(s) to control invasive or other nuisance animals in water and at water's edge. Nuisance animals in this use category include, but are not limited to, fish, lampreys, and mollusks. Also includes pathogens such as fungi and bacteria.

(d) Forest Canopy or Other Area-Wide Pest Control

This permit authorizes point source discharge(s) from the aerial or ground application of a pesticide over or into a forest canopy or other vegetation to control the population of a pest species (e.g., insect or pathogen) where targeting the pest(s) effectively a portion of the pesticide unavoidably will be applied over and deposited to a water of the State.

Pesticide applications resulting in the discharge to a water of the State designated as Tier 3 in accordance with ADEM Admin. Code r. 335-6-10-.12(2), made to restore or maintain water quality, or to protect public health or the environment that do not degrade water quality are covered by this permit.

2. Limitations of Coverage

The following discharges are not authorized by this permit:

(a) Any discharge from a pesticide application to a water of the State if the water is identified as being impaired by that pesticide or its degradates. For the purposes of this permit, impaired waters are those that have been identified by the State, pursuant to Section 303(d) of the CWA, as not meeting applicable State water quality standards and those waters with EPA-approved or EPA-established Total Maximum Daily Loads (TMDLs) for a pesticide or its degradates..

(b) An Operator is not eligible for coverage under this permit if the discharges are covered by another NPDES permit.

(c) An NPDES permit is not required for return flows from irrigated agriculture or for the introduction of pollutants from nonpoint source agricultural and silvicultural activities as described in 40 CFR 122.3 (e), including storm water runoff from orchards, cultivated crops, pastures, range lands and forest lands. According to 122.27, nonpoint source silviculture activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and

maintenance from which there is natural runoff do not meet the definition of a silvicultural point source activity and therefore do not require NPDES coverage.

- (d) The aquatic application of a pesticide labeled exclusively for terrestrial use is not covered by this permit.

C. Authorization to Discharge Under This Permit

1. Obtaining Coverage

Any person wishing to obtain coverage under this general permit must:

- (a) meet the eligibility requirements identified in Part I.B, and
- (b) if an Operator identified in Part I.C.2 below, submit a complete and correct NOI.

Operators meeting the eligibility provisions outlined in Part I.B, and whose discharges are not subject to the requirement to submit an NOI, as identified in Part I.C.2, are automatically authorized to discharge upon the effective date of this permit, in compliance with the requirements of this permit without submission of an NOI.

Coverage is for the Operator who filed the NOI, including its employees, contractors, subcontractors, and other agents, for all activities identified on the NOI for the duration of this permit unless coverage is terminated pursuant to Parts I.C.5 or VIII.N. If a submitted NOI is not timely, complete or correct, then any employee, contractor, subcontractor or other entity that discharges without the required NOI is not covered by this permit.

2. Operators Required to Submit a Notice of Intent (NOI)

Any Operator exceeding an annual treatment area threshold listed in Table 1 below is required to submit an NOI to obtain coverage under this general permit for discharges to waters of the State as a result of the application of pesticides.

A copy of the NOI submitted to the Department, and any correspondence exchanged between the Operator and the Department specific to coverage under this permit, are required to be kept at the address provided on the NOI.

Pesticide research and development activities are automatically covered under this permit and not required to submit an NOI.

PGP Part	Pesticide Use	Annual Threshold
II.B.1	Mosquitoes and Other Flying Insect Pest Control	6400 acres of treatment area ¹
II.B.2	Weed and Algae Control:	
	- In Water	100 surface acres of water ¹
	- At Water's Edge:	100 linear miles of treatment area in waters of the State or at water's edge ²
II.B.3	Nuisance Animal Control:	
	- In Water	100 surface acres of water ¹
	- At Water's Edge	100 linear miles of treatment area in waters of the State or at water's edge ²
II.B.4	Forest Canopy or Other Area-Wide Pest Control	6400 acres of treatment area ¹

¹ Calculations should include the area of the pesticide application made to: (1) waters of the State, and (2) conveyances with a hydrologic surface connection to waters of the State at the time of pesticide application. For calculating annual treatment area totals count each pesticide application activity as a separate activity. For example, applying pesticides twice a year to a ten acre site should be counted as twenty acres of treatment area.

² Calculations should include the linear extent of the application made at water's edge adjacent to: (1) waters of the State, and (2) conveyances with a hydrologic surface connection to waters of the State at the time of pesticide application. For calculating annual treatment totals count each area **once** regardless of the number of applications in a given calendar year.

3. Contents of the Notice of Intent

The NOI shall include:

- i. The Operator name, telephone number, mailing address, and e-mail address;
- ii. County or counties that the application of a pesticide will occur;
- iii. Contact person and title, and telephone number;
- iv. Location where NPDES records for this facility will be kept;
- v. Pesticide use pattern for this facility and receiving waters; and
- vi. Certification

4. Discharge Authorization Date

Beginning April 9, 2011, the Operator must be covered under an NPDES permit for discharges to waters of the State as a result of the application of a pesticide. Operators are authorized to discharge under this permit consistent with Table 2 below.

Category	NOI Submittal Deadline	Discharge Authorization Date
Operators not required to submit an NOI.	Not applicable.	Immediately upon the permit effective date.
Operators identified in Part I.C.2 of this permit.	At least 10 days prior to commencement of discharge. ³	Upon receipt of a complete and timely NOI by the Department.
Operators who will discharge to a Tier 3 water (e.g. ONRW).	At least 30 days prior to commencement of discharge.	Upon Department issuance of coverage letter.
Operators commencing discharge in response to a <u>declared pest emergency situation</u> as defined in Part VIII.Q.	No later than 30 days after commencement of discharge. ⁴	Immediately upon the permit effective date, for activities conducted in response to declared pest emergency situation.

³ For Operators required to submit an NOI for coverage under this general permit NOI submittal can be delayed for 6 months after permit issuance. NOIs will be due between October 9, 2011 and January 9, 2012. Until such dates entities are automatically covered by this permit pursuant to ADEM Admin. Code r. 335-6-6-.23(15)(c).

⁴ In the event that a discharge occurs prior to submitting an NOI the Operator must comply with all other requirements of this permit immediately.

Based on a review of the submitted NOI or other information, the Department may: (a) delay authorization to allow for further review, (b) may determine that additional technology-based and/or water quality-based effluent limitations are necessary, or (c) may deny coverage under this permit and require submission of an application for an individual NPDES permit, as detailed in Part VIII.O.

5. Continuation of the General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the ADEM Administrative Code Chapter 335-6-6 and remain in force and effect if the Operator re-applies for coverage as required under Part I.C.6 of this Permit. Any Operator who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earliest of:

- (a) Reissuance or replacement of this permit, at which time the Operator must comply with the NOI conditions of the new permit to maintain authorization to discharge; or
- (b) Issuance or denial of an individual permit; or
- (c) A formal permit decision by the Department not to reissue this general permit, at which time the Operator must seek coverage under an alternative general permit or an individual permit; or

- (d) A Notice of Termination (NOT) has been submitted; or
- (e) The Department has informed the Operator that coverage under this permit is no longer needed.

6. Duty to Reapply for Coverage Under this General Permit

- (a) The Operator authorized to discharge under this General Permit who wishes to continue to discharge upon the expiration of this permit, shall submit a NOI to be covered by the reissued General Permit. Such NOI shall include information required by the initial NOI and shall be submitted at least 90 days prior to the expiration date of this General Permit.
- (b) Failure of the Operator to submit a NOI Form for reauthorization under this permit at least 90 days prior to the permit's expiration will void the automatic continuation of the authorization to discharge under this permit as provided by ADEM Administrative Code r 335-6-6-.06. Should the permit not be reissued for any reason prior to its expiration date, Operators who failed to meet the 90-day submittal deadline will be illegally discharging without a permit after the expiration date of the permit.

7. Terminating Coverage

The Director may suspend or terminate coverage under this permit for cause without the consent of the Operator. Cause shall include, but not be limited to, noncompliance with this permit or the applicable requirements of Department rules, or a finding that this permit does not sufficiently protect water quality.

- (c) Operators that are not required to submit an NOI and those Operators that are covered under this permit as a result of a declared pest emergency situation are terminated from permit coverage when they no longer have a discharge from the application of pesticides or their discharges are covered under another NPDES permit. These Operators are not required to submit a NOT to terminate permit coverage. However, these Operators are required to notify the Department in writing when they meet the requirements of this paragraph and they no longer need coverage under this permit.

(d) Notice of Termination

Operators required to submit an NOI to obtain coverage under this permit must submit a complete and accurate NOT, in a format acceptable to the Department, within thirty (30) days of one of the following conditions:

- i. A new Operator has taken over responsibility for pest control activities covered under an existing NOI;
- ii. The Operator has ceased all discharges from the application of pesticides for which permit coverage was obtained and does not expect to discharge during the remainder of the permit term for any of the use patterns identified in Part I.B.1;
- iii. Coverage under an individual permit or alternative general permit has been obtained.

(e) Content of the Notice of Termination

The NOT shall include:

- i. The Operator name, permit number, mailing address, telephone number and e-mail address;
- ii. Contact name and title, and telephone number,
- iii. The basis for the requested termination; and
- iv. Certification that coverage under this permit is no longer needed.

- (f) When terminating permit coverage, the Operator must submit a report for the portion of the calendar year up through the date of the termination request. The report is due with the submittal of the NOT.

The report must contain the following information:

1. Operator's name, phone number, e-mail address
2. NPDES permit number(s);
3. Contact person name, title, e-mail address (if any), and phone number;
4. For each pest treatment area, report the following information:
 - (a) Identification of any waters or other treatment area, including size, either by name or by location, to which any pesticide(s) were discharged;
 - (b) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weeds and algae, nuisance animals, or forest canopy) and target pest(s);
 - (c) Company name(s) and contact information for pesticide applicator(s), if different from the NOI submitter;

- (d) Total amount of each pesticide product applied (in gallons or pounds) for the reporting year by the EPA registration number(s) and by application method (e.g., aerially by fixed-wing or rotary aircraft, broadcast spray, etc.);
- (e) Whether this pest control activity was addressed in the Pesticide Discharge Management Plan (PDMP) prior to pesticide application;
- (f) If applicable, a report of any adverse incidents as a result of these treatment(s), for incidents, as described in Part VI.D; and
- (g) A description of any corrective action(s), including spill responses, resulting from pesticide application activities and the rationale for such action(s).

D. Other Federal and State Laws

The Operator must comply with all other applicable federal and State laws and regulations that pertain to the application of pesticides. This permit does not negate or alter the requirements of FIFRA and its implementing regulations to use registered pesticides consistent with the product's labeling.

Part II Technology-Based Effluent Limitations

To meet the effluent limitations in Part II, all Operators must implement site-specific control measures that minimize discharges of pesticides to waters of the State.

A. Requirements for All Operators

All Operators are required to maintain pesticide application equipment in proper operating condition by adhering to any manufacturer's conditions and industry practices; perform regular maintenance activities to reduce leaks, spills, or other unintended discharges of pesticides associated with the application of pesticides covered under this permit; assess weather conditions to ensure pesticide application is consistent with applicable requirements; and, use only the necessary amount of pesticide product per application and at the necessary frequency of pesticide applications to control the target pest consistent with reducing the potential for development of pest resistance.

B. Pest Management Measures

This Part applies to any Operator that is required to submit an NOI, as required in Part I.C.2.

If the discharge of pollutants results from the application of a pesticide that is being used solely for the purpose of "pesticide research and development," as defined in Part VIII.Q, Part II.B must still be implemented only to the extent that its requirements do not compromise the research design.

1. Mosquito and Other Flying Insect Pest Control

This part applies to discharges from the application of pesticides for mosquito and other flying insect pest control as defined in Part I.B.1.

- (a) Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the State, and at least once each calendar year thereafter during which an Operator will have a discharge to a water of the State, the Operator must do the following for each pest management area, as defined in Part VIII.Q:
 - i. Establish densities for larval and adult mosquito or flying insect pest populations to serve as action threshold(s) for implementing pest management strategies;
 - ii. Establish procedures to determine target pest densities;
 - iii. Identify target mosquito or flying insect pests to develop specific pest management strategies based on developmental and behavioral considerations for each pest;
 - iv. Identify known breeding sites for source reduction, larval control program, and habitat management area;

- v. Analyze existing surveillance data to identify new or unidentified sources of mosquito or flying insect pest problems as well as sites that have recurring pest problems.
- (b) Pest Management. Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the State, and at least once each calendar year thereafter during which an Operator will have a discharge to a water of the State, the Operator must select and implement, for each pest management area, efficient and effective means of pest management that minimize discharges resulting from application of pesticides to control mosquitoes or other flying insect pests. In developing these pest management strategies, the Operator must evaluate the following management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:
- i. No Action
 - ii. Prevention
 - iii. Mechanical or physical methods
 - iv. Cultural methods
 - v. Biological control agents
 - vi. Pesticide Application
- (c) Pesticide Use. If a pesticide is selected to manage mosquitoes or flying insect pests and application of the pesticide will result in a discharge to waters of the State, the Operator must:
- i. Conduct larval and/or adult surveillance prior to each pesticide application to assess the pest management area and to determine when action threshold(s) are met that necessitate the need for pest management;
 - ii. Assess environmental conditions (e.g. temperature, precipitation, and wind speed) in the treatment area prior to each pesticide application to identify whether existing environmental conditions support development of pest populations and are suitable for treatment activities;
 - iii. Reduce the impact on the environment and on non-target organisms by evaluating site restrictions, application timing, and application method in addition to applying the pesticide only when the action threshold has been met or when disease is present;
 - iv. In situations or locations where practicable and feasible for effective control, use larvicides as a preferred pesticide for mosquito or flying insect pest control when larval action thresholds have been met; and
 - v. In situations or locations where larvicide use is not practicable or feasible for effective control, use adulticides for mosquito or flying insect pest control when adult action thresholds have been met.
2. Weed and Algae Control
This part applies to discharges from the application of pesticides for weed and algae control as defined in Part I.B.1.

- (a) Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the State, and at least once each calendar year thereafter during which an Operator will have a discharge to a water of the State, the Operator must do the following for each pest management area, as defined in Part VIII.Q:
- i. Identify areas with weed or algae problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g. wildlife habitat, fisheries, vegetation, and recreation);
 - ii. Identify target weed and/or algae pest;
 - iii. Identify possible factors causing or contributing to the weed or algae problem (e.g., nutrients, invasive species, etc);
 - iv. Establish procedures to determine target pest densities;
 - v. Establish past or present weed or algae densities to serve as action threshold(s) for implementing pest management strategies.
- (b) Pest Management. Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the State, and at least once each calendar year thereafter during which an

Operator will have a discharge to a water of the State, the Operator must select and implement, for each pest management area, efficient and effective means of pest management that minimize discharges resulting from application of pesticides to control weeds and algae. In developing these pest management strategies, the Operator must evaluate the following management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

- i. No Action
- ii. Prevention
- iii. Mechanical or physical methods
- iv. Cultural methods
- v. Biological control agents
- vi. Pesticide Application

- (c) Pesticide Use. If a pesticide is selected to manage weeds or algae and application of the pesticide will result in a discharge to a water of the State, the Operator must:
- i. Conduct surveillance prior to each pesticide application to assess the pest management area and to determine when the action threshold is met that necessitates the need for pest management; and
 - ii. Reduce the impact on the environment and non-target organisms by evaluating site restrictions, application timing, and application method in addition to applying the pesticide only when the action threshold has been met or when disease is present.

3. Nuisance Animal Control

This part applies to discharges from the application of pesticides for nuisance animal control as defined in Part I.B.1.

- (a) Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the State, and at least once each calendar year thereafter, during which an Operator will have a discharge to a water of the State, the Operator must do the following for each pest management area, as defined in Part VIII.Q:
- i. Identify areas with nuisance animal problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g. wildlife habitat, fisheries, vegetation, and recreation);
 - ii. Identify target nuisance animal pest;
 - iii. Identify possible factors causing or contributing to the nuisance animal problem (e.g., nutrients, invasive species, etc);
 - iv. Establish procedures to determine target pest densities; and
 - v. Establish nuisance animal densities to serve as action threshold(s) for implementing pest management strategies.
- (b) Pest Management. Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the State, and at least once each calendar year thereafter during which an Operator will have a discharge to a water of the State, the Operator must select and implement, for each pest management area, efficient and effective means of pest management that minimize discharges resulting from application of pesticides to control nuisance animals. In developing these pest management strategies, the Operator must evaluate the following management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:
- i. No Action
 - ii. Prevention
 - iii. Mechanical or physical methods
 - iv. Cultural methods
 - v. Biological control agents
 - vi. Pesticide Application
- (c) Pesticide Use. If a pesticide is selected to manage nuisance animals and application of the pesticide will result in a discharge to a water of the State, the Operator must:

- i. Conduct surveillance prior to each pesticide application to assess the pest management area and to determine when the action threshold is met that necessitates the need for pest management; and
- ii. Reduce the impact on the environment and non-target organisms by evaluating site restrictions, application timing, and application method in addition to applying the pesticide only when the action threshold has been met or when disease is present.

4. Forestry Canopy or Other Area-Wide Pest Control

This part applies to discharges from the application of pesticides for forest canopy or other area-wide pest control as defined in Part I.B.1.

(a) Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the State, and at least once each calendar year thereafter during which an Operator will have a discharge to a water of the State, the Operator must do the following for each pest management area, as defined in Part VIII.Q:

- i. Establish target pest densities to serve as action threshold(s) for implementing pest management strategies;
- ii. Identify target pest to develop a site-specific pest management control strategy based on developmental and behavioral considerations for each target pest;
- iii. Identify current distribution of the target pest and assess potential distribution in the absence of control measures; and
- iv. Establish target pest densities to serve as action threshold(s) for implementing pest management strategies.

(b) Pest Management. Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the State, and at least once each calendar year thereafter during which an Operator will have a discharge to a water of the State, the Operator must select and implement, for each pest management area, efficient and effective means of pest management that minimize discharges resulting from application of pesticides to control forestry pests. In developing these pest management strategies, the Operator must evaluate the following management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

- i. No Action
- ii. Prevention
- iii. Mechanical or physical methods
- iv. Cultural methods
- v. Biological control agents
- vi. Pesticide Application

(c) Pesticide Use. If a pesticide is selected to manage forestry pests and application of the pesticide will result in a discharge to waters of the State, the Operator must:

- i. Conduct surveillance prior to each pesticide application to assess the pest management area and to determine when the action threshold is met that necessitates the need for pest management;
- ii. Assess environmental conditions (e.g. temperature, precipitation, and wind speed) in the treatment area prior to each pesticide application to identify whether existing environmental conditions support development of pest populations and are suitable for treatment activities;
- iii. Reduce the impact on the environment and non-target organisms by evaluating the restrictions, application timing, and application methods in addition to applying the pesticide only when the action thresholds have been met or when disease is present; and
- iv. Evaluate using pesticides against the most susceptible developmental stage.

Part III Water Quality-Based Effluent Limitations

This Part applies to all Operators covered under this general permit.

The discharge must be controlled as necessary to meet applicable numeric and narrative State water quality standards.

If at any time the Operator becomes aware, or the Department determines, that the discharge causes or contributes to an excursion of applicable water quality standards, the Operator must take corrective action as required in Part VI.

Part IV Site Monitoring

A. Monitoring Requirements for All Operators

The Operator must monitor the amount of pesticide applied to ensure that only the necessary amount of pesticide is used at the necessary frequency to effectively control the pest, consistent with reducing the potential for development of pest resistance. The Operator must also monitor the pesticide application activities to ensure that regular maintenance activities are being performed, and to ensure that the application equipment is in proper operating condition 1) to reduce the potential for leaks, spills, or other unintended discharge of pesticides to waters of the State, and 2) by adhering to any manufacturer's conditions and industry practices, and by calibrating, cleaning, and repairing equipment on a regular basis.

B. Visual Monitoring Requirements for all Operators

All Operators covered under this permit must conduct visual monitoring in the area to and around where pesticides are applied for possible and observable adverse incidents caused by the application of pesticides, including but not limited to the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use. If the application site is accessible, and it is safe to do so, post application surveillance must be performed. Visual assessments of the application site must be performed:

1. During any pesticide application, when considerations for safety and feasibility allow.
2. During any post-application surveillance or pesticide effectiveness check, if a surveillance or pesticide effectiveness check is conducted.

If visual monitoring is not conducted, then the Operator must document, in detail, the reasons why.

Part V Pesticide Discharge Management Plan

A. Pesticide Discharge Management Plan (PDMP)

This Part applies to any Operator required to submit an NOI, as required in Part I.C.2

If an Operator is required to submit an NOI, a PDMP must be developed, maintained and implemented prior to submittal of the NOI. The PDMP must be made available to the Department for review upon request, and must be kept up-to-date thereafter for the duration of coverage under this general permit. Some sections of the PDMP will require input from the pesticide applicator.

PDMPs are not required to be developed for activities performed in response to a declared pest emergency, as defined in Part VIII.Q. of this permit.

B. Contents of the Pesticide Discharge Management Plan

The contents of the PDMP must include the following elements:

1. Pesticide Discharge Management Team

Identify all team members by name and title, as well as each person's individual responsibilities, including:

- (a) Person(s) responsible for managing pests in relation to the pest management area;
- (b) Person(s) responsible for developing and revising the PDMP;
- (c) Person(s) responsible for developing, revising, and implementing corrective actions and other effluent limitation requirements; and
- (d) Person(s) responsible for pesticide applications. If the pesticide applicator is unknown at the time of plan development, indicate when the identity of the applicator is anticipated.

Identification of team members must include any written agreement(s) between the permitted Operator and any other Operator(s), such as a for-hire pesticide applicator, that specify the division of responsibilities between Operators as necessary to comply with the provisions of this permit.

2. Pest Management Area Description

The Operator must document the following:

- (a) Pest problem description. Document a description of the pest problem within the pest management area, including identification of the target pest(s), source of the pest problem, and source of data used to identify the problem.
- (b) Action Threshold(s). Describe the action threshold(s) for the pest management area, including a description of how they were determined.
- (c) General location map. Include a general location map (e.g., USGS quadrangle map, or a portion of a city or county map) that identifies the geographic boundaries of the area to which the plan applies and location of the waters of the State; and
- (d) Water quality standards. List of pesticide(s) or any degradates for which the water is impaired.

3. Control Measure Description

The Operator must:

- (a) Document the evaluation of control measures for the pest management area; and
- (b) Document the control measures that will be implemented to comply with the effluent limitations. Include in the description the active ingredient(s) of the pesticides(s) evaluated.

4. Schedules and Procedures

Document the following schedules and procedures in the PDMP:

- (a) Pertaining to Control Measures Used to Comply with the Effluent Limitations:
 - i. Application Rate and Frequency. (Part II.A.) Procedures for determining only the necessary amount of pesticide product used per application and at the necessary frequency needed to control the target pest, consistent with reducing the potential for development of pest resistance;
 - ii. Spill Prevention. (Part II.A.) Procedures and schedule of maintenance activities for preventing spills and leaks of pesticides associated with the application of pesticides covered under this permit.
 - iii. Pesticide Application Equipment. (Part II.A.) Schedules and procedures for maintaining the pesticide application equipment in proper operating condition, including calibrating, cleaning, and repairing the equipment.
 - iv. Pest Surveillance. (Parts II.B.1.(c), II.B.2.(c), II.B.3.(c), and II.B.4.(c)) Procedures and methods for conducting pre- application pest surveillance.
 - v. Assessing Environmental Conditions. (Parts II.B.1.(c).ii, and II.B.4.(c).ii) Procedures and methods for assessing environmental conditions in the treatment area.
- (b) Pertaining to Other Actions Necessary to Minimize Discharges:
 - i. Spill Response Procedures:

- (1) Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of the PDMP team.
 - (2) Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies.
 - ii. Adverse Incident Response Procedures:
 - (1) Procedures for responding to any adverse incident resulting from pesticide applications;
 - (2) Procedures for notification of the adverse incident, both internal to the agency/organization and external. Contact information for State/federal permitting agency, nearest emergency medical facility, and nearest hazardous chemical responder must be in locations that are readily accessible and available.
 - iii. Pesticide Monitoring Schedules and Procedures:
 - (1) The process for determining the location of any monitoring in Part IV;
 - (2) A schedule for monitoring;
 - (3) The person responsible for conducting the monitoring; and
 - (4) Procedures for documenting any observed impacts to non-target organisms resulting from the pesticide discharge.
5. Signature Requirements
The Operator must sign, date and certify the PDMP in accordance with Part VIII.I.

C. Pesticide Discharge Management Plan Modifications

The PDMP must be revised whenever necessary to address any of the triggering conditions for corrective action in Part VI.A or when a change in pest control activities significantly changes the type or quantity of pollutants discharged. Changes to the PDMP must be made before the next pesticide application that results in a discharge, if practicable, or if not, as soon as possible thereafter.

The PDMP must be reviewed, at a minimum, once per calendar year and whenever necessary to update the pest problem identified and pest management strategies evaluated for the pest management area.

D. Pesticide Discharge Management Plan Availability

A copy of the current PDMP must be retained, along with all supporting maps and documents, at the address provided in the NOI. The PDMP and all supporting documents must be made readily available to the Department upon request.

Part VI Corrective Action

A. Situations Requiring Revision of Control Measures

This Part applies to all Operators covered under this general permit.

If any of the following situations occur, the Operator must review and, as necessary, revise the evaluation and selection of control measures to ensure that the situation is eliminated and will not be repeated in the future:

1. An unauthorized release or discharge associated with the application of pesticides (e.g., spill, leak, or discharge not authorized by this or another NPDES permit) occurs;
2. The Operator becomes aware, or the Department concludes, that the control measures are not adequate for the discharge to meet applicable water quality standards or the requirements of this permit;
3. Any monitoring activities indicate that the Operator failed to:

- (a) Use only the necessary amount of pesticide product per application and at the necessary frequency needed to control the target pest, consistent with reducing the potential for development of pest resistance;
 - (b) Perform regular maintenance activities to reduce leaks, spills, or other unintended discharges of pesticides associated with the application of pesticides covered under this permit; or
 - (c) Maintain pesticide application equipment in proper operating condition by adhering to any manufacturer's conditions and industry practices, and by calibrating, cleaning, and repairing such equipment on a regular basis to ensure effective pesticide application and pest control. The Operator must ensure that the equipment's rate of pesticide application is calibrated to deliver only the necessary quantity of pesticide needed to achieve greatest efficacy against the target pest.
4. An inspection or evaluation of the activities by the Department reveals that modifications to the control measures are necessary to meet the requirements of this permit, or
 5. The Operator observes, during visual monitoring, required in Part IV.B, or is otherwise made aware of, an adverse incident, as defined in Part VIII.Q.

B. Corrective Action Deadlines

This Part applies to all Operators covered under this general permit.

If the Operator determines that changes to the control measures are necessary to eliminate any situation identified in Part VI.A, such changes must be made before the next pesticide application that results in a discharge to waters of the State, if practicable, or if not, as soon as possible thereafter.

C. Effect of Corrective Action

This Part applies to all Operators covered under this general permit.

The occurrence of a situation identified in Part VI.A may constitute a violation of the permit. Correcting the situation according to Part VI.A does not absolve the Operator of liability for any original violation. However, failure to comply with Part VI.A constitutes an additional permit violation. The Department will consider the appropriateness and promptness of corrective action in determining enforcement responses to permit violations.

The Department may impose additional requirements and schedules of compliance, including requirements to submit additional information concerning the condition(s) triggering corrective action or schedules and requirements more stringent than specified in this permit. Those requirements and schedules will supersede those of Part VI.A if such requirements conflict.

D. Adverse Incident Documentation and Reporting

This Part applies to all Operators covered under this general permit.

1. Twenty-Four (24) Hour Adverse Incident Notification

If the Operator observes or is otherwise made aware of an adverse incident that may have resulted from a discharge from the pesticide application, the Operator must immediately notify the Department. This notification must be made by telephone within 24 hours of becoming aware of the adverse incident and must include at least the following information:

- (a) The caller's name and telephone number;
- (b) Operator name and mailing address;
- (c) NPDES permit number, if applicable;
- (d) The name and telephone number of a contact person, if different than the person providing the 24-hour notice;
- (e) How and when the Operator became aware of the adverse incident;
- (f) Description of the location of the adverse incident;

- (g) Description of the adverse incident identified and the pesticide name for each product applied in the area of the adverse incident; and
- (h) Description of any steps taken or will be taken to correct, repair, remedy, cleanup, or otherwise address any adverse effects.

If the Operator is unable to notify the Department within 24 hours, this must be done as soon as possible and must include rationale for why the Operator was unable to provide such notification within 24 hours.

Reporting of adverse incidents is not required under this permit in the following situations:

- (1) The Operator is aware of facts that clearly establish that the adverse incident was not related to toxic effects or exposure from the pesticide application.
- (2) The Operator has been notified in writing by the Department that the reporting requirement has been waived for this incident or category of incidents.
- (3) The Operator receives information of an adverse incident but that information is clearly erroneous.
- (4) An adverse incident occurs to pests that are similar in kind to pests identified as potential targets on the FIFRA label.

2. Thirty (30) Day Adverse Incident Written Report

Within thirty (30) days of a reportable adverse incident pursuant to Part VI.D.1, the Operator must provide a written report of the adverse incident to the Department. The adverse incident report must include at least the following information:

- (a) Information required to be provided in Part VI.D.1;
- (b) Date and time the Operator contacted the Department with notification of the adverse incident and who the Operator spoke with at the Department and any instructions received from the Department;
- (c) Location of incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, etc);
- (d) A description of the circumstances of the adverse incident including species affected, estimated number of individual and approximate size of dead or distressed organisms;
- (e) Magnitude and scope of the affected area (e.g. aquatic square area or total stream distance affected);
- (f) Pesticide application rate, intended use site (e.g., banks, above, or direct to water), method of application, name of pesticide product, and a description of pesticide ingredients;
- (g) Description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data for pesticides applied);
- (h) If laboratory tests were performed, indicate what test(s) were performed, and when they were performed, and provide a summary of the test results within 5 days after they become available;
- (i) If applicable, explain why the Operator believes the adverse incident could not have been caused by exposure to the pesticide;
- (j) Actions to be taken to prevent recurrence of adverse incidents; and
- (k) Signed and dated in accordance with Part VIII.I.

The Operator must report adverse incidents even for those instances when the pesticide labeling states that adverse effects may occur.

3. Adverse Incident to Threatened or Endangered Species or Critical Habitat

Notwithstanding any of the other adverse incident notification requirements of this section, if the Operator becomes aware of an adverse incident to a federally-listed threatened or endangered species or its federally-designated critical habitat, that may have resulted from a discharge from the pesticide application, the Operator must immediately notify the National Marine Fisheries Service (NMFS), in the case of an anadromous or marine species, or the U.S. Fish and Wildlife Service (FWS), in the case of a terrestrial or freshwater species.

E. Reportable Spills and Leaks

This Part applies to all Operators covered under this general permit.

1. Spill, Leak, or Other Unpermitted Discharge Notification

Where a leak, spill, or other release containing a pesticide occurs in any 24-hour period, the Operator must notify the National Response Center (NRC) immediately at (800) 424-8802 and the local Emergency Management Agency.

Local requirements may necessitate also reporting spills or leaks to local emergency response, public health, or drinking water supply agencies.

2. Five-Day Spill, Leak, or Other Unpermitted Discharge Documentation

Within 5 days of becoming aware of a spill, leak, or other unpermitted discharge triggering the notification in Part VI.E.1, the Operator must document and retain the following information:

- (a) Information required to be provided in Part VI.E.1;
- (b) Summary of corrective action taken or to be taken including date initiated and date completed or expected to be completed;
- (c) Any measures to prevent recurrence of such a spill or leak or other discharge, including notice of whether PDMP modifications are required as a result of the spill or leak.

F. Other Corrective Action Documentation

This Part applies to all Operators covered under this general permit.

For situations identified in Part VI.A, other than for adverse incidents, or reportable spills or leaks, the Operator must document the situation triggering corrective action and the planned corrective action within five (5) days of becoming aware of that situation and retain a copy of this documentation. This documentation must include the following information:

- (1) Identification of the condition triggering the need for corrective action review, including any ambient water quality monitoring that assisted in determining that discharges did not meet water quality standards;
- (2) Brief description of the situation;
- (3) Date the problem was identified;
- (4) Brief description of how the problem was identified and how the Operator learned of the situation and the date the Operator learned of the situation;
- (5) Summary of corrective action taken or to be taken including date initiated and date completed or expected to be completed; and
- (6) Any measures to prevent recurrence of such an incident, including notice of whether PDMP modifications are required as a result of the incident.

Part VII Recordkeeping and Reporting

A. Recordkeeping and Reporting

1. All Operators covered under this general permit must keep written records as required in this permit. These records must be accurate, complete and sufficient to demonstrate compliance with the conditions of this permit. The Operator can rely on records and documents developed for other obligations, such as requirements under FIFRA, and State or local pesticide programs, provided all requirements of this permit are satisfied and a copy of the document or portion is kept with the written records and made available upon request by the Department.

2. All Operators must keep the following records:
 - (a) A copy of any Adverse Incident Reports (See Part VI.D.2);
 - (b) The rationale for any determination that reporting of an identified adverse incident is not required consistent with allowances identified in Part VI.D.1; and
 - (c) A copy of any corrective action documentation (See Part VI.F)

B. Records to be kept by Operators That Exceed an Annual Treatment Threshold

Operators required to submit an NOI under Part I.C.2, must prepare and keep onsite an annual report that must be made readily available for review by the Department. The annual report must include information for the calendar year, with the first annual report required to include activities for the portion of the calendar year after the effective date of the NOI.

The annual report must contain the following information:

1. Operator's name, title, e-mail address (if any) and phone number;
2. NPDES permit number(s);
4. Description of each pest treatment area, including:
 - (a) Identification of any waters or other treatment area, including size, either by name or by location, to which any pesticide(s) were discharged;
 - (b) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weeds and algae, nuisance animals, or forest canopy) and target pest(s);
 - (c) Company name(s) and contact information for pesticide applicator(s), if different from the NOI submitter;
 - (d) Quantity of each pesticide product applied (in gallons or pounds and specify if quantities are for the pesticide product as packaged or as formulated and applied) for the reporting year by the EPA registration number(s) and by application method (e.g., aerially by fixed-wing or rotary aircraft, broadcast spray, etc.);
 - (e) If applicable, any adverse incidents as a result of these treatment(s) to non-target organisms;
 - (f) A description of any corrective action(s), including spill responses, resulting from pesticide application activities and the rationale for such action(s).
 - (g) Surveillance method(s) used, date(s) of surveillance activities, and findings of surveillance;
 - (h) Target pest(s);
 - (i) Pest density prior to pesticide application;
 - (j) Pesticide application date(s);
 - (k) Name of each pesticide product used;
 - (l) Concentration (%) of active ingredient in formulation;
 - (m) For pesticide applications directly to waters, the effective concentration of active ingredient required for control;
 - (n) Documentation of any equipment calibration (to be kept by pesticide applicator);
 - (o) A copy of the PDMP, including any modifications made to the PDMP during the term of this permit, as well as whether this pest control activity was addressed in the PDMP prior to pesticide application.

PART VIII Standard and General Permit Conditions

A. Duty to Comply

- (a) The Operator must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the AWPCA and the FWPCA and is grounds for enforcement action, or for termination or denial of coverage under this permit.
- (b) Any Operator who violates a permit condition is subject to a civil penalty as authorized by Code of Alabama (1975) §22-22A-5(18) (1987 Cum. Supp.) and/or a criminal penalty as authorized by the AWPCA.

B. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Operator in an enforcement action that it would have been necessary to halt or reduce pesticide application activities in order to maintain compliance with the conditions of the permit.

C. Duty to Mitigate

The Operator shall take all reasonable steps to mitigate and minimize or prevent any violation of the permit or to minimize or prevent any adverse impact of any permit violation.

D. Permit Actions

This permit may be modified, revoked and reissued, suspended, or terminated for cause. The filing of a request by the Operator for a permit modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

E. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege.

F. Duty to Provide Information

- (a) The Operator shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and re-issuing, suspending, or terminating this permit or to determine compliance with this Permit. The Operator shall also furnish to the Director upon request, copies of records required to be kept by this Permit.
- (b) The Operator shall inform the Director in writing of any change in the Operator's mailing address or telephone number or in the Operator's designation of a contact or officer having the authority and responsibility to prevent and abate violations of the AWPCA, the Department's rules and the terms and conditions of this permit no later than ten (10) days after such change. Upon request of the Director, the Operator shall furnish an update of any information provided in the NOI.
- (c) If the Operator becomes aware that it failed to submit any relevant facts in the NOI; or submitted incorrect information in the NOI; or in any report to the Director, it shall promptly submit such facts or information with a written explanation for the mistake and/or omission.

G. Inspection and Entry

The Operator shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:

- (a) Enter upon the Operator's premises where a regulated activity is located or conducted, or where records must be kept under the conditions of this Permit;

- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit; and
- (c) Inspect at reasonable times any equipment, practices, or operations regulated or required under this Permit.

H. Noncompliance Notification

- (a) If for any reason, the Operator's discharge does not comply with any condition of this permit, the Operator shall verbally notify the Director within 24 hours of the noncompliant event followed by a written report within five (5) days of the non-compliant event.
- (b) A written noncompliance notification shall be in a format acceptable to the Department and shall include:
 - (a) A description of the noncompliant event, its cause, if known, and location;
 - (b) The expected period of noncompliance, including dates and times.
 - (c) A description of any corrective measures taken or to be taken to correct the noncompliance and mitigate any associated effects to the environment.

I. Signatory Requirements

The NOI and all reports or information submitted to the Director shall be signed and certified according to the requirement of ADEM Admin Code r. 335-6-6-.09.

J. Transfers

This permit is not transferable to any person except after written notice to the Department. The Department may require the submittal of an updated NOI to change the name of the Operator and any other information affected by the proposed transfer.

K. Bypass

Any bypass claimed by the Operator is subject to the requirements of ADEM Admin Code r. 335-6-6-.12(m).

L. Upset

Any upset claimed by the Operator is subject to the requirements of ADEM Admin Code r. 335-6-6-.12(n).

M. Severability

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

N. Modification, Revocation and Reissuance, and Termination

The Director may modify, revoke and reissue, or terminate this permit in accordance with ADEM Admin. Code r. 335-6-6-.23(7).

O. Issuance of an Individual Permit

The Director may require the Operator to obtain an individual permit for discharges covered by this permit in accordance with ADEM Admin. Code r. 335-6-6-.23(9).

P. Records Documentation and Retention

All required records must be documented no later than 14 days following completion of the activity. Any records required under this permit must be maintained for at least 3 years from that date the record was created. All records required to be kept by this permit must be made available to the Department upon request.

Q. Definitions

1. Action Threshold - the point at which pest populations or environmental conditions can no longer be tolerated necessitating that pest control action be taken based on economic, human health, aesthetic, or other effects. Sighting a single pest does not always mean control is needed. Action thresholds help determine both the need for control actions and the proper timing of such actions.
2. Active Ingredient - any substance (or group of structurally similar substances if specified by the Department) that will prevent, destroy, repel or mitigate any pest, or that functions as a plant regulator, desiccant, or defoliant within the meaning of FIFRA sec. 2(a). [40 CFR 152.3] Active ingredient also means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance. [40 CFR 174.3]
3. ADEM means the Alabama Department of Environmental Management.
4. Adverse Incident - an incident that has been observed upon inspection or of which the Operator has otherwise become aware, in which:
 - (1) A person or non-target organism may have been exposed to a pesticide residue, and
 - (2) The person or non-target organism suffered a toxic or adverse effect.

The phrase “toxic or adverse effects” includes effects that occur within waters of the State on non-target plants, fish or wildlife that are unusual or unexpected (e.g., effects are to organisms not otherwise described on the pesticide product label or otherwise not expected to be present) as a result of exposure to a pesticide residue, and may include:

- Distressed or dead juvenile and small fishes
- Washed up or floating fish
- Fish swimming abnormally or erratically
- Fish lying lethargically at water surface or in shallow water
- Fish that are listless or nonresponsive to disturbance
- Stunting, wilting, or desiccation of non-target submerged or emergent aquatic plants
- Other dead or visibly distressed non-target aquatic organisms (amphibians, turtles, invertebrates, etc.)

The phrase, “toxic or adverse effects,” also includes any adverse effects to humans (e.g., skin rashes) or domesticated animals that occur from a discharge to waters of the State that are temporally and spatially related to exposure to a pesticide residue (e.g., vomiting, lethargy).

5. AWPCA - the Alabama Water Pollution Control Act.
6. Best Management Practices (BMPs) –schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the state". BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
7. Biological Control Agents – These agents are organisms that can be introduced to the treatment areas, such as herbivores, predators, parasites, and hyperparasites.

8. Biological Pesticides (also called biopesticides) - include microbial pesticides, biochemical pesticides and plant-incorporated protectants (PIP). Microbial pesticide means a microbial agent intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, that (1) is a eukaryotic microorganism including, but not limited to, protozoa, algae, and fungi; (2) is a prokaryotic microorganism, including, but not limited to, Eubacteria and Archaeobacteria; or (3) is a parasitically replicating microscopic element, including but not limited to, viruses. Biochemical pesticide means a pesticide that (1) is a naturally-occurring substance or structurally-similar and functionally identical to a naturally-occurring substance; (2) has a history of exposure to humans and the environment demonstrating minimal toxicity, or in the case of a synthetically-derived biochemical pesticide, is equivalent to a naturally-occurring substance that has such a history; and (3) has a non-toxic mode of action to the target pest(s). Plant-incorporated protectant means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance. It also includes any inert ingredient contained in the plant, or produce thereof.
9. CFR - Code of Federal Regulations
10. Chemical Pesticides – all pesticides not otherwise classified as biological pesticides.
11. Control Measure – any BMP or other method used to meet the effluent limitations. Control measures must comply with manufacturer specifications, industry standards and recommended industry practices related to the application of pesticides, and relevant legal requirements. Additionally, control measures could include other actions that a prudent Operator would implement to reduce and/or eliminate pesticide discharges to waters of the State to comply with the effluent limitations in Parts II and III of this permit.
12. CWA or The Act means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub.L. 95-217, Pub.L 95-576, Pub.L. 96-483 and Pub.L. 97-117, 33 U.S.C. 1251 et.seq.
13. Cultural Methods - manipulation of the habitat to increase pest mortality by making the habitat less suitable to the pest.
14. Declared Pest Emergency Situation – An event defined by a public declaration by a federal agency, State, or local government of a pest problem determined to require control through application of a pesticide beginning less than ten days after identification of the need for pest control. This public declaration may be based on:
 - (1) Significant risk to human health;
 - (2) Significant economic loss; or
 - (3) Significant risk to:
 - (i) Endangered species,
 - (ii) Threatened species,
 - (ii) Beneficial organisms, or
 - (iii) The environment.
15. Department - the Alabama Department of Environmental Management or an authorized representative.
16. Director - the Director of the Department or his designee.
17. Discharge - the addition, introduction, leaking, spilling, or emitting of any sewage, industrial wastes, pollutant or other wastes into waters of the State.
18. EPA - Environmental Protection Agency.

19. EPA Approved or Established Total Maximum Daily Loads (TMDLs) – “EPA Approved TMDLs” are those that are developed by a State and approved by EPA. “EPA Established TMDLs” are those that are issued by EPA.
20. Facility or Activity – any NPDES “point source” (including land or appurtenances thereto) that is subject to regulation under the NPDES program.
21. For-Hire Applicator - includes persons who make contractual pesticide applications for which they or their employer receives compensation (e.g. lawn care firms, pest control companies).
22. FWPCA - the Federal Water Pollution Control Act.
23. Impaired Water (or “Water Quality Impaired Water” or “Water Quality Limited Segment”) – A water is impaired for purposes of this permit if it has been identified pursuant to Section 303(d) of the Clean Water Act as not meeting applicable State water quality standards. Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established.
24. Inert Ingredient - any substance (or group of structurally similar substances if designated by the Department), other than an active ingredient, that is intentionally included in a pesticide product. Inert ingredient also means any substance, such as a selectable marker, other than the active ingredient, where the substance is used to confirm or ensure the presence of the active ingredient, and includes the genetic material necessary for the production of the substance, provided that genetic material is intentionally introduced into a living plant in addition to the active ingredient.
25. Pest Management Measures –are effective and environmentally sensitive approaches to pest management. Pest Management Measures also use current, comprehensive information on the life cycles of pests and their interaction with the environment. This information, in combination with available pest control methods, is used to manage pest damage by the most economical means, and with the least possible hazard to people, property, and the environment.
26. Mechanical/Physical Methods - mechanical tools or physical alterations of the environment, for pest prevention or removal.
27. Non-target organisms – includes the plant and animal hosts of the target species, the natural enemies of the target species living in the community, and other plants and animals, including vertebrates, living in or near the community that are not the target of the pesticide.
28. Operator – is any entity involved in the application of a pesticide that results in a discharge to waters of the State. For-hire applicators and owners may be considered Operators for the purposes of this permit.
29. Owner - the entity paying for, or making the decision to perform pesticide applications that result in discharges to a water of the State, including the ability to modify those decisions.
30. Person – any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, other legal entity, business organization or any governmental entity and any successor, representative, responsible corporate officer, agent or agency of the foregoing.
31. Pest – any organism under circumstances that make it deleterious to man or the environment, if it is:
 - (a) Any vertebrate animal other than man;
 - (b) Any invertebrate animal, including but not limited to, any insect, other arthropod, nematode, or mollusk such as a slug and snail, but excluding any internal parasite of living man or other living animals;

- (c) Any plant growing where not wanted, including any moss, alga, liverwort, or other plant of any higher order, and any plant part such as a root; or
- (d) Any fungus, bacterium, virus, or other microorganism, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs and cosmetics.

- 32. Pest Management Area – The area of land, including any water, for which the Operator is conducting pest management activities covered by this permit.
- 33. Pest Management Strategy - an action, or no action, taken to reduce the population of target pests below the action threshold.
- 34. Pesticide – (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (3) any nitrogen stabilizer.

The term “pesticide” applies to insecticides, herbicides, fungicides, rodenticides, and various other substances used to control pests. The definition encompasses all uses of pesticides authorized under FIFRA including uses authorized under sections 3 (registration), 5 (experimental use permits), 18 (emergency exemptions), 24(c) (special local needs registrations), and 25(b) (exemptions from FIFRA). Drugs used to control diseases of humans or animals (such as livestock and pets) are not considered pesticides; such drugs are regulated by the Food and Drug Administration. Fertilizers, nutrients, and other substances used to promote plant survival and health are not considered plant growth regulators and thus are not pesticides.

- 35. Pesticide Product – a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.
- 36. Pesticide Research and Development – Activities undertaken on a systematic basis to gain new knowledge (research) and/or the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes.
- 37. Pesticide Residue – includes that portion of a pesticide application that is discharged from a point source to waters of the US and no longer provides pesticidal benefits. It also includes any degradates of the pesticide.
- 38. Point source – any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.
- 39. Pollutant – dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. For purposes of this definition, a “biological pesticide” is considered a “biological material,” and any “pesticide residue” resulting from use of a “chemical pesticide” is considered a “chemical waste.”
- 40. Target Pest – the organism toward which pest control measures are being directed.
- 41. Tier 3 Waters – high quality waters constituting an Outstanding National Resource Water (ONRW), such as waters of National Parks and State Parks, wildlife refuges, and waters of exceptional recreational or ecological significance.

42. Total Maximum Daily Loads (TMDLs) – A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges; load allocations (LAs) for nonpoint sources and/or natural background, and must include a margin of safety (MOS) and account for seasonal variations.
43. Treatment Area – The area of land including any waters, or the linear distance along water's edge, to which pesticides are being applied. Multiple treatment areas may be located within a single "pest management area."

The "treatment area" includes the entire area, whether over land or water, where the pesticide application is intended to provide pesticidal benefits. In some instances, the treatment area will be larger than the area where pesticides are actually applied. For example, the treatment area for a stationary drip treatment into a canal should be calculated by multiplying the width of the canal by the length over which the pesticide is intended to control weeds. The treatment area for a lake or marine area is the water surface area where the application is intended to provide pesticidal benefits.

Treatment area calculations for pesticide applications that occur "at water's edge", where the discharge of pesticides directly to waters is unavoidable, are determined by the linear distance over which pesticides are applied. For example, treating both sides of a five mile long river, stream, or ditch is equal to ten miles of treatment area. Treating five miles of shoreline or coast would equal a five mile treatment area.

44. Waters of the State – all surface waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the State, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual, partnership or corporation unless such waters are used in interstate commerce.
45. Water Quality Standards – A water quality standard defines the water quality goals of a water body, or portion thereof, by designating the use or uses to be made of the water and by setting criteria necessary to protect the uses.
46. Wetlands - means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.