State of New Jersey

CHRIS CHRISTIE
*Governor*

KIM GUADAGNO
*Lt. Governor*

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Mail Code – 401-02B
Water Pollution Management Element
Bureau of Surface Water Permitting
P.O. Box 420 – 401 E State St
Trenton, NJ 08625-0420
Phone: (609) 292-4860 / Fax: (609) 984-7938

BOB MARTIN
*Commissioner*

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**

To: Distribution List

Re: Final Surface Water Master General Permit
Category: PGP – Pesticide Application Discharge
NJPDES Permit No. NJ0178217
NJPDES MASTER GENERAL PERMIT PROGRAM INTEREST
Trenton City, Mercer County

Dear Permittee:

This letter serves to provide notice that the **FINAL** New Jersey Pollutant Discharge Elimination System (NJPDES) discharge to surface water master general permit action for the Statewide General Pesticide Application Discharge Permit has been issued in accordance with N.J.A.C. 7:14A. This permit authorizes the applications of biological and chemical pesticides in water when such applications are made in, over, or near surface waters of the State and in the following pesticide use patterns: a) Nuisance Insect Control (i.e. mosquito and fly control), b) Aquatic Pest Control (i.e. weeds, algae), c) Aquatic Nuisance Animal control, d) Aerial Treatment of Forest Canopy and e) Aquatic Agricultural activities. Please note that the "Utility Transmission and Distribution Line Vegetation Control" has been authorized as an interim permit condition. Based on a ruling by the 6th Circuit Court of Appeals, these types of pesticide applications are required to be authorized by a NJPDES permit by November 1, 2011.

The Department has modeled the NJPDES Pesticide General Permit (PGP) after the U.S. Environmental Protection Agency's (EPA) 2010 draft National Pollutant Discharge Elimination System (NPDES) PGP. The draft version of the final permit issued by the EPA in April 2011 is significantly different from the EPA's draft permit. The Department anticipates that the EPA will issue the federal PGP by October 31, 2011, and has been advised by EPA that the final permit will differ from the April 2011 draft. In New Jersey, N.J.A.C. 7:14A-15.16, limits the Department from making significant changes to permit conditions between the draft and final permit. Therefore, this final permit is being issued as proposed except for a couple of changes noted in this cover letter, even though the permit differs from EPA's most recent draft version of the final permit. The Department intends to modify or revoke and reissue the PGP in the very near future in order to incorporate EPA's revisions, and in response to comments it has received. At that time, the public will have the opportunity to comment on the revised permit before it is finalized.

The Department has determined, in accordance with N.J.A.C. 7:14A-17.6, that a major modification or a revocation and reissuance of the PGP permit is appropriate, but because EPA has not yet finalized its PGP permit, the Department cannot process the modification or revocation and reissuance before the November 1, 2011 deadline. Further, the Department has determined that based on comments it has received on the draft permit, it is appropriate to modify several conditions in the permit, but that it will not be able to process such modifications in a timely manner. Therefore, the Department is **STAYING** the PGP permit with the exception of the following conditions listed below until the effective date of a modified or a reissued permit.

1. Part I;
2. Part II, item A, item B 1 &2, and item E;
3. Part IV, items A, E, G and H 1. a & 2.

However, please note that the following changes are made in Part IV of the final permit:

- item G. 1i: Use only the amount of pesticide and frequency of pesticide application necessary to control the target pest, using equipment and application procedures appropriate for this task; (see Response to Comment #41);
- item G. 5: The written reporting of spills shall be submitted within 10 days (see Response to Comment# 45).

In addition, since the threshold values and the submission deadlines specified in the NJPDES PGP have been **stayed** the following requirements are established as *interim conditions* as per N.J.A.C. 7:14A-17.6(g). These interim requirements are effective until the effective date of the Department's modified or revoked and reissued permit.

- Operators will be required to submit a simplified RFA form with basic information for the following use patterns and threshold values as shown in the table below. (Please note that a new use pattern, "Utility Transmission and Distribution Line Vegetation Control" and a threshold value have been added; and threshold values for other use patterns have been revised)
- Operators will have time until November 14, 2011 to submit a completed RFA form, if threshold values will be exceeded for the period November through December 2011.
- Operators will have time until December 31, 2011 to submit a RFA form, if threshold values will be exceeded in calendar year 2012.

| **Use Pattern** | **Annual Threshold Value (1)** |
|---|---|
| Mosquitoes and Other Flying Insect Pests | 6,400 acres of treatment area |
| Aquatic Weeds and Algae | 20 linear miles or 80 acres of water (2) |
| Aquatic Nuisance Animals | 20 linear miles or 80 acres of water (2) |
| Forest Canopy | 6,400 acres of treatment area |
| Aquatic Agricultural Activities | 1,000 acres of treatment area |
| Utility Transmission and Distribution Line Vegetation Control | 20 miles |
| FW1 and Pineland waters | 5 acres or 100 linear feet of stream, whichever is more stringent |

(1) Includes all sites treated by an operator during a calendar year. The operator will need to determine if these specific threshold values will be exceeded during November through December 2011. A separate calculation will need to be done for calendar year 2012. If these threshold values will be exceeded in calendar year 2011 a RFA will need to be

(2) For calculating the total treatment area for the Aquatic Weed and Algae and Aquatic Nuisance Animal Use Patterns, count each treatment area only once regardless of the number of pesticide applications performed during the calendar year. (see Response to Comment# 4)

- Definition of Adverse Incident – means an incident as described in Appendix A, which you have observed upon inspection or of which you otherwise become aware **within 72 hours** of pesticide application. (see Response to Comment # 44)

In accordance with N.J.A.C. 7:14A-17.6(f), the Department reserves the right to withdraw a stay or alter the terms and conditions of a stay at any time for lack of good faith compliance efforts by the permittee or if the Department subsequently determines that the environment is being impacted to such a degree that an alteration(s) to the stayed conditions is necessary.

The Request For Authorization form is attached at the end of this permit as Appendix C and can also be found on the Division of Water Quality website http://www.nj.gov/dep/dwq/gp_surfacewater.htm. The RFA can be submitted by mail, fax, or e-mail. The RFA can be emailed to pesticidegp@dep.state.nj.us or faxed to (609) 984-7938 or submitted in writing to Pilar Patterson, Chief, Bureau of Surface Water Permitting, P.O. Box 420, Trenton, NJ 08625. An e-mail confirmation will be sent when the RFA is received by the Department. Once the application is submitted to the Department, the operator is automatically covered by the NJPDES PGP. Operators below the threshold values do not need to submit an RFA and are automatically covered by the NJPDES PGP as of the effective date of this permit. An individual authorization **will not be issued** at this time.

There is no fee for an authorization under this general permit at this time. The public will be informed of any fee associated with an authorization under the revised NJPDES PGP when the draft permit modification or a draft revocation and reissuance permit is issued.

Any requests for an adjudicatory hearing shall be submitted in writing by certified mail, or by other means which provide verification of the date of delivery to the Department, within 30 days of receipt of this final master general permit in accordance with N.J.A.C. 7:14A-17.2. The adjudicatory hearing request must be accompanied by a completed Adjudicatory Hearing Request Form. Copies of this form can be downloaded from the Department's website at http://www.nj.gov/dep/dwq. Additionally, hard copies can be obtained by contacting the Bureau of Surface Water Permitting.

Questions or comments regarding the final action should be addressed to the Pesticide Team at 292-4860.

Sincerely,

Pilar Patterson, Chief
Bureau of Surface Water Permitting
Division of Water Quality

Enclosures

cc: Permit Distribution List

# NEW JERSEY POLLUTANT DISCHARGE ELIMINATION SYSTEM

The New Jersey Department of Environmental Protection hereby grants you a NJPDES permit for the facility/activity named in this document. This permit is the regulatory mechanism used by the Department to help ensure your discharge will not harm the environment. By complying with the terms and conditions specified, you are assuming an important role in protecting New Jersey's valuable water resources. Your acceptance of this permit is an agreement to conform with all of its provisions when constructing, installing, modifying, or operating any facility for the collection, treatment, or discharge of pollutants to waters of the state. If you have any questions about this document, please feel free to contact the Department representative listed in the permit cover letter. Your cooperation in helping us protect and safeguard our state's environment is appreciated.

**Permit Number: NJ0178217**

**Final: Surface Water Master General Permit New**

**Permittee:**
NJPDES Master General Permit Program Interest
Category PGP
Division of Water Quality
P.O. Box 420, 401 East State Street
Trenton, NJ 08625

**Co-Permittee:**

**Property Owner:**
NJPDES Master General Permit Program Interest
Category PGP
Division of Water Quality
P.O. Box 420, 401 East State Street
Trenton, NJ 08625

**Location Of Activity:**
NJPDES Master General Permit Program Interest
Category PGP
Division of Water Quality
P.O. Box 420, 401 East State Street
Trenton, NJ 08625

| Authorization(s) Covered Under This Approval | Issuance Date | Effective Date | Expiration Date |
|---|---|---|---|
| PGP - Pesticide Application Discharges | 10/31/2011 | 11/01/2011 | 10/31/2016 |

**By Authority of:**
**Commissioner's Office**

**DEP AUTHORIZATION**
**Pilar Patterson, Chief**
**Bureau of Surface Water Permitting**
**Division of Water Quality**

(Terms, conditions and provisions attached hereto)

# Table of Contents

**This permit package contains the items checked below:**

**Included**

New Jersey Department of Environmental Protection
Division of Water Quality
Bureau of Surface Water Permitting

# RESPONSE TO COMMENTS

Comments were received on the NJPDES draft Surface Water Master General Permit No. NJ0178217 issued on December 28, 2010. The thirty (30) day public comment period began on December 28, 2011 and ended on February 3, 2011. The following people commented during the public comment period:

A summary of the timely and significant comments received, the New Jersey Department of Environmental Protection's (Department) responses to these comments, and an explanation of any changes from the draft action have been included below.

**A. Monmouth County Mosquito Extermination Commission (MCMEC), Douglas L. Guthrie, Sr., Superintendent/Executive Secretary in a letter dated January 28, 2011.**

**COMMENT 1:** Discharges to Water Quality Impaired Waters (Part II. B. 4)

The permit states that "discharges from a pesticide application to surface waters of the State is not covered under this permit if the water is identified as impaired by that specific pesticide or its degradates."

Is there a list of degradates for each registered pesticide? Is there available a percentage of pesticide formulation that results in total phosphorus?

In Monmouth County, several stream segments are impaired by total phosphorus.

The MCMEC uses a dilution of Abate 4E (active ingredient temephos) for larval mosquito control throughout the county. As an organophosphate, Abate 4E eventually breaks down at some point to a phosphorus component. How soon after an application this degradation occurs and how much phosphorus is produced is unknown to the pesticide applicator. Similarly, Bti products most likely contain phosphorus or something that breaks down into phosphorus.

Is the restriction of pesticide discharges to waters impaired by said pesticide or degradates limited to the actual stream segment or its entire watershed or something in between?

If the restriction is limited to the actual stream segment, the impact on our operations would be limited as most of the stream segments themselves are not mosquito habitat. If the restriction is limited to waterways or conveyances (ditches, tributaries, stormwater systems) that are connected to the stream segment, the impact would be greater. If the restriction was for the entire watershed including floodplains and isolated areas of stagnant water, the impact to our program would be dramatic.

Not being able to apply these pesticides to these watersheds would drastically change our mosquito control program. While technically we could switch to other pesticides, we would be unable to do so because of fiscal constraints. We have no funding to purchase large quantities of the larvicides that would be allowed under this permit. The result of this restriction would be that the MCMEC would not treat mosquito larvae habitat and would have to turn to adult mosquito control which is against the IPM practices of this permit (Part IV C.1.c.iv.).

This scenario illustrates how regulating pesticide discharges to water realizes little environmental gain and would in fact result in more environmental impact. The primary sources of phosphorus in Monmouth County waterways are agriculture and suburban/urban runoff which remain unregulated. Restricting our minute contribution of phosphorus with these products will force us to conduct more adulticiding which is against IPM practices.

From a logistics perspective, our mosquito control pesticide operations are not currently organized in relationship to waterway or watershed. If that level of organization is required, EPA and state regulatory authorities should allow a grace period for building this database connection.

If applying pesticides which degrade to phosphorus within watersheds impaired for phosphorus are not allowed under this permit, one alternative would be to obtain an individual permit to cover these pesticide applications. Please provide details on what would be required under such a permit.

**RESPONSE:** As explained in the cover letter, the Department intends to issue a revised draft of the general permit after it has had an opportunity to review EPA's final pesticide general permit. At that time, the Department expects to revisit this permit condition. In the meantime, the Department has determined that it is appropriate to stay the requirement that an operator must obtain an individual permit if the discharge from a pesticide application is to waters identified as impaired by that specific pesticide or its degradates, so long as the application is below a threshold amount of 5 acres or 100 linear feet of stream, whichever is more stringent. The operator shall continue to comply with all other applicable federal, state, local laws and regulations that pertain to the application of pesticides, including the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

**COMMENT 2:** Part II B.4

Is there supposed to be a 4a?

**RESPONSE:** The section on "Discharges to Water Quality Impaired Waters" in Part II B.4 should have been designated as 4.a. This was corrected in the final permit.

**COMMENT 3:** Endangered and Threatened Plant Species and Wildlife (Part II. B. 4.b. and c.)

Does the NJDEP have a list of pesticides proven to result in adverse incidents to federally listed or candidate New Jersey plant species or state and/or federal endangered and threatened wildlife species?

Is there species specific guidance to minimize/ reduce impact of pesticides on plants and wildlife that do not jeopardize efficacy of pesticide on target pest? (necessary and practical steps to avoid adverse incidents).

**RESPONSE:** The Department expects to revisit this permit condition. In the meantime, the Department has determined to stay this permit condition.

**COMMENT 4:** Obtain Authorization Under this Permit (Part II. C.1.)
When will the Request for Authorization be available? Assuming that the April 9, 2011 date is inflexible, submission of a RFA would be by March 9, 2011 for the NJDEP to review. Part II C.2. states that if a submitted RFA is not timely, complete, or accurate, any pesticide discharge would not be covered under this permit. In order to submit an accurate and complete RFA, the MCMEC appreciates as much lead time as possible. Already, there is less than 1.5 months remaining.

**RESPONSE:**
Since there will be substantial changes to the Request for Authorization (RFA) requirements in the revised NJPDES PGP to reflect the anticipated changes to the federal PGP, the Department is only requiring completion of a simplified RFA form, which can be found on the Division of Water Quality website http://www.nj.gov/dep/dwq/gp_surfacewater.htm, for the following operators:

| **Use Pattern** | **Annual Threshold Value (1)** |
|---|---|
| Mosquitoes and Other Flying Insect Pests | 6,400 acres of treatment area |
| Aquatic Weeds and Algae | 20 linear miles or 80 acres of water (2) |
| Aquatic Nuisance Animals | 20 linear miles or 80 acres of water (2) |
| Forest Canopy | 6,400 acres of treatment area |
| Aquatic Agricultural Activities | 1,000 acres of treatment area |
| Utility Transmission and Distribution Line Vegetation Control | 20 miles |

| **Discharge to Outstanding National Resource Waters** | **Annual Threshold Value (1)** |
|---|---|
| FW1 and Pinelands | 5 acres of surface water or 100 linear feet of stream, whichever is more stringent |

(1) Includes all sites treated by an operator during a calendar year. The operator will need to determine if these specific threshold values will be exceeded during November through December 2011. A separate calculation will need to be done for calendar year 2012. If these threshold values will be exceeded in calendar year 2011 a RFA will need to be submitted by November 14, 2011. If these threshold values will be exceeded in calendar year 2012 a RFA will need to be submitted by December 31, 2011.

(2) For calculating the total treatment area for the Aquatic Weed and Algae and Aquatic Nuisance Animal Use Patterns, count each treatment area only once regardless of the number of pesticide applications performed during the calendar year.

Based on correspondence from EPA, the Department believes that the federal PGP will include the same threshold values listed here, except for Aquatic Agricultural Activities.

The submission deadlines specified in the NJPDES PGP have been stayed. Operators now have until November 14, 2011 to submit a completed RFA if threshold values will be exceeded for the period November through December 2011. Operators will have until December 31, 2011 to submit a RFA if threshold values will be exceeded in calendar year 2012. Once the RFA is submitted by mail, fax, or e-mail, the applicant is covered by the NJPDES PGP. An e-mail confirmation will be sent once the RFA is received by the Department. The Department will not issue an individual authorization. Operators below the threshold do not need to submit a RFA and are automatically covered by the NJPDES PGP as of the effective date of this permit.

**COMMENT 5:** Annual Treatment Area Thresholds Requiring an RFA (Part II. C. 3.)
This draft permit encourages operators to use larvicides rather than adulticides. In New Jersey, focusing on larviciding is viewed as an appropriate IPM strategy as the pesticides used are target pest specific and the application areas are limited in size. Any large area of larviciding is usually open space reducing human exposure to pesticides. From a public health point of view, it is more prudent to eliminate the mosquito in its larval stage rather than allow it to emerge as an adult and serve as a vector of disease.

Smaller agencies with limited resources should be encouraged to embrace larviciding vs. adulticiding but may not have the resources to complete and implement a comprehensive Pesticide Discharge Management Plan. NJDEP should consider counting adulticiding acreage and larviciding acreage separately when applying the RFA threshold. In addition, larviciding acreage thresholds should be much higher than 640 acres to provide incentive to larvicide vs. adulticide. For perspective, one larviciding treatment of a few bayshore airblocks in Middletown would put us over the 640 acre threshold. These areas are treated multiple times in a season in line with spring tide flooding.

**RESPONSE:** The Department expects to change the threshold values in the revised NJPDES PGP. Your comment will be given careful consideration when preparing the revised NJPDES PGP. Please see response to comment number 4.

**COMMENT 6:** FW1 and Pinelands Waters (Part II. C. 3.)

The MCMEC appreciates NJDEP allowing pesticide applications to these Tier 3 waters to be covered under the permit.

In Monmouth County, the only FW1 water is located in Allaire State Park, which is a popular park with campgrounds and other amenities. Historically, the MCMEC has applied larvicide to areas of ponding water connected to a drainage ditch within the park's campground. In addition, the park is located near mosquito habitat where Eastern Equine Encephalitis and West Nile virus have been detected. We need the ability to larvicide or adulticide in response to disease or high levels of nuisance mosquitoes. Requiring an individual permit to treat this small area as USEPA's draft permit suggests would be inefficient and burdensome for both the permittee and regulatory agency.

Similarly, automatically requiring submission of an RFA, development of a PDMP and IPM practices if an operator discharges to a FW1 or PL waters regardless of acreage or linear miles could be burdensome as well. While most mosquito control programs are countywide, smaller municipal programs in the Pinelands might not have the resources to develop a PDMP, IPM practices, and other requirements. NJDEP should establish a smaller treatment area threshold for FW1 and Pinelands waters but allow some treatment under permit by rule.

Similar to our questions about impaired waters, does the FW1 designation only apply to that stream segment or to upstream tributaries or the entire watershed of the FW1?

**RESPONSE:** As explained in the cover letter, the Department intends to issue a revised draft of the general permit. At that time, the Department expects tor revisit this permit condition. In the meantime, the Department has determined that it is appropriate to stay the requirement that an operator must obtain an individual permit if the discharge from a pesticide application is to Pinelands Waters or FW1 waters. As part of this stay, the Department has imposed interim conditions on operators discharging to these waters. Operators that treat FW1 and Pinelands waterbodies with a surface area greater than 5 acres or 100 linear feet of stream, whichever is more stringent, are required to complete the RFA form. As mentioned above, the Department has stayed the permit conditions that were only applicable to those operators that were required to submit an RFA. However, the permittee is required to comply with the general permit conditions, mentioned in the cover letter, that are applicable to all permittees and are required to comply with all other applicable federal, state, local laws and regulations that pertain to the application of pesticides, including the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Stream classifications, such as FW1, only apply to the stream segments.

**COMMENT 7:** Discharge Authorization Date (Part II. C. 4.)

Will the NJDEP notify the operator of the Effective Date of Permit Authorization in writing?

If NJDEP does not issue an effective date of permit authorization in response to a submitted RFA by April 9, 2011, can an operator apply pesticides for mosquito control on or after that date?

In Monmouth County, Aedes Canadensis is an aggressive human biting mosquito that can develop in snow melt. Our larviciding operations to control this mosquito commence in mid-April. MCMEC urges NJDEP to issue whatever is needed to formally authorize permit applications under this permit by April 9, 2011.

**RESPONSE:** Please see response to comment number 4.

**COMMENT 8:** General Location Map (Fact Sheet, page 24 of 34 and Part II.D.2.c.)

The MCMEC plans to use a countywide map of waterways and waterbodies to indicate our pest management area. What is NJDEP referring to with the statement "detailed information may be kept as an attachment to the site map and pictures may be included as deemed appropriate?

**RESPONSE:** The Department expects to revisit the requirements of the Pesticide Discharge Management Plan after it has had an opportunity to review EPA's final general permit. Therefore, this requirement is stayed.

**COMMENT 9:** Control Measure Description (Fact Sheet page 25 of 34 and Part II. D.3.)

What is meant by "the active ingredients evaluated"? Evaluated for what? How?

**RESPONSE:** This permit condition requires the operator to list the chemical name of the active ingredients of the pesticide formulation used. The Department will clarify this requirement in the revised NJPDES PGP. In the meantime, this permit condition has been stayed.

**COMMENT 10:** Spill Response and Adverse Incident Response (Part II. D. 4.b.ii. and iii.)

MCMEC is aware of the County Haz-Mat team available 24/7. If there are municipal or private hazardous chemical responders, please elaborate or provide a list.

**RESPONSE:** The Department is not aware of any list of municipal or private chemical responders. If the Department obtains such information, it will be forwarded to you.

**COMMENT 11:** Operation Restrictions (Part II. E.4.)

The permit does not authorize the use of a pesticide not listed in the permit. Is 'the list' the definition of pesticide in Appendix A? Please clarify.

**RESPONSE:** The 'list of pesticides' the Department is referring to is the one that would have been specified in the Individual Authorization based on the information provided to the Department in the RFA. However, the Department will not be issuing individual authorizations, therefore, this permit condition is stayed.

**COMMENT 12:** Pest Management (Part IV. C.1.b.)

The MCMEC interprets this section to be the same as the Control Measure Description section of the PDMP (Part II. D.3). Is this a correct interpretation? If not please elaborate on what the NJDEP is looking for in each section.

**RESPONSE:** Your statement is correct. However, as mentioned in the cover letter, Department intends to issue a revised draft of the general permit after it has had an opportunity to review EPA's final general permit. At that time, the Department expects to revisit this permit condition. In the meantime, this permit condition has been stayed.

**COMMENT 13:** Recordkeeping Monitoring Method Used (Part IV. H.1.b.iii.)
Please clarify what kind of "Monitoring". Does monitoring refer to monitoring mosquito populations (surveillance) or monitoring pesticide discharges or monitoring activities implemented to meet effluent limitations (activities such as equipment maintenance, calibration).

**RESPONSE:** Monitoring refers to all the activities related to ensuring compliance with permit conditions, including but not limited to surveillance, equipment maintenance, calibration, etc. However, the Department intends to issue a revised draft of the general permit after it has had an opportunity to review EPA's final general permit. At that time, the Department expects to revisit this permit condition. In the meantime, this permit condition has been stayed.

**COMMENT 14:** Annual Reporting (Part IV. H. 2.)
Based on the wording of this section, MCMEC assumes no annual report is submitted if the MCMEC does not have an adverse incident in the previous calendar year and does not discharge a pesticide to FW1 or Pinelands designated waters. Please confirm.

**RESPONSE:** Your statement is correct. However, as mentioned in the cover letter, Department intends to issue a revised draft of the general permit after it has had an opportunity to review EPA's final general permit. At that time, the Department expects to revisit the annual reporting requirement. In the meantime, only Part IV. H.1.a. and 2. are effective.

**COMMENT 15:** Appendix A
Please define the terms "site" and "site specific". These terms seem to be used to describe the larger pesticide management area as well as individual treatment areas.

**RESPONSE:** The term 'site' is defined as any area of land, including any waterbody, and can be used to describe individual treatment areas, as well as larger pesticide management areas. The term 'site specific' refers to a feature that applies to a particular site.

**B. New Jersey Mosquito Control Association (NJMCA), Heather Lomberk, President, in a letter dated January 31, 2011.**

**COMMENT 16:**
I would like to express our group's concerns regarding the New Jersey Pollution Discharge Elimination System permit (NJPDES). Instituted in 1913, the NJMCA was formed to respond to the needs of mosquito control workers by giving them a forum to discuss their challenges and share their experiences. Since that time, NJMCA has continued to provide an opportunity for New Jersey mosquito control professionals and national experts to share ideas, conduct research, and discuss operational successes. As a result, our members have enjoyed a professional reputation that has garnered much respect in the mosquito control community, so much so, that New Jersey's mosquito control programs have served as models for programs throughout the country.

Prior to the creation of the County Mosquito Extermination Commissions through state statute in 1912, large areas of New Jersey were uninhabitable and plagued by mosquito borne diseases. Subsequently, we have prided ourselves on our vigilance in creating a more comfortable and healthier environment for our residents. Performing proper mosquito control, while maintaining stewardship of the environment and its inhabitants, has always been our highest priority. We are experts in our field and responsibly follow all laws regulating our industry, including the Federal Insecticide, Fungicide, and Rodenticide Act. Our citizens deserve the best protection possible from disease, the capacity to enjoy the outdoors, and a healthy environment; however, our ability to provide these things will be severely hampered if asked to comply with the NJPDES permit. The NJMCA opposes this permit because we believe it will have a negative impact on the professional, science based, expert programs that have been developed in our State. New Jersey depends upon mosquito control to ensure the health and safety of its citizens and to suppress the nuisance created by mosquitoes, especially in areas where tourism is so important to the economy. Because of the requirements imposed on our community by this permit, the effectiveness and efficiency of our mosquito control programs are being threatened and could cause us to, in come cases, provide less than adequate mosquito control for our citizens. Redundant regulation through the NJPDES permit will needlessly burden County Mosquito Control agencies, which are all facing budget deficits and have limited resources. Furthermore, this permit places us all at risk of petty litigation, which could severely hamper our operations and harm our good reputation at great financial expense.

The NJMCA is asking you to seriously consider our comments and those of our sister organization, the Associated Executives of Mosquito Control Work in New Jersey, before finalizing a burdensome, redundant, unnecessary permit that will have negative consequences for New Jersey, without gaining any real environmental protections.

**RESPONSE:** The Department acknowledges your concerns. However, the issuance of this permit is based on a ruling by the 6th Circuit Court of Appeals on January 7, 2009 in *National Cotton Council et al v. EPA*, requiring Clean Water Act permits for all applications of biological and chemical pesticides that leave a residue in water when such applications are made in, over, and near surface waters of the U.S by November 1, 2011. The Department has carefully reviewed all the comments and will take them into consideration when developing the revised NJPDES PGP.

**C. Hudson County Mosquito Control Program and Associated Executives of Mosquito Control Work, Dr. Greg Williams, Superintendent (former) and President (latter) presented at the public hearing on January 28, 2011.**

Public mosquito control originated in New Jersey in 1912. Since the beginning, our professionalism and results have served as a model for mosquito control programs nationwide. That reputation continues today. Together, the mosquito programs in New Jersey have over a thousand years of combined experience protecting the health and comfort of the citizens of New Jersey. Our concern for the environment is clearly evident by our continued efforts to utilize the latest products, techniques, and equipment that minimize environmental risk. As a case in point, New Jersey mosquito control programs pioneered the water management strategies that suppress mosquitoes with little or no pesticide use in wetland habitats. We are experts in our field and we do not take our actions lightly. We use pesticides when needed in a responsible manner to protect the health and comfort of the citizens of the state.

The NJPDES permit is unnecessary. We are already regulated by several Federal and State regulations including the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This legislation requires that pesticide manufacturers demonstrate that the pesticides we use "will not generally cause unreasonable adverse effects on the environment." Ironically, the Environmental Protection Agency has mandated the NJPDES permit to prevent pollution from products that they have already declared to pose little

environmental risk. The NJPDES permit is an additional and redundant burden which tarnishes our reputation and places us at risk of frivolous litigation and restrictive regulation.

While we oppose the federal regulations which mandate this permit, as professionals we intend to comply with the requirements of the permit. The following comments are made in an effort to ensure that we comply with the rules of the document without jeopardizing the health and comfort of the citizens of New Jersey.

**COMMENT 17:** Request for Authorization (RFA) (Part II. C.4.)
The deadline for submitting a RFA is March 9, 2011. And yet, as of this date no RFA even exists. We feel it is careless to impose this permit without an opportunity to review the RFA and given minimal time to even prepare the document. We request that the DEP make the RFA available as soon as possible.

**RESPONSE:** Please see response to comment 4.

**COMMENT 18:** Pesticide Degradates (Part II. B.4.)
The NJPDES permit applies not only to the products that we use, but the unknown end-products as well. We feel that the regulation of the pesticide degradates is irresponsible given the following:

- The degradates of our control products are often proprietary and unknown to the public;
- In many cases, the technology does not exist to measure the degradates;
- The degradates in the water cannot be traced back to a source.

It therefore makes little sense to place restrictions on something that is unknown, cannot be measured, and cannot be tracked. We recommend that all language relating to pesticide degradates be removed from the permit.

**RESPONSE:** The Department will take this comment into consideration when preparing the revised NJPDES PGP.

**COMMENT 19:** Species Specific Pest Management Strategies (Part IV. C. 1.a.ii.)
In Part IV, Section C, Item 1.a.ii, the permit requires "species specific" pest management strategies. With over 60 species of mosquitoes in New Jersey, developing a specific strategy for each one would be overly cumbersome and redundant. We understand this statement to mean family level pest management strategies. For example, mosquito strategies versus control strategies for other Dipteran pests like midges. We request clarification of this point in the permit.

**RESPONSE:** The Department will revisit this permit condition and clarification will be provided in the revised NJPDES PGP. In the meantime, this permit condition has been stayed.

**COMMENT 20:** Pesticide Discharge Monitoring Plan (Part II. D. 3.)
In Part II, Section D., Item 3, the permit requires documentation of "your evaluation of control measures". The term "evaluation" is ambiguous. We take it to mean that we are required to determine the post application efficacy of our control efforts. We request clarification of this point in the permit.

**RESPONSE:** The Department will clarify this permit condition in the revised NJPDES PGP. In the meantime, this permit condition has been stayed.

**COMMENT 21:** Annual Reports (Part IV. H. 3.)
Part IV. Section H. Item 3, requires annual reports for discharges to Pinelands or FW1 waters. Subsection a. calls for a "brief description of what was observed at the post application monitoring, including the location, date, and time." This requirement could amount to hundreds or thousands of records submitted

to the NJDEP from each county making applications in these areas. We suggest that the annual report includes all of the requirements listed in item 2 (adverse effects), and that the post application monitoring descriptions should be retained by the mosquito control program for the duration of the permit.

**RESPONSE:** The Department expects to revisit this permit condition. In the meantime, this permit condition has been stayed.

**COMMENT 22:** Permit Fees
We have no input as to the potential fees associated with the permit. With the current fiscal crisis, our budgets are continuously being reduced. Any funds spent on this permit will result in a reduction of resources for other parts of our programs. We request that the DEP keep this fact in mind when determining the fees.

**RESPONSE:** There is no fee for an authorization under this general permit at this time. The public will be informed of any fee associated with an authorization under the revised NJPDES PGP when the draft is issued.

**COMMENT 23:** Activities Exempted (Fact Sheet Section III. E.)
In the fact sheet on page 5 of 34, Section E, the fact sheet discusses activities exempted from coverage. One of the things exempted is stormwater runoff that may contain pesticides. It basically states that it does not require coverage, which is great. I think that settles the issue that we have with whether the permit is regulating applications directly to impaired waters or in watersheds that might drain into impaired waters. But on page 2 of 10 in the actual body of the permit, number 2 under the activities exempted, the only thing mentioned is agricultural runoff. So I would just recommend that in the final, the other general stormwater runoff is added to activities exempted as stated in the fact sheet.

**RESPONSE:** Part II. B.2. of the final permit has been revised to include stormwater runoff as stated on page 5 of the Fact Sheet.

**D. Warren County Mosquito Control Commission, Christine P. Musa, Superintendent in a letter dated January 31, 2011.**

The Warren County Mosquito Extermination Commission was established pursuant t o NJ Health Statute 26:9-13 and is mandated "to perform all acts which in its opinion may be necessary for the elimination of mosquito breeding areas, or which will tend to exterminate mosquitoes within the county". These acts are undertaken for the purpose of protecting public health as well as protecting domestic animals (including dogs from dog heartworm and New Jersey's state animal, the horse, which is particularly susceptible to several mosquito borne viruses), as well as livestock (impacted by the presence or absence of mosquitoes in terms of weight gain, milk production, etc.). In addition, the economy of the state is directly impacted by the effectiveness of the mosquito control activities performed by government agencies established under these health statutes. To impose further permitting requirements is an added burden to these agencies and also adds to the economic hardship for the residents of New Jersey who are paying for these services.

**COMMENT 24:** Possible Exemption from Permit
As per Health Statutes N.J.S.A. 26:9-1 et. seq. originally established in 1906, mosquito control in New Jersey is undertaken primarily by county and state government agencies with guidance from the NJ Agricultural Experiment Station at Rutgers University. This is a rather unique situation nationwide and as such could provide the basis for an exception to the permitting requirements for such agencies in New Jersey.

**RESPONSE:** As stated in the fact sheet, page 5 of 34, irrigation return flows, agricultural and other stormwater runoff do not need a NJPDES permit since the Clean Water Act (CWA) specifically exempts these types of discharges from requiring a NPDES permit. Based on the decision of the 6th Circuit Court of Appeals on January 7, 2009 in National Cotton Council et al v. EPA, the application of biological and chemical pesticides that leave a residue in water when such applications are made in, over, or near surface waters of the U.S. is not exempt from the permitting requirements of the CWA.

**COMMENT 25:** Conflicting Requirements
If there is a difference/conflict between what is called for in terms of NJPDES, and other NJDEP or federal regulations, which takes precedence?

**RESPONSE:** As stated in the fact sheet and in Part II.A., the permittee must continue to comply with all other federal, state, and local laws and regulations that pertain to the application of pesticides, including but not limited to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This permit does not negate the requirements under any other laws and regulations.

**COMMENT 26:** Duplicative and Burdensome Requirements
Much of the pesticide use related to mosquito control is regulated already. While it may be argued that since we do these things already a NJPDES permit does not create extra work but when done just slightly differently it creates additional work for the same activities (ex. Spill reporting is performed under the NJDEP Pesticide Control regulations but is based on a different definition of what constitutes a spill as well as the timing or the actual reporting is different, hence double work).

**RESPONSE:** The issuance of this permit is based on a ruling by the 6th Circuit Court of Appeals on January 7, 2009 in *National Cotton Council et al v. EPA*, requiring Clean Water Act permits for all applications of biological and chemical pesticides that leave a residue in water when such applications are made in, over, and near surface waters of the U.S by November 1, 2011. As such, the court ruling requires that these pesticide applications be authorized by a NJPDES permit, in addition to any other permit that may be required by any applicable federal, state, and local laws and regulations. Since the issuance of these permits are governed by different laws and regulations (i.e. NJPDES permit (N.J.A.C. 7:14A) and Aquatic Pesticide Permits (N.J.A.C. 7:30-9.3)), the requirements may differ. However, the Department is mandated to issue its permits in accordance with the applicable laws and regulations.

**COMMENT 27:** Fact Sheet and Question and Answer Document
If there are any discrepancies between what is written in the draft permit and what is expanded on in the associated fact sheet, can the fact sheet be relied upon to support any action taken (or not) under the permit? Essentially, as part of the actual permit, is the fact sheet a legal document or not? The same question applies to what is written in the Question and Answer document that was published as part of the permit.

**RESPONSE:** The fact sheet provides the basis for the permit conditions. The permittee is required to comply with the requirements as specified in the final permit.

**COMMENT 28:** Implementation Date
If there are any delays for the implementation of this NJPDES general permit (most likely due to changes that may be made to the national permit requiring changes to be made to the NJ permit to keep in line with that at the federal level), it would be very difficult to comply with the general permit once the active mosquito season starts (our first pesticide applications are historically made in March and the activity builds from there into October). Can implementation be pushed back until the end of the calendar year following the end of the active season for mosquito control and other regulated activities covered by the permit?

**RESPONSE:** Please see cover letter.

**COMMENT 29:** Informational Sessions
Providing question and answer sessions with stakeholders would be very beneficial to the regulated community in understanding what will be required but also to the NJDEP in helping to develop an understanding of our particular industry and how the requirements of this general permit do or do not apply.

**RESPONSE:** Please see cover letter.

**COMMENT 30:** Public Notice-Annual Fee for Authorization
Can an estimate be given for permitting costs in order to budget appropriately for this?
The permit is a five year permit but is there to be a fee imposed annually under each five year permit?

**RESPONSE:** There is no fee for an authorization under this general permit at this time. The public will be informed of any fee associated with an authorization under the revised NJPDES PGP when the draft is issued.

**COMMENT 31:** Activities Covered (Part II. B.1.)
Right of Way treatments (herbicides) are often made immediately adjacent to ditches or streams which receive a direct runoff from these treatments but are not regulated. Why?

**RESPONSE:** If treatment is made within three feet of a waterbody, the application is regulated under the NJPDES PGP and the site will need to be included when determining total treatment area. If the operator's total treatment area is below the threshold value, submission of a RFA is not required since the operator's activities will be automatically covered by the NJPDES PGP. However, if the operator's total treatment area is above the threshold value, a RFA needs to be submitted in order to obtain coverage under the NJPDES PGP.

**COMMENT 32:** Activities Exempted (Part II. B.2.)
"Irrigation return flows and agricultural stormwater runoff do not require NJPDES permits, even when they contain pesticides or pesticide residues, as the CWA specifically exempts these categories of discharges from requiring NJPDES permit coverage."

The Q&A states, "Is NJPDES permit coverage now required for stormwater runoff that contains pesticides? EPA does not change exemptions provided for in the NJWPCA (Water Pollution Control Act) including stormwater runoff that is not already being regulated. It is not clear what these exemptions are or how to find out what they are. Please clarify or provide references.

**RESPONSE:** Irrigation Return flow can be defined as water that leaves the field following application of irrigation water. Stormwater runoff can be defined as, consistent with N.J.A.C. 7:14A-1.2, water resulting from precipitation (including rain and snow) that runs off the land's surface. Therefore, discharges of pesticides from irrigation return flow and stormwater runoff as a result of pesticide application to any land or vegetation are exempted as per CWA.

**COMMENT 33:** Permit by Rule (Part II. B.3.)
Please clarify that no notification or formal action with NJDEP is required for activities undertaken through Permit by Rule?

**RESPONSE:** The statement is correct.

**COMMENT 34:** Mosquito & Other Flying Insect Pests (Part II. B.3.)
The figure of 640 acres is so arbitrary and should not be used. If there is a problem with pollution then regulate everyone, not just entities which may apply larger amounts of pesticides.

**RESPONSE:** The Department expects to change the threshold values in the revised NJPDES PGP. Based on EPA guidance, the Department has included the revised threshold values as interim conditions. The threshold values are used to determine which operators are not covered under the permit by rule provision. However, all operators regardless of whether they are above or below the threshold will need to comply with the general permit conditions listed in the cover letter, which are not stayed and are applicable to all operators.

**COMMENT 35:** Activities Not Covered- Discharges to Impaired Waters (Part II. B.4.a.)
List of degradates for the pesticides used are not easy to obtain, complicated by the proprietary nature of the ingredients/formulas used in various products. If NJDEP is going to require actions based on the knowledge of pesticide degradates, then providing a means of readily obtaining that information or making it available directly would be reasonable. Perhaps this can be accomplished as a NJDEP requirement for registrants to provide a list of degradates for any pesticide registered for use in NJ.

In Warren County, phosphorus is the major degradate we must contend with. While irrigation return flows and agricultural stormwater runoff do not require a permit, applying minimally toxic pesticides at low levels for public health purposes is permitted AND complicated by the presence of impaired waters for any mosquito control product that may have phosphorus as a degradate. Is there any opportunity to provide public health pesticide exemptions in this general permit?

In order to address concerns regarding impaired waters, we would need to know which Surface Water Quality Standards to sites we treat actually drain into (this is easy for some sites, not so easy for others).

Also, if a treated site is adjacent to a non-impaired stream but that stream flows into an impaired stream, do we need an individual permit?

**RESPONSE:** Please see response to comment number 1.

**COMMENT 36:** Endangered and Threatened Species (Part II.B.4.b. and c.)
In order to more pointedly avoid adverse incidents to Endangered/ Threatened Species, their locations would need to be more precise than what is publicly available.

**RESPONSE:** The Department expects to revisit this permit condition. In the meantime, this permit condition has been stayed.

**COMMENT 37:** Operators Required to Submit a Request For Authorization (Part II. C.3.)
Mosquito control activities are mandated under NJ Health Statutes 26.9-12.3. State mosquito control commissions include administering "the State aid for mosquito extermination and control in counties bordering on the Atlantic Ocean." This program currently applies to many counties within the state, including inland counties so the following question could apply to any county. The individual counties perform the surveillance and request that control work take place while the State Commission, through the Office of Mosquito Control Coordination within the NJDEP, obtains a state contract for the aerial applicators who do the actual work and the Commission pays for the work to be done (has control over the financing). In this case and any other similar situations involving state agencies (gypsy moth control by the NJ Department of Agriculture and individual municipalities), who is the operator that must obtain an authorization under this permit?

**RESPONSE:** The definition of operator includes both the entity that has financial control and/or the entity that has day to day control or performs the activities necessary to ensure compliance with the permit. In this instance, the counties that perform the surveillance and decide where and when to perform the pesticide application would be considered the operator. The counties are in the best position to monitor the activity and ensure compliance with the permit.

**COMMENT 38:** Discharge Authorization Date (Part II. C.4.)
Processing time for an individual permit is six months. We need to know if an individual permit is needed for phosphorus impaired waters and this depends on the degradate list which is currently unavailable. We also need a clear definition of what constitutes an application into those waters- as mentioned previously.

**RESPONSE:** The Department expects to revisit this permit condition. In the meantime, this permit condition has been stayed.

**COMMENT 39:** Pest Management Area Description-Impaired Waterbodies (Part II. D.2.e.)
NJDEP's impaired water list is more current than that of the USEPA. Should it be noted to specify which list to use or to use the most current list? Can NJDEP provide shape files that show exactly which waterbodies are involved? Please note however that shape files would not be usable by all mosquito agencies but only those who have working GIS capabilities. Impaired surface waters list provided on website actually refers to watersheds/subwatersheds (HUC 14 designations) but also by naming the specific water body within the watershed. Does the permit apply to pesticides applied just to the waterbody listed or to pesticides applied anywhere in that watershed?

**RESPONSE:** Please see response to comment number 1.

**COMMENT 40:** Control Measure Description (Part II. D.3.)
"Include in the description the active ingredients evaluated." Why is it necessary to include information on specific active ingredients in evaluations of control measures? Elimination of this detailed information is requested.

**RESPONSE:** Please see response to comment number 9.

**COMMENT 41:** Schedules and Procedures- Application Rate and Frequency (Part II. D.4.a.i.)
Determining the lowest effective amount of pesticide product per application and optimum frequency of pesticide applications necessary is called for. What is the goal stated here as the "lowest effective amount of pesticide per application? Low overall quantity of product applied or a low quantity of active ingredient? Is toxicity of that active ingredient taken into consideration? Is a low quantity of a product with an active ingredient of higher toxicity preferable to a large quantity of a product with a less toxic active ingredient? Or is a low quantity of a product with high percentage active ingredient vs. a larger quantity of a product with a low active ingredient concentration preferred? Products are available too which are placed at sites for season long control. They are certainly low frequency applications but perhaps multiple applications of another product would result in less pesticide being used on a per application basis, further complicating this issue.

**RESPONSE:** This permit condition is expected to change in the federal PGP to the following: "Use only the amount of pesticide and frequency of pesticide application necessary to control the target pest, using equipment and application procedures appropriate for this task."

Since the Department agrees with this change, Part IV.A.1.a.i. of the final permit has been changed accordingly. The operator is required to comply with this permit condition as specified in the cover letter.

**COMMENT 42:** Water Quality Based Effluent Limitations (Part IV. D.1.)
How do we know if we meet applicable numeric State Water Quality Standards? Monitoring for any kind of water quality parameter is unreasonable in terms of time and money (sampling, testing, etc).

**RESPONSE:** The Department has determined that compliance with the permit ensures compliance with the State Water Quality Standards. The Department will clarify this permit condition in the revised NJPDES PGP. In the meantime, this permit condition has been stayed.

**COMMENT 43:** Recordkeeping and Annual Report (Part IV. H.1.b.viii.)
Recordkeeping is to include "identification of any waters, either by name or by location, to which you discharged any pesticide."

Is this even possible? A suggestion would be to identify a subwatershed but that could also prove problematic. We deal with thousands of individual mosquito breeding sites throughout the county. Can this be limited only to recordkeeping for applications that are in or near (within 3 feet by definition in the permit) a waterbody (stream)? An example we are confronted with would be identifying whether treatment of a temporary woodland pool within a vast wooded area would by broad definition, impact any waters of the State and how to determine which one (either a particular stream or associated watershed)?

**RESPONSE:** The Department expects to revisit this permit condition. In the meantime, this permit condition has been stayed.

**COMMENT 44:** Corrective Action (Part IV. G. 4.a. and b.)
The definition of a reportable spill is different under NJPDES (40 CFR Part 110, 117, or 302) than are defined under the NJ Pesticide Control Program. The information included in the two reports is different (although some aspects are common to both). Essentially two reports would have to be made to NJDEP for the same incident using two different sets of reporting criteria, two different time tables, and to two different addresses. This is a recipe for confusion and unintentional non-compliance. Related to adverse incidents, as described under Definitions, one criteria of an Adverse Incident includes the person or non-target organism suffered a toxic or adverse effect. And includes "any adverse effects to humans (e.g. rashes) or domesticated animals that occur either directly or indirectly from a discharge to waters of the State which are temporally and spatially related to exposure to a pesticide residue (e.g. vomiting, lethargy)

How can any toxic or adverse effect be linked to a particular pesticide application? Is a claim of a toxic or adverse effect enough? There is no current provision for any kind of confirmation requirement in the case of an adverse incident associated with humans or domestic animals due to pesticide application? Documentation of a toxic effect should be required to eliminate frivolous claims and all the associated time and effort involved in the reporting of such.

**RESPONSE:** The Department agrees that this permit condition needs to be clarified in the revised NJPDES PGP. In the interim period, the Department is modifying this permit condition so that only adverse incidents that you observe upon inspection or become aware of within 72 hours of pesticide application are considered "adverse incidents" requiring action and notification as specified in Part IV. G.

**COMMENT 45:** Five Day Written Report (Part IV. G. 5.)

Under NJ Pesticide Control Regulations, written reporting of a spill must be done within 10 days, while the NJPDES permit requires written reporting within 5 business days. Can the spill reporting be consistent with that already required in New Jersey?

**RESPONSE:** The Department agrees that the written reporting of spills can be submitted within 10 days, which will be consistent with that already required in NJ Pesticide Control Regulations. This permit condition has been revised in the final permit.

**COMMENT 46:** Recordkeeping and Annual Reporting (Part IV. H.c.)
Recordkeeping requirements call for retention of records for 5 years after expiration or termination of permit (10 years total for applications made at beginning of permit period) vs. 3 years currently called for by the NJ Division of Archive and Records Management for most mosquito control records, http://www.state.nj.us/state/darm/links/pdf/c430000.pdf .

**RESPONSE:** This requirement is in accordance with N.J.A.C. 7:14A-6.6. However, during the interim period, only the recordkeeping requirements in Part IV H 1.a. that are applicable to all operators are effective. All other recordkeeping requirements have been stayed.

**COMMENT 47:** Pollutants/Chemical Pesticide Residues (Fact Sheet Section IV. A.)
"Based on field studies conducted by USEPA of pesticides applied into water, the USEPA expects that some portion of every application of a pesticide made into surface water will leave a residual in the surface water and thus assumes every application will trigger a required for a NPDES permit."

What studies are these based on? If they are not valid then the whole premise for this permit is unsupported.

**RESPONSE:** The court did not define what a residual is, but EPA assumes that most if not all chemical pesticides will leave a residual once the product has performed its intended purpose, unless the Operator can show otherwise. Based on field studies of pesticide applications, the Agency expects that some portion of every application of a pesticide made over waters will fall directly into such waters and thus assumes that applications will trigger the requirement for an NPDES permit. If the application of a chemical pesticide is made into waters to control a pest in such waters, once the pesticide no longer provides any pesticidal benefit, any amount of the pesticide that remains in those waters is a "residual". Additionally, as the Sixth Circuit reasoned, the residual is discharged at the time of a pesticides initial application. Based on field studies of pesticides applied into water, the Agency expects that some portion of every application of a pesticide made into Waters will leave a residual in those waters.

An operator who wishes to dispute this assumption can provide scientific data supporting such a determination to the Department. Such data should show what level of the pesticide can be detected in water, and at what level in water the pesticide provides a pesticidal benefit. Such data should address the properties of the chemical pesticide under different water conditions (e.g., different pH, organic content, temperature, depth, etc.) that might affect the pesticide's properties. A NJPDES PGP would not be necessary if it the Department determines that no residual remains.

However, the Department may revise its position after it has reviewed EPA's final permit.

**COMMENT 48:** Pesticide Application Near Waters (Fact Sheet Section IV. A.3.)
"If the application of a chemical pesticide is made near surface water of the US to control pests, the USEPA expects that a portion of the pesticide will unavoidably be deposited into waters in order to target pests effectively, and thus assumes applications will trigger the requirement for a NPDES permit."

Near is defined as within three feet of surface water so anything greater than 3 feet away from stream/waterbody does not require a permit, correct? This could present reporting difficulties when trying to separate applications that fall under a permit and those that do not, however, this may be possible utilizing a qualifier in our database. Some agencies may not have that capability. In contrast, to report all applications made in a county would not accurately reflect applications that impact surface water in addition to being an unreasonable reporting requirement.

**RESPONSE:** The term' "near" is vey vague and caused a lot of confusion among permittees. Though USEPA did not define the term "near", the Department included a definition for the term in the permit to clarify the confusion.

A pesticide application greater than 3 feet away from the receiving waterbody does not require a permit. The Department agrees that reporting difficulties can be resolved utilizing a qualifier in the database. Agencies that do not have the capability may have to choose other means. The Department realizes the inconvenience some permittees may experience as a result of this requirement.

**COMMENT 49:** RFA Submission Dates (Fact Sheet Section VII.)
"RFA due 30 days prior to first application." Will the application be available before March 9 to allow for submission of same by March 9th? While a stay may be implemented in the event the USEPA makes major changes and NJ needs more time to accommodate those major changes, what if that is not the case, will NJDEP be prepared to accept RFAs by March 9th at the latest?

**RESPONSE:** Please see response to comment number 4.

**COMMENT 50:** Water Quality Standards (Fact Sheet Section XI.C. 2.d.)
If these are required for consideration in making applications, NJDEP should find a way to make the lists of degradates available, at least for products registered by the NJDEP for use in New Jersey.

**RESPONSE:** The Department expects to revisit this permit condition. In the meantime, this permit condition has been stayed.

**E. New Jersey Farm Bureau, Richard Nieuwenhuis, President, in a letter dated February 3, 2011.**

**COMMENT 51:** Coverage Under this Permit (Part II. B.1. and 2.)
The New Jersey Farm Bureau has concerns about the applicability for covered activities under the NJPDES draft pesticide general permit No. NJ0178217 as it pertains to agricultural activities. It is our understanding that the Sixth Circuit Court decision intended that applications of pesticides to surface water of the United States should be permitted as discharges under the federal NPDES permit. However, the court's determination, based on the federal definition of "waters of the United States", presents a unique challenge for New Jersey, where the State has jurisdiction under the Clean Water Act. When considering the applicability of this draft general permit for agriculture using New Jersey's definition for "surface waters of the state", the definition, in contrast to waters of the United States, is more expansive and includes all waters within the geographic boundaries of the state.

Agricultural land use has many land areas that are mapped by the Department of Environmental Protection (NJDEP) as "agricultural modified wetlands." The argument over the accuracy of these NJDEP land use maps aside – many terrestrial active and on-going agricultural activities take place on NJDEP mapped agricultural modified wetlands. These wetlands do not contain state open waters and, most often, they are considered dry land because of substantial alterations in hydrology that have taken place over many years as the wetlands were converted to cropland and other agricultural uses. NJFB believes that

because of these substantial alterations, these lands should not be viewed as "aquatic agriculture" by the NJDEP and therefore should be exempt from NJPDES pesticide general permit requirements.

New Jersey Farm Bureau believes that terrestrial agricultural activities, including those that occur in agricultural modified wetlands that are otherwise dry land, should be exempt from obtaining any NJPDES permit for pesticide applications. However, we also acknowledge the diversity of the agricultural production that takes place on land areas that NJDEP has mapped as agricultural modified wetlands. Therefore, for certain agriculture pesticide applications, a NJPDES pesticide general permit may need to be considered for pesticide users to have coverage under this permit, in order to continue applications that are essential to their regular farming practices and for the accompanying legal protection.

**RESPONSE:** The court ruling requires Clean Water Act permits for all applications of biological and chemical pesticides that leave a residue in water when such applications are made in, over, and near surface waters of the State. N.J.A.C. 7:14A- 1.2 defines Waters of the State as the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

**COMMENT 52:** Pinelands and FW1 Waters Exempted from Permit by Rule (Part II. B.3.)
In section (3), the Annual Treatment Area Thresholds for each pesticide use type appear in Table 1. It is noted in this section that operators whose pesticide applications will not exceed one or more of the annual treatment area thresholds listed in Table 1. are automatically authorized to discharge under a permit by rule.

However, in bold and parenthesis, the draft permit says: "Permit by Rule (Does not apply to operators who discharge to Pinelands and FW1 waters). This means that applicators applying in the Pinelands and in FW1 waterways would have to file a Request for Authorization (RFA). NJFB opposes zero-threshold enforcement of an RFA for operators in the Pinelands and in FW1 waters. The automatic requirement for operators applying in the Pinelands and FW1 waters to file an RFA appears again throughout the document (Part II, C.(3); Part II, C.(4) - Table 3.). Additionally, the draft permit requires additional visual monitoring requirements for discharges to waters designated Pinelands or FW1 waters in Part IV, Section E.(3).

NJFB opposes the mandatory RFA filing requirements and additional visual monitoring requirements for operators applying pesticides for agricultural activities in the Pinelands and elsewhere. The Pinelands Comprehensive Management Plan (Authority: N.J.S.A. 13:18A-1 et. Seq.; Source and Effective Date: R. 1981 d.13, effective January 14, 1981) sets forth specific guidelines for agricultural activities in the Pinelands management area. Moreover, the Pinelands Comprehensive Management plan allows for horticulture of native pinelands species and berry agriculture in all wetlands if these agricultural activities meet the aforementioned requirements.

Agricultural applicators in the Pinelands also work with the Phillip E. Marucci Blueberry and Cranberry Research Center, a substation of the New Jersey Agricultural Experiment Station (NJAES) of Rutgers University. One of the primary goals of this research center is to create advisory guidelines for these agricultural operators, including those in the Pinelands, to minimize the use of pesticides. With the help of the Marucci Center, these growers are already operating with the best management practices for pesticide use and will continue to operate at this level with the facility consistently responding to new pest management demands within the industry.

Given the unique nature of Pinelands, the safeguards employed in the Pinelands Commission's Comprehensive Management Plan, and the role of the Phillip E. Marucci Center, NJFB believes that agricultural activities in the Pinelands should be subject to the same filing requirements as other permitted

agricultural activities taking place outside of the Pinelands. This would mean that operators applying in the Pinelands for agricultural activities would not have to file an RFA and would be covered under a permit by rule unless they exceed the threshold set forth in the permit.

Furthermore, we note that Footnote 1, in Table 1. contained in this section and Table 2. contained in C.3. Annual Treatment Area Thresholds, specifies that the calculations for treatment areas "shall include the area of the applications made *to* surface waters of the State"; the NJDEP needs to clarify its intent when using the language "to". In Part II, B.1.(e) Activities for Which a Permit is Required - Agricultural Activities, as written, uses the language "to or near". Due to the disparity between these sections we believe additional clarification is needed.

NJFB also believes that the draft permit does not adequately explain how the annual threshold for agricultural activities, 100 acres of treatment area, provided in Table 1, was determined. We also notice that in Footnote 1. Table 1 of the draft permit, each pesticide application is being treated as a separate activity contributing to the total annual threshold.

We are not only seeking an explanation for how the current threshold was determined, but also think that the current threshold is unreasonable. While we recognize that NJDEP's intent in drafting the language for this permit was to cover the largest pesticide users in each covered area, we also believe that the 100 acre threshold for treatment area would subject New Jersey's small farmers covered under this permit to the excessive requirements of an RFA.

NJFB believes that the annual threshold for agricultural activities should be increased to 1,000 acres of treatment area. This number is based on the average size of the treatment areas for agricultural commodities that participate in activities that most closely resemble an aquatic agricultural activity. We believe that this threshold would more appropriately achieve the goal of subjecting only the largest users to filing an RFA. Operators who do not exceed this new threshold would be covered under a permit by rule, a more reasonable approach for aquatic agricultural activities.

Moreover, this threshold should only apply to each individual treatment area and not to the pesticide management area as whole. There is no need for a threshold for the pesticide management area itself since applying a reasonable threshold for each treatment area would sufficiently capture those agricultural operators requiring coverage under this permit. Therefore, each area should be viewed independently as a separate and distinct treatment area.

With this in mind, additional attention needs to be given to defining what constitutes a treatment area for agriculture. Farm fields are often clearly and distinctly separated by roadways, hedgerows, and cropping time, among other things. Pesticides are applied separately to each treatment area based on the pest management and disease control needs of each, among other things, and these applications are based on the unique needs of each treatment area. NJFB believes that these distinct separations distinguish each individual field as an individual treatment area. Therefore, the definition of a treatment area provided in the permit should be expanded, with the input of agriculture, to make this distinction clear.

**RESPONSE:** The Department has imposed an interim threshold value of 1,000 acres of treatment area for the Aquatic Agricultural Activity use pattern. Therefore, operators that are over this threshold are required to complete the RFA form. As mentioned above, the Department has stayed the permit conditions that were only applicable to those operators that were required to submit an RFA. However, the permittee is required to comply with the general permit conditions, listed in the cover letter, that are applicable to all permittees.

**COMMENT 53:** Discharge Authorization Date (Part II. C.4.)

In Table 3, the Discharge Authorization Date language states that "operators who know or should have reasonably known, prior to the commencement of discharge that they will exceed an annual treatment area threshold identified in Table 2 for that year" should submit an RFA "at least 30 days prior to commencement of discharge." There is no way that a farmer can predict that they will exceed an annual treatment area threshold because the nature of pest and disease management does not allow for it. It is normal and natural that disease and pest outbreaks can result in unanticipated for pesticide spraying needs.

New Jersey Farm Bureau believes that the NJDEP should remove the following language that requires dischargers to submit an RFA "at least 30 days prior to commencement of the discharge" for "operators who know or should have reasonably known, prior to commencement of discharge that they will exceed an annual treatment area threshold identified in Table 2 for that year."

**RESPONSE:** The Department expects to revisit this permit condition. In the meantime, this permit condition has been stayed.

**COMMENT 54:** Part IV –Specific Requirements: Narrative
This section of the draft permit provides a narrative account of the specific requirements that an operator filing an RFA must adhere to. NJFB believes that the requirements of an RFA are unreasonable for agricultural operators qualifying for coverage under this permit.

In section C.5.(b), when describing pest management activities for agricultural activities, this sentence appears: "Prior to first pesticide application covered under this permit that will result in a discharge to surface waters of the State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, you shall select and implement for each pest management area efficient and effective means of pest management that minimize discharges result from application of pesticides to control forestry pests". It seems clear that this section was developed and copied verbatim from section (4), sub-section (b), the sub-section where pest management practices appropriate for forest canopy applications covered under this permit are defined.

While we believe that this apparent typo requires a correction, we also believe that this speaks to a larger problem apparent throughout the permit. It seems as though many of the criteria applied to agricultural applications required to file an RFA are the same as the requirements applied to forest canopy pest control. These two pest control areas are unique and, as such, are not interchangeable.

Operators applying pesticides to control pests in forest canopy areas are typically spraying for a small number of pests and using a relatively small variety of pesticides. Agricultural operators deemed covered under this draft permit are applying pesticides to control as many as forty to fifty pests and oftentimes are using as many different pesticides. Therefore, comparing these two application types is erroneous and insufficient.

This issue speaks to our larger concern that while the RFA requirements may be applicable to the other four application types covered under this permit, they are excessive and unnecessary for agricultural operators already covered under FIFRA and who are actively engaged in activities that minimize the use of pesticides (Integrated Pest Management (IMP) for example) separate from those required under this permit.

Farmers typically select and spray pesticides as a response to their pest management problems at any given time as field conditions dictate. This is why traditional IPM practices have proven so effective; they allow for a reactive, ever-changing response to meet pesticide management needs. The prescriptive nature

of the RFA is unreasonably cumbersome for the typical New Jersey farmer and, as such, is not workable in its current form for agricultural applicators.

**RESPONSE:** The Department expects to revisit the permit conditions specific to aquatic agricultural activities. In the meantime, permittees are required to comply with the general conditions specified in the cover letter that are applicable to all permittees.

**F. American Cranberry Growers Association, William J. Cutts, in a letter dated February 3, 2011.**

**COMMENT 55:** Extension of the Stay
As a result of delays by the United States Environmental Protection Agency in issuing a final permit to provide for compliance with the court decision in National Cotton Council, *et al v.* EPA, the New Jersey DEP has been left with insufficient time to complete an orderly permit adoption procedure to enable New Jersey pesticide applicators to meet the requirements imposed by the court. We urge the DEP, through the appropriate agencies or offices, either separately or in conjunction with other states, to immediately move to seek an extension of the stay to allow for the completion of an orderly permitting procedure.

**RESPONSE:** Please see cover letter.

**COMMENT 56:** Threshold Value (Part II. B.3.)
We appreciate the recognition by the Department of the need to provide coverage for application of pesticides for agricultural activities, but believe that the threshold of 100 acres is too low and will result in an excessively large number of small farms being required to file an RFA, an exceedingly complex and burdensome process. A review of DEP wetlands maps indicates that many farms (in some counties approaching 100%) have areas in their fields that are designated as wetlands. In many cases entire fields are mapped as wetlands. Since many crops (particularly vegetables and fruits) require multiple applications of pesticides during the growing season, the combination of acreage mapped as wetlands on many farms and the multiplier affect employed by the permit will result in requiring many farmers to comply with the burdensome RFA preparation process. As discussed below, the burden of preparing a "timely", "accurate" and "complete" RFA , as required by the draft permit, will be burdensome and challenging for all farmers and even a minor insufficiency in the RFA may result in the farmer finding out too late that he has no coverage under the general permit.

We request that the threshold for Agricultural Activities be raised to a number that, taking into account the multiplier effect, will provide permit by rule coverage for most farms, and not require the preparation of an RFA for most farming operations.

**RESPONSE:** Please see response to comment number 4.

**COMMENT 57:** Pinelands and FW1 waters exempt from Permit By Rule (Part II. B.3.)
We agree with the statement regarding ONRW water bodies found at page 4 of the Fact Sheet. Pesticide applications have been made in and near these waters for decades under the protection of the requirements imposed under FIFRA and they continue to remain the highest quality waters in the state. FIFRA's registration and labeling process rigorously examines the impacts of pesticides on water quality and imposes application safeguards in its label requirements, which all applicators are required by law to comply with. To deny permit by rule coverage to these applications imposes an extremely heavy burden on nearly all farmers in the Pinelands and FW1 waters and provides no water quality benefit beyond what is currently provided by the protections already afforded by FIFRA. We request that Permit by rule apply to these applications on the same basis as other agricultural applications.

**RESPONSE:** Please see response to comment number 6.

**COMMENT 58:** RFA Requirements Not Suited to Agricultural Operations (Part IV. C.5.)
The format and requirements of the RFA appear to have been primarily lifted from the Forest Canopy provisions of the EPA draft permit. Although the requirements of the RFA (and the PDMD) may be appropriate for large governmental entities, with extensive resources and numerous employees, selecting from a limited number of pesticides to control a limited number of pest, those requirements are not well suited, and in fact are not practicable, when applied to agricultural operations selecting from a broad array of pesticide control options to control, in many cases in excess of 100 species of pests. The burdens imposed in analysis and recordkeeping is exceedingly disproportionate to the benefits, if any, of the process that the RFA requires. Additionally, there is often no benefit to scouting to determine individual species, and frequently, the technology does not exist to do so. The documentation requirements regarding "procedures " and "evaluation", although perhaps appropriate for large governmental organizations, should not be made applicable to New Jersey's agricultural operations.

**RESPONSE:** The Department expects to revisit this permit condition. In the meantime, this permit condition has been stayed.

**COMMENT 59:** No Flexibility for Agricultural Pest Control (Part II E.4.b)
New and unanticipated pests may appear during the growing season. Additionally, new pesticides often become available during the growing season, either through the normal registration process or through emergency registrations to meet emergency needs on the farm. The permit, at Part II E.4.b Page 9 of 10 prohibits the use of a pesticides not authorized under the permit and provides that a permittee may request authorization to use a pesticide not authorized under the permit. We are concerned that applications for permit modifications may be unable to be made and processed in a timely manner, risking substantial losses to the agricultural community. We request that the permit be modified to provide for the use of pesticides not listed in the permit on the recommendations of the New Jersey Agricultural Extension Service.

**RESPONSE:** The Department will not be issuing individual authorizations, therefore, this permit condition is stayed.

**G. N.J. Environmental Federation, Jane Nogaki, Pesticide Program Coordinator, in a letter dated February 3, 2011**

**COMMENT 60:** Threshold Values (Part II. C.3.)
NJDEP has stated that "Should USEPA revise the threshold categories and or values in their final PGP, NJDEP may modify this master general permit upon issuance of the final action to be consistent with the USEPA PGP. EPA has indicated it may revise significantly the threshold categories in their rules prior to final adoption in April. They may lower the threshold acreage/size for reporting by an order of magnitude**.** NJEF Federation wishes to go on record opposing this significant reduction in size for forested acres/aquatic acres of application needing a general permit. Agricultural pesticide use is significant, approximately 1 million pounds of active ingredient per year ( According to NJDEP pesticide use surveys), with the highest concentration(75%) in Atlantic, Burlington, Cumberland, Gloucester and Salem and Counties, and the average size of farms in NJ is 100 acres, not thousands of acres. Aquatic use of pesticides in 2005 was 117,000 pounds, and in 2006 was 107,000 pounds. Mosquito control use of pesticides was 60.000 pounds in 2007. NJEF opposes increasing the size of the acreage that triggers a general permit.

The USGS has documented pesticide contamination (97% of samples contained at least 5 pesticides, 49% had 9 or more pesticides) in every river tested in NJ, and in 40% of groundwater wells. Our water systems

are extremely vulnerable to pesticides and since NJ residents rely on surface and groundwater for drinking water, every protection needs to be afforded those waters. If the regulations only cover large areas of forested/aquatic areas or higher, most of NJ pesticide treated areas will be missed. NJ is not Nebraska, we do not have factory fish farms/forests ranging across the landscape.

Limitations of the Proposed General Permit

1. Annual Treatment Area Threshold Must Offer Adequate Protection. According to DEP/EPA's factsheet, EPA developed annual treatment area thresholds for each use pattern (mosquito and other flying insect, aquatic weed and algae control, aquatic nuisance animal and forest canopy pest control) that it believes will only exclude those operators making small-area applications from the Notice of Intent (NOI) requirement because their discharges will be comparatively small. For mosquito and forest canopy control, the threshold is 640 acres, meaning that applicators would not need to submit a NOI or complete a pesticide discharge management plan if they apply pesticides to acreage of less than 640 acres. Similarly, for aquatic areas, the threshold is 20 acres. Is it that pesticide discharge and subsequent water contamination only occur when pesticides are applied to 640 acres or more? We do not believe that this is the case. Whether pesticides are applied to 1 acre, 5 acres, 20 acres or 1000 acres per year, pesticide contamination and its subsequent ill effects will occur, and as such all applicators of pesticides should be required a permit and to submit a NOI in order to do so. The agency states that it developed annual treatment area thresholds that differentiate between applications to small areas and those treatments to larger areas which are believed to have a greater potential for impact on waters of the U.S. The agency ignores that small applications of toxic pesticides also have the potential to severely impact waterways. Recent studies have shown that low concentrations of pesticides (0.1-15ppb), like those that could result from small applications, impact aquatic communities.1,2,3 Thus, the annual treatment threshold should be drastically lowered or eliminated in order for NPDES permits to establish a fully credible mechanism to regulate pesticide discharges. We hope the agency seriously reconsiders giving a pass to smaller applicators based on acreage sprayed instead of utilizing current scientific data to determine permitting requirements.

**1** Relyea RA. 2009. A cocktail of contaminants: how mixtures of pesticides at low concentrations affect aquatic communities. *Oecologia.* 159(2):363-76.
**2** Downing AL, et al. 2008. Community and ecosystem responses to a pulsed pesticide disturbance in freshwater ecosystems. *Ecotoxicology*.17(6):539-48
**3** Hayes, Tyrone B. 2002. "Hermaphroditic, demasculinized frogs after exposure to the herbicide atrazine at low ecologically relevant doses." Proceedings of the National Academy of Sciences. Vol. 99, No. 8.

**RESPONSE:** All operators, regardless of whether they have a total treatment area above or below the specific threshold values will be required to comply with the general permit conditions that are listed in the cover letter. Operators above the threshold values will also need to submit a completed RFA form. The court ruling requires Clean Water Act permits for all applications of biological and chemical pesticides that leave a residue in water when such applications are made in, over, and near surface waters of the U.S by November 1, 2011. Therefore, smaller applicators are not exempt from compliance with permit conditions. However, the Department has decided that it is appropriate for larger applicators to be subject to more permit requirements, such as submission of a RFA, since their discharge would have a greater impact on water quality.

**COMMENT 61:** Pesticide Monitoring Must Be Made Stronger (Part IV. E.)

Under the proposed general permit, the agency's requirements for monitoring seem to be quite arbitrary. As part of site monitoring, the agency requires the applicator to use the lowest amount of pesticide to control pests, perform regular maintenance of equipment and conduct visual spot checks of the applied area for possible and observable adverse incidents. The agency does not require testing of sediment or water samples, or pre- and post monitoring of populations of aquatic organisms. The current monitoring requirements need to be strengthened by the agency. Visual spot checking, which is subject to human

error and bias, is not a reliable method to monitor potential adverse effects of pesticide contamination. The agency has a history of lacking enforcement capacity. The agency is aware that there is a low level of pesticide label and permit compliance, yet does not have an enforcement plan that will ensure compliance with mitigation measures. This is compounded by the fact that applicators are required to police themselves. EPA has the authority to inspect premises and records of permittees, but these inspections are sporadic at best and sometimes never take place, unless a catastrophic event occurs. EPA must commit to enforcing permit requirements by devoting resources to regularly inspect, monitor and collect samples from treated areas in order to ensure that water quality restrictions are being met.

**RESPONSE:** The Department appreciates the commentor's suggestions. The NJPDES draft permit was issued consistent with the EPA's draft pesticide general permit and the NJPDES permit is finalized 'as is'. When the permit is modified in the near future to incorporate the requirements of EPA's final permit, the Department will take these comments into consideration and may revise permit requirements as necessary.

**COMMENT 62:** Public Comment is Essential to the Permitting Process
The general permit will be subject to public comment, providing an opportunity to address the effluent limitations and management plans, as well as request a public hearing on the permit, as required under the CWA. We urge the agency to adopt a provision that local communities must be notified – whether via local newspaper, television or radio - of the public comment period for the issuance of permits. This would ensure that local citizenry, especially those who regularly utilize local surface or ground waters, have ample opportunity to be a part of this regulatory process.

**RESPONSE:** In accordance with N.J.A.C. 7:14A-15.10 and 15.12, upon issuance of the revised NJPDES PGP, the public will again be granted a 30 day comment period to submit their comments. Notice of the issuance of the modified draft permit and information on the public hearing will appear in newspapers throughout the State, the Division of Water Quality website, and the NJDEP Bulletin.

**COMMENT 63:** Organic Practices and Integrated Pest Management Must Be Considered (Part IV. B. and C.)
EPA is requiring applicators, as part of the permitting process, to carry out IPM practices as a way of reducing pesticide discharge to waterways. However, the agency is not requiring applicators that fall below the treatment threshold to conduct IPM since the agency is “unclear whether it is economically achievable for small applications to implement IPM and because of concerns about potential unintended consequences of such a requirement. All applicators should be required to follow IPM practices.

**RESPONSE:** When the permit is modified in the near future to incorporate the requirements of EPA's final permit, the Department will take these comments into consideration and may revise permit requirements as necessary.

**H. Atlantic City Electric Company, Michael J. Garrity, Lead Environmental Scientist, in a letter dated February 3, 2011**

ACE is a public utility which provides electric delivery to more than 500,000 residential and business customers in southern New Jersey. ACE is charged by federal and state regulatory authorities with providing safe and reliable electric service to the customers we serve. An integral part of the maintenance of any electric utility system is to conduct proper vegetation management to remove, trim or control those trees and vegetation that could contact the wires and thereby cause a public safety hazard and/or cause power line failures. All vegetation management activities are conducted through an Integrated Vegetation Maintenance (IVM) program which includes the application of herbicide to control incompatible woody vegetation

along ACE's power line corridors. The ACE IVM program is conducted on a routine basis in accordance the requirements of the Federal Energy Regulatory Commission and the NJ Board of Public Utilities.

ACE routinely engages Contractors who are licensed herbicide applicators, certified by the NJDEP's Bureau of Pesticide Control, for all herbicide applications. All herbicides are applied by Contractors in accordance with the manufacture's label instructions. ACE has successfully obtained Aquatic Use Permits from the NJDEP Bureau of Pesticide Control for the application of herbicides in wetland and water area within established right of ways.
ACE acknowledges the Department's responsibility to develop and adopt a permit to authorize the point source discharges to waters of the State of New Jersey as a result of the application of a pesticide. In conjunction with the U.S. EPA's proposal for a NPDES Pesticide General Permit, the Department has developed the proposed NJPDES Pesticides General Permit No. NJ0178217.

ACE agrees with a general permit as a mechanism to authorize these discharges associated with the application of pesticides. ACE recommends that the Department consider the following prior to adoption of a NJPDES Pesticides General Permit:

**COMMENT 64:** Eligible Pesticide Use Patterns (Part II. B.1.)
The proposal does not include pesticides for vegetative management in power line rights-of ways in the list of five use patterns. None of the five use patterns covered in the draft general permit accurately describes the methods electric utilities utilize to apply pesticides (herbicides). Foliar spraying, selective stump and basil treatment of incompatible vegetation within the utility right-of-way is an inexpensive, effective and common method of pesticide (herbicide) application for electric utility power line corridors. These vegetation management practices are consistently employed across the electric utility industry and are conducted at a frequency that merits coverage under a general permit.

The proposed use pattern d. Forest Canopy Pest Control appears to represent electric utilities use of pesticides (herbicide), however, it does not adequately cover application of herbicides delivered by hand-spraying or on vegetation other than a forest canopy. Additionally, ACE's herbicide application practices do not include aerial spraying, therefore ACE requests the addition of another eligible use pattern with language such as:

*"Utility Transmission and Distribution Line Vegetation Control – Application of a pesticide to control vegetation in a right-of-way for transmission or distribution electric power lines."*

**RESPONSE:** The Department acknowledges your concerns and plans to address them in the revised NJPDES PGP. In order to provide coverage for this activity during the interim period, operators applying pesticides associated with "Utility Transmission and Distribution Line Vegetation Control" are required to apply for this permit if the activity also requires an Aquatic Pesticide Permit and the total treatment area exceeds 20 miles. Activities with a total treatment area below this threshold value are automatically authorized by the NJPDES PGP through the permit by rule provision.

**COMMENT 65:** Annual Treatment Area Thresholds (Part II. C.3.)
Modification of Tables 1 & 2, Annual Treatment Area Thresholds will need to be modified to include the additional eligible pesticide use pattern for application of pesticides in power line corridors. ACE requests that a threshold treatment area of no less than 750 miles of power line corridors per year be added to tables 1 & 2.

ACE maintains thousands of miles of rights-of-way (ROW), and applies pesticides to its ROWs as part of a minimally invasive vegetation management program. Specifically, the

use of herbicide is less invasive than using heavy vehicles in the clearing of the ROW. The Department's proposal requiring an RFA for annual treatment of less than 750 miles would impose a needless and expensive burden to electric companies and their customers and encumber permitting agencies with RFAs for relatively small and infrequent applications.

**RESPONSE:** The Department appreciates the commentor's suggestions and will take them into consideration when the NJPDES PGP is revised. Permit requirements may be modified as necessary after careful consideration of all the comments and review of EPA's final PGP.

**COMMENT 66:** Clarification on Aquatic Weed and Algae Control Use Pattern (Part II. B.1.b.)
Clarification that Use Pattern b. Aquatic Weed and Algae Control, includes the application of herbicides to control woody vegetation (not just weeds) in wetlands and at waters edge.

Page 3 of 34 in NJDEPS Fact Sheet describing Use Pattern b. appears to indicate that this Use Pattern is not limited to herbicide application solely to weeds.

**RESPONSE:** Your statement is correct. The Aquatic Weed and Algae Control Use Pattern includes the application of pesticides to control woody vegetation.

**COMMENT 67:** Activities Exempted (Part II. B.2.)
ACE routinely obtains Aquatic Use Permits from NJDEP's Bureau of Pesticide Management which authorizes herbicide application in wetlands and waters.
It is not only time consuming, but it is costly to prepare and submit an application for an Aquatic Use Permit. As proposed, two permits will be required for the same activity -- an Aquatic Use Permit and the proposed NJPDES permit. The cost to utilities to permit the same activity will now, at the minimum, double. Requiring two (2) different permits for the same activity is poor regulatory policy, is duplicative, a poor use of Department resources and is also inconsistent with the Governor's Executive Order on Common Sense Principals that "agencies should coordinate with each other to combine and minimize regulatory filings….." Executive order No.2 (Jan.20, 2010). At the minimum, the proposed General Permit should exempt activities that are authorized under NJDEP's Aquatic Use Permitting process.

**RESPONSE:** The Department acknowledges your concerns. However, the issuance of this permit is based on a ruling by the 6th Circuit Court of Appeals on January 7, 2009 in *National Cotton Council et al v. EPA*, requiring Clean Water Act permits for all applications of biological and chemical pesticides that leave a residue in water when such applications are made in, over, and near surface waters of the U.S by November 1, 2011. The Aquatic Use Permits are not issued in accordance with the Clean Water Act, and as such they would not meet the requirement imposed by the court.

**COMMENT 68:** Definition of Operator (Appendix A)
ACE requests confirmation that the definition of operator allows a contractor who is hired by the electric utility to perform the pesticide application to:

- File the RFA on behalf of the electric utility financing the pesticide application and to maintain the records, develop and maintain the required Integrated Pest Management;
- Practices document, develop and maintain the Pesticide Discharge Management Plan and to maintain and submit all records and reports required by the proposed Pesticide General Permit.

This arrangement would provide the Department with more accurate information, since the pesticide applicators do maintain comparable records and submit comparable reports in compliance with FIFRA regulations.

**RESPONSE:** The definition of operator includes both the entity that has financial control and/or the entity that has day to day control or performs the activities necessary to ensure compliance with the permit. Therefore, a contractor hired to perform the pesticide application would also be considered the operator. The operator that applies for the permit would be the one responsible for complying with the permit conditions.

**COMMENT 69:** Integrated Pest Management (IPM) Practices (Part IV C.)
ACE encourages the Department to develop eligible-use specific requirements for the Transmission and Distribution Line Vegetation Control category similar to the five uses in the draft permit. However, the level of detail in the proposed eligible uses under the headings of "Identify the Problem", "Pest Management", and "Pesticide Use" is too prescriptive for the utility industry's vegetative management practices.

For example, under "Identify the Problem", vegetation management practices do not always include the identification of the pests to the species level. The goal for maintenance of power line corridors is the control of all incompatible and tall growth that will come in contact with the line, thus causing an outage. The same observation applies to the other eligible use categories. It may be impossible to name all of the target weeds because there are so many or they are too difficult to classify by species. All grasses may be a target since they all need to be controlled, so the need to identify the species appears unnecessary. Species-specific target identification should not be required. A more generic description of the types of plants or vegetation habitat types that need to be controlled should suffice.

The North American Reliability Corporation (NERC) requires electric utilities to have vegetation management plans under NERC standard "FAC-003-1 Vegetation Management." These plans should be acceptable to meet the requirements of "Pest Management" for the proposed Transmission and Distribution Line Vegetation Control category**.**

**RESPONSE:** Please see response to comment numbers 64 and 65.

**I. New Jersey Utilities Association, Ryan L. Tookes, Manager, Government & Public Affairs, in a letter dated February 3, 2011.**

The New Jersey Utilities Association (NJUA) is the state trade association for 16 investor owned utility companies that safely and reliably deliver regulated natural gas, electricity, wastewater, clean drinking water and telecommunications services to New Jersey residents and businesses 24 hours a day, every day of the year.

**COMMENT 70:** Additional Category of Applications for Utility Right of Ways (ROW) (Part II. B.1.)
It is paramount that the general permit cover the use of herbicides to control vegetation that otherwise would interfere with electric power lines, both transmission and distribution lines. The permit must make explicit that this use is permitted. Both aerial and ground based applications should be permitted, and cover the use of herbicides to control both aquatic and non-aquatic vegetation. The Forest Canopy Pest Control use pattern allowed under the draft permit does allow some applications of herbicides to power line corridors, but it does not adequately cover application of herbicides delivered by hand spraying or on vegetation other than a forest canopy. Accordingly, a fifth use pattern for power lines should be added.

**RESPONSE:** Please see response to comment number 64.

**COMMENT 71:** PGP Should Allow Rapid Responses to Aggressive Aquatic Weeds in Lakes and Reservoirs (Part II. B.1. and C.4.)

The control of invasive or other nuisance weeds in water and at water's edge are authorized in use pattern "b" for aquatic weed control. This is a vital tool in controlling growth, but NJUA submits that the permit should be modified to also cover treating aggressive aquatic weeds in lakes and reservoirs, when action is required on an expedited basis. There is significant concern for an unforeseeable outbreak of an aggressive aquatic plant that the current construct of the draft general permit would make it difficult to treat. Further, it should be made explicitly clear that use pattern "b" includes the application of herbicides to control woody vegetation (not just weeds) in wetlands and at water's edge.

**RESPONSE:** Please see response to comment number 66. A clarification of the scope of this use pattern will be provided in the revised NJPDES PGP.

**COMMENT 72:** PGP Should Authorize Using Herbicides Along Natural Gas Pipelines (Part II. B.1)
Vegetation around pipeline rights-of-way must be controlled to allow clear visibility from the air and access for maintenance. Vegetation interferes with the safe and reliable operation and maintenance of pipelines. To that end, we recommend that the general permit be revised to expressly permit the use of herbicides to control vegetation along pipelines.

**RESPONSE:** Please see response to comment number 64.

**COMMENT 73:** Duplicative Permits
Aquatic Use Permits from NJDEP's Bureau of Pesticide Operations authorize herbicide application in wetlands. As currently drafted, companies would be required to get two permits for the same activity. Requiring two permits, an aquatic use permit and the proposed NJPDES permit for the same activity would be duplicative, unnecessary, and burdensome to companies.

The proposed General Permit should exempt activities that are authorized under NJDEP's Aquatic Use Permitting process.

**RESPONSE:** Please see response to comment number 67.

**COMMENT 74:** Definition of Operator (Appendix A)
NJUA requests clarification on the role and scope of activities that are permitted to be performed by an operator. Specifically, that the definition of an operator allows a contractor who is hired by the entity to perform the pesticide application to:
File the RFA on behalf of the entity financing the pesticide application;
To maintain the records, develop and maintain the required Integrated Pest Management Practices document; and
Develop and maintain the Pesticide Discharge Management Plan and to maintain and submit all records and reports required by the proposed PGP.

There is value in allowing this construct, the pesticide applicators are required to maintain records and reports in compliance with FIFRA regulations. This would help ensure that DEP has the most accurate information available.

**RESPONSE:** The operator that applies for the NJPDES PGP or any other entity the meets the definition of an operator (for those permittees covered under permit by rule) would be responsible for complying with the permit conditions that have not been stayed. Please see cover letter.

**J. Jersey Central Power & Light (JCP&L), Bede T. Portz, Environmental Energy Delivery Services, in a letter dated February 1, 2011.**

JCP&L- an electric distributing company of FirstEnergy Corp.- provides service to approximately 1.1 million residential and business customers within 3,200 square miles of northern and central New Jersey. JCP&L is charged by federal and state regulatory authorities with providing safe and reliable electric service to the customers we serve. An integral part of the maintenance of any electric utility system is t o conduct proper vegetation management to remove, trim, or control those trees and vegetation that could contact the wires and thereby cause a public safety hazard and/or cause power line failures. All vegetation management activities are conducted through an Integrated Vegetation Maintenance (IVM) program which includes the application of herbicide to control incompatible woody vegetation along our power line corridors. Our IVM program is conducted on a routine basis in accordance with the requirements of the Federal Energy Regulatory Commission and the NJ Board of Public Utilities.

JCP&L uses licensed herbicide applicators (certified by the NJDEP's Bureau of Pesticide Control) for all herbicide applications. All herbicides are applied by a Contractor in accordance with the manufacture's label instructions. JCP&L obtains Aquatic Use Permits annually from the Bureau of Pesticide Control prior to spraying herbicides in wetlands.

JCP&L understands the responsibility of the Department to develop a NPDES permit to cover the point source discharges to waters of the State resulting from the application of a pesticide. In conjunction with the U.S. EPA's NPDES Pesticide General Permit, the Department has developed the proposed NJPDES Pesticide General Permit No. NJ0178217. While JCP&L agrees with a general permit to authorize these discharges, we respectfully ask that the Department consider the following when finalizing the Pesticides General Permit.

**COMMENT 75:** Additional Use Pattern (Part II. B.1)

JCP&L requests that a category be added to the list of use patterns to include pesticides for vegetative management in power line rights of way. None of the five use patterns covered in the draft permit accurately describes the methods electric utility utilize to apply pesticides (herbicides). Foliar spraying and selective stump and basil treatment of incompatible vegetation within the utility right of way is the more common method of pesticide (herbicide) application for electric utility power line corridors. These vegetation management practices are of a consistent nature across the electric utility industry and are conducted at a frequency that merits coverage under a general permit.

While the proposed use pattern d. Forest Canopy Pest Control comes closest to representing our use, it does not adequately cover application of herbicides delivered by hand spraying or on vegetation other than a forest canopy. Additionally, JCP&L's herbicide application practices do not include aerial spraying, therefore, JCP&L requests the addition of another eligible use pattern with language such as: "Utility Transmission and Distribution Line Vegetation Control- Application of a pesticide to control vegetation in a right of way for transmission or distribution electric power lines."

**RESPONSE:** Please see response to comment number 64.

**COMMENT 76:** Annual Treatment Area Thresholds (Part II. B. 3. and C.3.)
Modification of Tables 1&2 Annual Treatment Area Thresholds, will need to be modified to include the additional eligible pesticide use pattern for application of pesticides in power line corridors. JCP&L requests that a threshold treatment area of no less than 750 miles of power line corridors per year be added to Tables 1&2.

NJ electric utilities maintain tens of thousands of miles of rights of way (ROW), and apply pesticides to the ROW's regularly. Requiring an RFA for annual treatment of less than 750 miles would impose a

needless and expensive burden to electric companies and their customers and encumber permitting agencies with RFA's for relatively small and infrequent applications.

**RESPONSE:** Please see response to comment number 65.

**COMMENT 77:** Clarification (Part II. B.1.)
JCP&L requests clarification that Use Pattern number b. Aquatic Weed and Algae control, includes the application of herbicides to control woody vegetation (not just weeds) in wetlands and at waters edge. Page 3 of 34 in NJDEP's NJPDES Fact Sheet describing use pattern b supports the notion that this use pattern is not limited to herbicide application solely to weeds.

**RESPONSE:** Please see response to comment number 66.

**COMMENT 78:** Duplicative Permits
JCP&L routinely obtains Aquatic Use Permits from NJDEP's Bureau of Pesticide Operations, which authorize herbicide application in wetlands. Requiring two permits, an Aquatic Use Permit, and the proposed NJDEP's permit for the same activity is poor regulatory policy, is duplicative, and is also inconsistent with the Governor's Executive Order on Common Sense Principals that "agencies should coordinate with each other to combine and minimize regulatory filings…." Executive Order No. 2 (January 20, 2010).

The proposed General Permit should exempt activities that are authorized under NJDEP's Aquatic Use Permitting Process.

**RESPONSE:** Please see response to comment number 67.

**COMMENT 79:** Definition of Operator (Appendix A)
JCP&L requests confirmation that the definition of operator allows a contractor who is hired by the entity to perform the pesticide application to file the RFA on behalf of the entity financing the pesticide application and to maintain the records, develop and maintain the required Integrated Pest Management Practice document, and maintain the Pesticide Discharge Management Plan and to maintain and submit all records and reports required by the proposed Pesticide General Permit.

This arrangement would provide the Department with more accurate information, since the pesticide applicators do maintain comparable records and submit comparable reports in compliance with FIFRA regulations.

**RESPONSE:** The definition of operator includes both the entity that has financial control and/or the entity that has day to day control or performs the activities necessary to ensure compliance with the permit. Therefore, a contractor hired to perform the pesticide application would also be considered the operator.

**COMMENT 80:** Integrated Pest Management Practices (Part IV B. and C.)
JCP&L encourages the Department to develop eligible use specific requirements for the Transmission and Distribution Line Vegetation Control category similar to the five uses in the draft permit. However, the level of detail in the proposed eligible uses under the headings of "Identify the Problem," "Pest Management," and "Pesticide Use" is too prescriptive for the utility industry's vegetative management practices.

For example, under "Identify the Problem," vegetation management practices do not always include the identification of the pests to the species level. The goal for maintenance of power line corridor is the

control of all incompatible and tall growth that will come in contact with the line thus causing an outage. The same observation applies to the other eligible use categories. It may be impossible to name all of the target weeds because there are so many or they are too difficult to classify by species. All grasses may be a target since they all need to be controlled, so the need to identify the species appears unnecessary. Species specific target identification should not be required. A more generic description of the types of plants or vegetation habitat types that need to be controlled should suffice.

The North American Reliability Corporation requires electric utilities to have vegetation management plans under NERC standard "FAC-003-1 Vegetation Management". These plans should be acceptable to meet the requirements of "Pest Management" for the proposed Transmission and Distribution Line Vegetation Control category.

**RESPONSE:** The Department appreciates the commentor's suggestions. When the permit is modified in the near future, the Department will take these comments into consideration.

**K. Great Blue Lake & Pond Management, Lorraine M. Mizak, President, in a letter dated February 2, 2011**

**COMMENT 81:** Background
I have been in the pond management business for 25 years, 16 of which as the owner of a small pond management company in the state of New Jersey. The goal of my company is to manage ponds with a limited amount of herbicides by utilizing other non-chemical means of aquatic plant and algae control. We develop our programs with this practice being the priority, but have found that in many situations herbicides are necessary, even if on a limited basis. We utilize aeration, introduction of the herbivorous white amur, shoreline buffer zones, nutrient deactivation, bacterial additives, and pond dyes to reduce plant and algae growth. Despite the use of these methods, we do apply herbicides to approximately 800 acres of lakes and ponds on an annual basis. Of these 800 acres approximately 50% are private pond owners, 25% corporate settings and golf courses, and the remaining 25% retention basins in housing developments. While I realize the importance of regulating what chemicals are introduced into our waterways, I feel that in our state the regulation has been exceptional with the requirements that are in place for each applicator and for every application conducted.

**RESPONSE:** Please see response to comment number 16.

**COMMENT 82:** Small Business Exemption
The new regulations will make our management efforts even more difficult in that we have a small staff of field biologists (3) and one office manager to carry out the proposed requirements for herbicide applications. In order to meet these requirements, I would need to employ additional field staff to do pre and post monitoring as well as additional office personnel to handle the record keeping, legal issues, and insurance issues that we will likely face. With our current income, my company cannot accommodate an increase in the workforce. And to increase our income we would need to divide the additional expense among our client base which totals approximately 400 locations. The additional exposure that the regulations will impose on the herbicide applicator's business by way of penalties and fines if any "stressed" organisms are reported following an application will increase our insurance premiums beyond what my company can afford. Again, an expense passed on to my clients, most of which will not be able to afford our services. Therefore, it is likely that my business will cease to exist. I am certain that most of the companies that employ commercial aquatic applicators are in the same predicament. Therefore, it is imperative that our NJDEP strive to have the EPA issue a "small business exemption".

**RESPONSE:** The Department understands your concerns, but the regulations that govern the NJPDES program (N.J.A.C. 7:14A) do not allow for small business exemptions. However, operators that have

treatment areas below the specific threshold values will not need to submit a RFA. The Department will take your comment into consideration when preparing the revised NJPDES PGP.

**COMMENT 83:** PGP Will Cause Unintended Consequences

In discussing the new regulations with a number of clients, it has come to my attention that they agree that we are doing all we can to reduce herbicide use and yet have found that despite our efforts, herbicide applications are part of integrated pest management. Many of our clients have tried other non-chemical means of control on their own and employed my company when those methods failed or because they could no longer legally purchase herbicides that they used in the past from the local feed store, such as copper sulfate. In some instances, we are contacted because individuals attempted to use products purchased elsewhere and cause harm to their ponds mostly by way of fish kills. If pond owners cannot afford our services, they will find other sources of acquiring herbicides, use pesticides not labeled for aquatic use (such as pool and spa chemicals) and will illegally conduct pesticide applications. The outcome will be detrimental to the aquatic environment that the Clean Water Act is aimed at protecting.

**RESPONSE:** Please see response to comment number 16.

**COMMENT 84:** Additional Regulation Unnecessary

The EPA must realize that as a small business owner, it is very impractical to put an herbicide into a pond without knowing its fate. Conducting an herbicide application to a waterbody that has heavy overflow would be wasting time and money as well as have detrimental effects downstream that could lead to lawsuits, penalties, and fines. Common sense regulates this and the EPA does not need to impose additional regulations that tax our time and budgets. Applying an herbicide that requires long exposure time to control a plant in a waterbody prior to a heavy rainfall is also impractical from a business standpoint as the product will not be effective and clients will not pay for that service. Again business dictates good management practices.

**RESPONSE:** Please see response to comment number 16.

**COMMENT 85:** Threshold Value (Part II. B.3. and C.3.)

One of the aspects of the new regulations that I especially take issue with is the proposed "threshold" acreage. The annual threshold of 20 acres pesticide use in water is unrealistic, even for a small pond management company. As stated above, even with IPM practices in place, we still find it necessary to treat approximately 800 acres per year. In its draft document, the EPA state that this threshold was set "to capture operators treating relatively large portions of surface waters and watersheds, such as water management districts, wildlife and game departments, and some homeowner and lake associations." The majority of the waterbodies we apply herbicides to range in size from 0.25 acres to 2.0 acres. I feel that the new EPA regulations threshold should be based on a "per site" basis and that it was not the EPA's intention to target the small stormwater retention basins in many housing developments in our state, water features on golf courses and in corporate parks, or the farm ponds, all of which are part of the clientele that my company services.

**RESPONSE:** The Department understands your concerns. As mentioned in the cover letter, the Department intends to issue a revised draft of the general permit after it has had an opportunity to review EPA's final PGP and after careful consideration of all the comments herein.

**L. Clear Lakes, Inc. Rob Conner, in an e-mail dated December 28, 2010.**

**COMMENT 86:** Clarification on Threshold Values (Part II. B.3. and C.3.)

The 20 acre threshold applies to all applications on all sites by an applicator during the season, not just the total applications per pond or per site, correct?

**RESPONSE:** Your statement is correct.

**COMMENT 87:** Application Form
Is there an application form for the PGP?

**RESPONSE:** Please see cover letter and response to comment number 4. The RFA is attached to this document.

**COMMENT 88:** PDMP (Part I1. D.)
Is there an example or checklist for preparing the PDMP?

**RESPONSE:** The Department expects to revisit this permit condition. In the meantime, this permit condition has been stayed.

**COMMENT 89:** Approval Process
If I understand the process correctly, I have to get approval of a PGP that includes all my proposed sites of treatment. If I do not get approval of a PGP that includes a particular site before April 9, 2011, is that site not able to be treated in 2011?

**RESPONSE:** Please see response to comment number 4. If your total treatment area is below the specific threshold value, you are automatically covered by the permit. However, if your total treatment area is above the specific threshold value, you must submit a completed RFA form. Upon submission of the RFA form that lists your treatment sites, you are covered by the NJPDES PGP. An individual authorization will not be issued.

**M. Allied Biological, Inc., Deborah Mills, Office Manager in an e-mail dated January 21, 2011**

**COMMENT 90:** Threshold Value (Part II. B.3. and C.3.)
We have been advised that the 20 acre threshold is a cumulative amount per site and/or per applicator and is not just site specific. I would suggest that the 20 acre threshold be made a cumulative per season threshold applicable per site or waterbody only. There are several lakes larger than 20 acres that treat less than 20 acres per season (boat lanes, beach areas, etc.). Making the threshold a cumulative per season site amount would exempt some smaller Associations from meeting this requirement.

**RESPONSE:** Please see response to comment number 4. When calculating total treatment area for purposes of determining if it is above threshold values, the sum of all acreage treated by an operator is included.

**N. Allied Biological, Inc., Krista Michniewicz in an e-mail dated January 17, 2011**

**COMMENT 91:** PDMP (Part II. D.1.)
Regarding the listing of an operator on a NPDES general permit PDMP, if the operator is a lake association, will you also expect to see one individual's name, address, and phone listed on the PDMP?

**RESPONSE:** Part II. D.1. states that all members of the pesticide discharge management team, including all operators, must be identified by name and contact information. However, the Department expects to revisit this permit condition during preparation of the revised draft NJPDES PGP. In the meantime, this permit condition has been stayed.

**O. Max Huber, of Agra, in an e-mail dated December 28, 2010**

**COMMENT 92:** Threshold Value (Part II. B.3. and C.3.)
Is it 20 acres per specific waterbody or 20 acres for your whole season? If I add up all the sites we treat (since Agra is really a drinking water lab and compliance consultation company), it comes to about 15 acres of treatment last year (including the multiple treats).

**RESPONSE:** Please see response to comment number 4.

**P. Aquatic Technologies, Christopher Hanlon, President, in an e-mail dated February 3, 2011**

Aquatic Technologies is a lake management firm in New Jersey. We represent close to 300 water bodies throughout the state.

**COMMENT 93:** Threshold Values (Part II. B.3. and C.3.)
We understand that the federal permit may be changing the threshold from 20 to 80 acres for aquatic application. We recommend and hope that New Jersey goes toward that direction of increasing from 20 to 80 acres.

**RESPONSE:** Please see response to comment number 4.

**COMMENT 94:** Definition of Operator (Appendix A)
The definition of operator in the permit is a little confusing. We recommend that the applicator is the responsible entity in the permit. Hopefully, under this federal guideline that the applicator now, currently the contractor would be the responsible party for that permit under the federal permit.

**RESPONSE:** Please see response to comment numbers 68 and 74. The Department intends to clarify the definition of operator in the revised NJPDES PGP. Please note that the definition of operator may change based on what has been included in the final federal PGP.

**COMMENT 95:** Small Business Exemption
The federal government is looking at going towards a small business exemption for the permits. Hopefully, that follows through to the state. There is financial pressure for all of the small entities, such as lake associations, who are generally composed of volunteers. An exemption would help these entities from a fiscal and time standpoint.

**RESPONSE:** The regulations that govern the NJPDES program (N.J.A.C. 7:14A) do not allow for small business exemptions. However, operators that have treatment areas below the specific threshold values will not need to submit a RFA.

**COMMENT 96:** Stakeholder Input
I would like to recommend that in the final draft period some commercial industries, possibly from the mosquito end, and also the lake management industry have some input into the permit.

**RESPONSE:** Please see cover letter.

**Q. New Jersey Meadowlands Commission, Ross M. Feltes, Ph.D., Supervisor, in a letter dated February 2, 2011**

**COMMENT 97:** Timely Issuance of Permits
One of the three mandates for the New Jersey Meadowlands Commission (NJMC) is the protection of the ecology of the Meadowlands District. NJMC certainly would not want activities to occur that would be

detrimental to water quality and thus the ecology of the District. We consider biological diversity an indicator of ecological function. Invasive plants are one of the major threats to biotic diversity. Our Master Plan calls for ecological enhancement to re-establish greater diversity of flora and fauna. Management of enhanced sites typically requires the use of herbicides.

Much enhancement is carried out as mitigation for impacts to other wetlands. Federal and state permits for enhancement, as in mitigation, require management of invasive plants species. Under the current NJDEP permitting for mitigation, site managers are required to keep invasive plants to a minimal percentage of total vegetative coverage. In spite of this requirement by NJDEP the site manager must separately apply to NJDEP for permission to control the invasive plants. Bureaucracy could be reduced by granting a permit to control invasive plants as required in the permit for enhancement at the time of permitting for construction of that enhancement project.

A high priority for conditions required for wetland mitigation projects should be that they promote the success of the enhancement to offset impacts to other wetlands. It has been the experience of the NJMC that it requires multiple years of herbicide application to reduce the population of *Phragmites* to a level that post construction management of the site is a reasonable endeavor. In recent years in the Meadowlands, herbicide application in anticipation of enhancement of a wetland required submittal of the construction plans for the project. A project manager may not have plans in a form ready for review and approval multiple years in advance of the project and if they exist the agency review process is often lengthy. The result has been sites were not treated an adequate number of times prior to construction; post construction management of *Phragmites* will be very challenging at best; it is possible more herbicide will be applied post construction than if the site had been adequately treated before enhancement; and the likelihood of success of the site will be lessened.

There are few alternatives to use of herbicides in controlling invasive plant species in wetlands, especially in areas where salinity levels are low. NJMC has worked with NJ Department of Agriculture (NJDA) in the release *of Galerucella sp.* beetles for biological control of *Lythrum salicaria* (purple loosestrife) and more recently *Rhinoncomimus latipes* weevils for control of *Persicaria perfoliata* (mile-a-minute weed). We are aware of studies on the use of other agents of biological control that may be available in the future and have discussed this with NJDA. Nevertheless, *Phragmites australis* (common reed) presents the greatest impact from an invasive species on the function of wetlands in the Meadowlands and many other areas of New Jersey. There is no substitute for the use of herbicides in its control. We have a long and growing list of exotic invasive species in the District that challenge management, though most inhabit upland areas.

Determinations on the need to control invasive plants are often made by field examination of the extent of species coverage and are assessed well into the growing season. Administrative approval to fund treatment must then be obtained. Competitive bidding from vendors to determine who will provide the service would generally follow. Herbicides often have specific times during the year when they are most effective. Glyphosphate application that will control *Phragmites australis*, but not damage some other desirable wetland species, such as *Spartina alterniflora*, has a narrow window of a few weeks.

It is my understanding the conditions of the review and permitting are not significantly different from the previous Federal oversight. There is concern about the transition of control from a Federal to a State entity and that delays in administrative review of applications for the new permit would make it difficult to treat sites during the necessary time frame. I certainly hope there is adequate NJDEP staff available to process the Division of Water Quality and Pesticide Control Program permits in a timely manner so as not to impede or become an obstacle to management activities.

**RESPONSE:** The Department understands the concerns regarding the timing of the NJPDES PGP issuance. Therefore, in order to address these concerns, the Department has provided automatic permit coverage for operators that have treatment areas below specific threshold values. For operators above these values, completion and submission of a simplified RFA form is all that is needed to obtain coverage. Please see response to comment number 4.

# PART I
# GENERAL REQUIREMENTS:
# NJPDES

## A. General Requirements of all NJPDES Permits

### 1. Requirements Incorporated by Reference

a. The permittee shall comply with all conditions set forth in this permit and with all the applicable requirements incorporated into this permit by reference. The permittee is required to comply with the regulations, including those cited in paragraphs b. through e. following, which are in effect as of the effective date of the final permit.

b. General Conditions

| | |
|---|---|
| Penalties for Violations | N.J.A.C. 7:14-8.1 et seq. |
| Incorporation by Reference | N.J.A.C. 7:14A-2.3 |
| Toxic Pollutants | N.J.A.C. 7:14A-6.2(a)4i |
| Duty to Comply | N.J.A.C. 7:14A-6.2(a)1 & 4 |
| Duty to Mitigate | N.J.A.C. 7:14A-6.2(a)5 & 11 |
| Inspection and Entry | N.J.A.C. 7:14A-2.11(e) |
| Enforcement Action | N.J.A.C. 7:14A-2.9 |
| Duty to Reapply | N.J.A.C. 7:14A-4.2(e)3 |
| Signatory Requirements for Applications and Reports | N.J.A.C. 7:14A-4.9 |
| Effect of Permit/Other Laws | N.J.A.C. 7:14A-6.2(a)6 & 7 & 2.9(c) |
| Severability | N.J.A.C. 7:14A-2.2 |
| Administrative Continuation of Permits | N.J.A.C. 7:14A-2.8 |
| Permit Actions | N.J.A.C. 7:14A-2.7(c) |
| Reopener Clause | N.J.A.C. 7:14A-6.2(a)10 |
| Permit Duration and Renewal | N.J.A.C. 7:14A-2.7(a) & (b) |
| Consolidation of Permit Process | N.J.A.C. 7:14A-15.5 |
| Confidentiality | N.J.A.C. 7:14A-18.2 & 2.11(g) |
| Fee Schedule | N.J.A.C. 7:14A-3.1 |

c. Operation And Maintenance

| | |
|---|---|
| Need to Halt or Reduce not a Defense | N.J.A.C. 7:14A-2.9(b) |
| Proper Operation and Maintenance | N.J.A.C. 7:14A-6.12 |

d. Monitoring And Records

| | |
|---|---|
| Monitoring | N.J.A.C. 7:14A-6.5 |
| Recordkeeping | N.J.A.C. 7:14A-6.6 |
| Signatory Requirements for Monitoring Reports | N.J.A.C. 7:14A-6.9 |

e. Reporting Requirements

| | |
|---|---|
| Planned Changes | N.J.A.C. 7:14A-6.7 |
| Reporting of Monitoring Results | N.J.A.C. 7:14A-6.8 |
| Noncompliance Reporting | N.J.A.C. 7:14A-6.10 & 6.8(h) |
| Hotline/Two Hour & Twenty-four Hour Reporting | N.J.A.C. 7:14A-6.10(c) & (d) |
| Written Reporting | N.J.A.C. 7:14A-6.10(e) &(f) & 6.8(h) |
| Duty to Provide Information | N.J.A.C. 7:14A-2.11, 6.2(a)14 & 18.1 |
| Schedules of Compliance | N.J.A.C. 7:14A-6.4 |
| Transfer | N.J.A.C. 7:14A-6.2(a)8 & 16.2 |

# PART II

# GENERAL REQUIREMENTS
# DISCHARGE CATEGORIES

**A.** **The permittee must comply with all other applicable federal, state, local laws and regulations that pertain to your application of pesticides, including but not limited to the following: Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Pinelands Commission Certificate of Filing, N.J.A.C. 7:30-9.3 (Aquatic Pesticide Permits), N.J.A.C. 7:30-9.2 (Mosquito/Fly Control Permit), and Reporting to the National Response Center. For example, this permit does not negate the requirements under FIFRA and its implementing regulations to use registered pesticides consistent with the product's labeling, including contacting the local fish and wildlife service if required.**

**1.** Application of herbicides to waterbodies, with the exception of lakes and ponds, requires the operator to apply and receive a Pinelands Commission Consistent Certificate of Filing prior to submitting an application to the NJDEP for a NJPDES Pesticide Application Discharge permit. This is consistent with the terms of the June 1991 Memorandum of Agreement between the Commission and the Pesticide Control Program.

**B.** **Coverage under This Permit.** This permit covers any operator, defined in Appendix A that meets the eligibility requirements identified below and submits a Request for Authorization in accordance with Section C, if required.

**1. Activities For Which a Permit is Required**

**Activities Covered.** This permit is available to operators who discharge to surface waters of the State from the application of (1) biological pesticides or (2) chemical pesticides that leave a residue (hereinafter collectively "pesticides"), when the pesticide application is for one of the following pesticide use patterns:

**a.** **Mosquito and Other Flying Insect Pest Control** – to control public health/nuisance and other flying insect pests 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** – to control weeds, algae, and pathogens that are pests in water and at water's edge, including ditches and/or canals.
**c.** **Animal Pest Control** –to control animal pests in water and at water's edge. Animal pests in this use category include, but are not limited to fish, lampreys, insects, mollusks, and pathogens.
**d.** **Forest Canopy Pest Control** - application of a pesticide to a forest canopy to control the population of a pest species (e.g., insect or pathogen) where, to target the pests effectively, a portion of the pesticide unavoidably will be applied over and deposited to water.

**e. Agricultural Activities**- application of pesticides to or near waters of the State used in the operation of agricultural activities.

## 2. Activities Exempted

a) Irrigation return flows and agricultural stormwater runoff do not require NJPDES permits, even when they contain pesticides or pesticide residues, as the CWA specifically exempts these categories of discharges from requiring NJPDES permit coverage. Other stormwater runoff is either: (a) already required to obtain NJPDES permit coverage as established in Section 402(p) of the CWA or (b) classified as a non-point source discharge for which NJPDES permit coverage is not required. Stormwater runoff that may contain pesticides would not be eligible for coverage under this permit, and is not required to obtain NJPDES permit coverage unless it was already required to do so prior to the Sixth Circuit decision or NJDEP designates a source for future stormwater permitting.

## 3. Permit by Rule (Does not apply to operators who discharge to Pinelands and FW1 waters)

Operators whose application of pesticides will not exceed one or more of the annual (i.e. calendar year) treatment area thresholds listed in Table 1 below for the "treatment area" as defined in Appendix A, are automatically authorized to discharge after April 9, 2011, in compliance with the requirements of this permit without submission of a Request for Authorization (RFA).

**Table 1. Annual Treatment Area Thresholds**

| PGP Part | Pesticide Use | Annual Threshold |
|---|---|---|
| B.1.a. | Mosquitoes and Other Flying Insect Pests | 640 acres of treatment area[1] |
| B.1.b. | Aquatic Weed and Algae Control: | |
| | -In Water | 20 acres of treatment area[1] |
| | - At Water's Edge: | 20 linear miles of treatment area at water's edge[2] |
| B.1.c. | Aquatic Nuisance Animal Control: | |
| | -In Water | 20 acres of treatment area[1] |
| | - At Water's Edge | 20 linear miles of treatment area at water's edge[2] |
| B.1.d. | Forest Canopy Pest Control | 640 acres of treatment area[1] |
| B.1.e. | Agricultural Activities | 100 acres of treatment area[1] |

**1** Calculations shall include the area of the applications made to surface waters of the State. 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 shall be counted as twenty acres of treatment area.

**2** Calculations shall include the linear extent of the application made at water's edge adjacent to surface waters of the State. For calculating annual treatment totals, count each pesticide application activity and each side of a linear water body as a separate activity or area. For example, treating both sides of a ten mile ditch is equal to twenty miles of water treatment area.

## 4. Activities Not Covered

**a. Discharges to Water Quality Impaired Waters.** You are not eligible for coverage under this permit for any discharges from a pesticide application to surface waters of the State if the water is identified as impaired by that specific pesticide or its degradates. For purposes of this permit, impaired waters are those that have been identified by the Department of Environmental Protection (DEP) pursuant to Section 303(d) of the CWA as not meeting applicable State water quality standards. Impaired waters for the purposes of this permit include both waters with approved or established Total Maximum Daily Loads (TMDLs) and waters for which the DEP has not yet approved or established a TMDL. A list of these waters is available in the Division of Water Quality website at http://www.nj.gov/dep/dwq/gp_surfacewater.htm under Surface Water General Permits.

**b. Endangered and Threatened Plant Species**

It is a condition of this permit that the permittee take all necessary and practicable steps to avoid adverse incidents to the federally listed or candidate New Jersey plant species listed below. Application of pesticides in a manner that results in such adverse incidents is a violation of this permit and a violation of state and/or federal endangered species statutes and subject to applicable penalties.

*Aeschynomene virginica* (sensitive joint-vetch) – Federally threatened
*Amaranthus pumilus* (seabeach amaranth) – Federally threatened
*Helonias bullata* (swamp pink) – Federally threatened
*Isotria medeoloides* (small whorled pogonia) – Federally threatened
*Narthecium americanum* (bog asphodel) – Federal candidate
*Panicum hirstii* (Hirst brothers' panic grass) – Federal candidate
*Rhynchospora knieskernii* (Knieskern's beaked-rush) – Federally threatened
*Schwalbea americana* (American chaffseed) – Federally endangered

**c. Endangered and Threatened Wildlife**

It is a condition of this permit that the permittee take all necessary and practicable steps to avoid adverse incidents to state and federally listed endangered and threatened wildlife. Application of pesticides in a manner that results in such adverse incidents is a violation of this permit and a violation of state and/or federal endangered species statutes and subject to applicable penalties. The list of federally endangered or threatened wildlife species occurring in New Jersey is listed below.

Indiana Bat, *Myotis sodalis*
Black Right, *Whale Balaena glacialis*
Blue Whale, *Balaenoptera musculus*
Fin Whale, *Balaenoptera physalus*
Humpback Whale, *Megaptera novaeangliae*
Sei Whale, *Balaenoptera borealis*
Sperm Whale, *Physeter macrocephalus*
Piping Plover, *Charadrius melodus*

Roseate Tern, *Sterna dougallii*
Bog Turtle, *Glyptemys muhlenbergii*
Atlantic Green Turtle, *Chelonia mydas*
Atlantic Hawksbill, *Eretmochelys imbricata*
Atlantic Leatherback, *Dermochelys coriacea*
Atlantic Loggerhead, *Caretta caretta*
Atlantic Ridley, *Lepidochelys kempi*
Shortnose Sturgeon, *Acipenser brevirostrum*
American Burying Beetle, *Nicrophorus mericanus*
Northeastern Beach Tiger Beetle, *Cincindela d. dorsalis*
Mitchell's Satyr, *Neonympha m. mitchellii*
Dwarf Wedgemussel, *Alasmidonta heterodon*

## C. Authorization to Discharge under This Permit

1. **How to Obtain Authorization.** To obtain authorization under this permit, an operator must:
   - **a.** Seek a permit for a pesticide use pattern identified in Section B.1, and
   - **b.** Submit a complete and accurate RFA. In accordance with Section C, operators who qualify for a permit by rule in accordance with Section B.3 are automatically authorized to discharge after April 9, 2011, in compliance with the requirements of this permit without submission of an RFA.
   - **c.** If you are required to submit an RFA, you shall prepare a Pesticide Discharge Management Plan in accordance with Part IV. F. and Section D below.

2. An RFA provides notice of an operator's intent to be covered under this permit for discharges from its pesticide application. Coverage is for the operator who filed the RFA, including its employees, contractors, subcontractors, and other agents, for all activities identified on the RFA for the duration of this permit unless coverage is terminated. If a submitted RFA is not timely, accurate, or complete, then any employee, contractor, subcontractor or other entity that discharges without the required RFA is not covered by this permit.

3. **Operators Required to Submit a Request for Authorization (RFA).** The following operators are required to submit a RFA to obtain coverage under this general permit for discharges to surface waters of the State resulting from the application of pesticides:
   - **a.** If you are in control over the financing for, or over the decision to perform pest control activities that will result in a discharge and know or reasonably should have known that those activities will exceed one or more of the annual (i.e., calendar year) treatment area thresholds listed in Table 2 below for the "treatment area," as defined in Appendix A, or
   - **b.** If you apply pesticides that result in a discharge and know or reasonably should have known that those activities will exceed one or more of the pesticide application annual (i.e., calendar year) treatment area thresholds listed in Table 2 below for the "treatment area," as defined in Appendix A. To determine whether an entity's activities will exceed one or more of the annual treatment area thresholds, the entity should exclude from its calculation any pesticide

application activities conducted under another entity's RFA required under (a) above or

| Table 2. Annual Treatment Area Thresholds (Does not apply to Pinelands or FW1 waters) | | |
|---|---|---|
| **PGP Part** | **Pesticide Use** | **Annual Threshold** |
| B.1.a. | Mosquitoes and Other Flying Insect Pests | 640 acres of treatment area |
| B.1.b. | Aquatic Weed and Algae Control: | |
| | -In Water | 20 acres of treatment area[1] |
| | - At Water's Edge: | 20 linear miles of treatment area at water's edge[2] |
| B.1.c. | Aquatic Nuisance Animal Control: | |
| | -In Water | 20 acres of treatment area[1] |
| | - At Water's Edge | 20 linear miles of treatment area at water's edge[2] |
| B.1.d. | Forest Canopy Pest Control | 640 acres of treatment area[1] |
| B.1.e. | Agricultural Activities | 100 acres of treatment area[1] |

[1] Calculations shall include the area of the applications made to surface waters of the State. 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 shall be counted as twenty acres of treatment area.

[2] Calculations shall include the linear extent of the application made at water's edge adjacent to surface waters of the State. For calculating annual treatment totals, count each pesticide application activity and each side of a linear water body as a separate activity or area. For example, treating both sides of a ten mile ditch is equal to twenty miles of water treatment area.

If you apply pesticides to waters designated as Pinelands (PL) or FW1, exemption from submission of an RFA based on annual treatment area thresholds do not apply to these waters. You can find the stream designations at http://www.nj.gov/dep/rules/rules/njac7_9b.pdf, on pages 42-113. For your convenience, the NJDEP will include in the individual authorizations the stream designations for those waterbodies that are being regulated by this permit.

4. **Discharge Authorization Date.** Beginning April 9, 2011, you must be covered under a NJPDES permit for discharges to surface waters of the State as a result of the application of a pesticide. Operators are authorized to discharge under this permit consistent with Table 3 below.

| Table 3. Discharge Authorization Date | | |
|---|---|---|
| **I. Category** | **RFA Submittal Deadline** | **Discharge Authorization Date** |
| Operators covered under permit by rule. | Not applicable. | Effective Date of Master General Permit |
| Operators discharging to FW1 and/or PL waters. | At least 30 days prior to commencement of | Effective Date of Permit Authorization (EDPA) |

| | | |
|---|---|---|
| | discharge. | |
| Operators who know or should have reasonably known, prior to commencement of discharge that they will exceed an annual treatment area threshold identified in Table 2 for that year. | At least 30 days prior to commencement of discharge. | Effective Date of Permit Authorization (EDPA) |
| Operators who do not know or would reasonably not know until after commencement of discharge that they will exceed an annual treatment area threshold identified in Table 2 for that year. | At least 30 days prior to exceeding an annual treatment area threshold. | Original authorization terminates when annual treatment area threshold is exceeded. Operator is reauthorized on the EDPA. |

Timing for RFA submittal is based on when an operator is aware or reasonably should be aware through consideration of past experience, planned activities, planning, and other analyses, that it will exceed an annual treatment area threshold during the calendar year, not on the time when the threshold is actually exceeded. For example, many large operators have exceeded the threshold the last several years and have no reason to believe activities will change such that they will not exceed these thresholds in the future. For those operators, RFAs are due prior to commencement of any discharge under this permit.

Late RFAs will be accepted, but authorization to discharge will not be retroactive. RFA submissions must be in accordance with the deadlines specified below.

Based on a review of your RFA or other information, DEP may delay your authorization for further review, or may determine that additional technology-based and/or water quality-based effluent limitations are necessary, or may deny coverage under this permit and require submission of an application for an individual NJPDES permit. Please be advised that the processing time for an individual permit is six (6) months.

**D. Contents of Your Pesticide Discharge Monitoring Plan.** In accordance with Part IV.F, your PDMP must include the following elements:

**1. Pesticide Discharge Management Team**

Identification of team members must include any written agreement(s) between you 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. You must identify all the persons (by name and contact information) that compose the team 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 whether or not a for-hire applicator will be used and when you anticipate that you will identify the applicator.

**2. Pest Management Area Description**

You must document the following:

a. Pest problem description. Document a description of the pest problem at your 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 your pest management area, including a description of how they were determined.
c. General location map. In the plan, include a general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) that identifies the geographic boundaries of the area to which the plan applies and location of the surface waters of the State; and
d. Water quality standards. The water quality standards applicable to this permit are listed in Appendix B.
e. Whether the discharge is to any of the State's impaired waterbodies. A list of the State's impaired waterbodies can be found in the Division of Water Quality website at http://www.nj.gov/dep/dwq/gp_surfacewater.htm under Surface Water General Permits.

**3. Control Measure Description**

You must document your evaluation of control measures for your pest management area. You must document the control measures you will implement to comply with the effluent limitations required in Part IV. Include in the description the active ingredient(s) evaluated.

**4. Schedules and Procedures**

You must document the following schedules and procedures in your PDMP:

**a.** Pertaining to Control Measures Used to Comply with the Effluent Limitations in Part IV. The following must be documented in your PDMP:

**i.** Application Rate and Frequency. Procedures for determining the lowest effective amount of pesticide product per application and the optimum frequency of pesticide applications necessary to control the target pest, consistent with reducing the potential for development of pest resistance;

**ii.** Spill Prevention. 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. Schedules and procedures for maintaining the pesticide application equipment in proper operating condition, including calibrating, cleaning, and repairing the equipment.

**iv.** Pest Surveillance. Procedures and methods for conducting any pre- and/or post application pest surveillance required.

**v.** Assessing Environmental Conditions. Procedures and methods for assessing environmental conditions in the treatment area.

**b.** Pertaining to Other Actions Necessary to Minimize Discharges. The following must be documented in your PDMP:

**i.** Spill Response Procedures – At a minimum you must have:

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 your PDMP team.

Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies.

**ii.** Adverse Incident Response Procedures – At a minimum you must have:

Procedures for responding to any incident resulting from pesticide applications;

Procedures for notification of the incident, both internal to your agency/organization and external. Contact information for state 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 – You must document procedures for monitoring consistent with the requirements in Part IV including:

The process for determining the location of any monitoring;
A schedule for monitoring;
The person (or position) responsible for conducting monitoring; and
Procedures for documenting any observed impacts to non-target organisms resulting from your pesticide discharge.

**5. Signature Requirements**

You must sign, date and certify your PDMP in accordance with Section E.7. below.

## E. General Conditions

### 1. Scope

a. The issuance of this permit shall not be considered as a waiver of any applicable federal, state, and local rules, regulations, permits, and ordinances.

### 2. Permit Renewal Requirement

a. Permit conditions remain in effect and enforceable until and unless the permit is modified, renewed or revoked by the Department.

b. Submit a complete Request for Authorization: 180 days before the Expiration Date.

**3. Notification of Non-Compliance**

a. The permittee shall notify the Department of all non-compliance when required in accordance with N.J.A.C. 7:14A-6.10 by contacting the DEP HOTLINE at 1-877-927-6337 immediately but no later than 2 hours after the permittee becomes aware of the non-compliance.

b. The permittee shall submit a written report as required by N.J.A.C. 7:14A-6.10 within five days.

**4. Operation Restrictions**

a. The pesticide activity resulting in a point source discharge to surface waters of the State shall at no time be conducted in a manner and location, except as specifically authorized by a valid NJPDES permit.

b. The use of a pesticide not listed in the permit is not authorized under this permit. The permittee may request a permit modification in order to obtain authorization to use a pesticide not listed in this permit.

**5. Permit Modification/Transfer/Termination**

a. The permittee may request a permit modification in order to obtain authorization to use a pesticide not listed in this authorization in accordance with N.J.A.C. 7:14A-16.3.

b. This permit may be transferred to another operator in accordance with N.J.A.C. 7:14A-16.2.

c. To terminate permit coverage, an operator who is required to submit a RFA must submit a Request for Revocation (RFR) in accordance with N.J.A.C. 7:14A-16.3. Your authorization to discharge under this permit terminates on the effective date of the Permit Revocation. If you were required to submit annual reports pursuant to Part IV, you must file an annual report for the portion of the year up through the effective date of the permit revocation. The annual report is due no later than 45 days after the effective date of the permit revocation.

d. Operators covered under this permit that are not required to submit a RFA are terminated from permit coverage when they no longer have a discharge from the application of pesticides or their discharge is covered under a NJPDES individual permit or alternative general permit.

**6. Access to Information**

a. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to enter upon a person's premises, for purposes of inspection, and to access/copy any records that must be kept under the conditions of this permit.

**7. Signatory Requirements.**

a. In accordance with N.J.A.C. 7:14A-4.9, all applications, RFAs, reports required by permits shall be signed as follows:

1) For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated activity including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations and ensuring that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

3) For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit or the agency or

4) By a duly authorized representative. A person is a duly authorized representative only if (i) the authorization is made in writing by a person described in 1 through 3 above, (ii) the authorization specifies either an individual or a position whose occupant has the responsibility for the overall operation of the regulated facility or activity or an individual or position whose occupant has overall responsibility for environmental matters for the company and (iii) the written authorization is submitted to the Department.

5) If an authorization under 4 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements above must be submitted to the Department prior to or together with any reports, information, or applications signed by an authorized representative.

6) Any person signing a document under 1 through 4 above shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed

to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for purposely, knowingly, recklessly, or negligently submitting false information."

7) Any person not listed above, please contact the Bureau of Surface Water Permitting at (609) 292- 4860 for information on the applicable signatory requirements.

# PART III
# LIMITS AND MONITORING REQUIREMENTS

Reserved.

# PART IV

# SPECIFIC REQUIREMENTS: NARRATIVE

# Pesticide Application Discharges

## A. TECHNOLOGY BASED EFFLUENT LIMITATIONS

1. To meet the effluent limitations in this Section, you shall implement site-specific control measures that minimize discharges of pesticides to surface waters of the State.

   **a. Minimize Pesticide Discharges to Surface Waters of the State.** All operators, regardless of whether you are required to submit an RFA, shall minimize the discharge of pollutants resulting from the application of pesticides as follows:

   **i.** Use the lowest effective amount of pesticide product per application and optimum frequency of pesticide applications necessary to control the target pest, consistent with reducing the potential for development of pest resistance;

   **ii.** Perform regular maintenance activities to reduce leaks, spills, or other unintended discharges of pesticides associated with the application of pesticides covered under this permit; and

   **iii.** Maintain application equipment in proper operating condition by adhering to any manufacturer's conditions and industry practices, and by calibrating and cleaning, and repairing such equipment on a regular basis to ensure effective pesticide application and pest control. You shall ensure that the equipment's rate of pesticide application is calibrated to deliver the precise quantity of pesticide needed to achieve greatest efficacy against the target pest.

## B. INTEGRATED PEST MANAGEMENT (IPM) PRACTICES

**1.** IPM Practices apply to any operator that is required to submit an RFA, including any pesticide applicator hired by such entity or any other employee, contractor, subcontractor, or other agent. Note: Part IV.E. of this permit requires any operator that is required to submit an RFA to also develop a written Pesticide Discharge Management Plan (PDMP) to document measures taken to meet the effluent limits. The IPM, as described in Section C below, shall be attached to the PDMP, kept at the address specified on the RFA, and made available to the DEP upon request.

**2.** If your 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 Appendix A, you are not required to fully implement IPM Practices for such discharge, but you shall implement IPM to the extent that its requirements do not compromise the research design.

## C. SPECIFIC IPM PRACTICES FOR EACH ACTIVITY

**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 II of this permit.

**a. Identify the Problem**. Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, you shall do the following for each pest management area, as defined in Appendix A:

- **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.** Identify target mosquito or flying insect pest species to develop species-specific pest management strategies based on developmental and behavioral considerations for each species;
- **iii.** Identify known breeding sites for source reduction, larval control program, and habitat management;
- **iv.** Analyze existing monitoring data to identify new or unidentified sources of mosquito or flying insect pest problems as well as sites that have recurring pest problems; and
- **v.** In the event there are no data for your pest management area in the past calendar year, see Part IV.F.3 for documentation requirements regarding why current data are not available and the data you used to meet the permit conditions in Section A.1.a.i.

**b. Pest Management**. Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, you shall 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, you shall evaluate the following management options, considering impact to water quality, impact to non-target organisms, pest resistance, feasibility, and cost effectiveness:

- **i.** No action
- **ii.** Prevention/ Source Reduction
- **iii.** Mechanical or physical methods
- **iv.** Cultural methods/ Education
- **v.** Biological control agents
- **vi.** Pesticides

**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 surface waters of the State, you shall:

- **i.** Conduct larval and/or adult monitoring 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 control activities;
- **iii.** Reduce the impact on the environment and on non-target organisms by applying the pesticide only when the action threshold has been met;
- **iv.** In situations or locations where practicable and feasible for efficacious 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 efficacious control, use adulticides for mosquito or flying insect pest control when adult action thresholds have been met.

**2. Aquatic Weed and Algae Control**

This part applies to discharges from the application of pesticides for aquatic weed and algae control as defined in Part II of this permit.

**a. Identify the Problem.** Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year you shall do the following for each pest management area, as defined in Appendix A:

**i.** Identify areas with aquatic 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 species;

**iii.** Identify possible factors causing or contributing to the weed or algae problem (e.g., nutrients, invasive species, etc);

**iv.** Establish past or present aquatic weed or algae densities to serve as action threshold(s) for implementing pest management strategies; and

**v.** In the event there are no data for your pest management area in the past calendar year, see Part IV.F.3 for documentation requirements regarding why current data are not available and the data you used to meet the permit conditions in Section A.1.a.i. above.

**b. Pest Management.** Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, you shall 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 aquatic weeds or algae. In developing these pest management strategies, you shall evaluate the following management options, considering impact to water quality, impact to nontarget organisms, pest resistance, feasibility, and cost effectiveness:

**i.** No action

**ii.** Prevention

**iii.** Mechanical or physical methods

**iv.** Cultural methods

**v.** Biological Control Agents

**vi.** Pesticides

**c. Pesticide Use.** If a pesticide is selected to manage aquatic weeds or algae and application of the pesticide will result in a discharge to surface waters of the State, you shall:

**i.** Conduct monitoring 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 applying the pesticide only when the action threshold has been met.

**3. Aquatic Nuisance Animal Control**

This part applies to discharges from the application of pesticides for aquatic nuisance animal control as defined in Part II of this permit.

**a. Identify the Problem.** Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, you shall do the following for each pest management area, as defined in Appendix A:

- **i.** Identify areas with aquatic nuisance animal problems and characterize the extent of the problems, including, for example, water use goals not attained
- **ii.** (e.g. wildlife habitat, fisheries, vegetation, and recreation);
- **iii.** Identify target aquatic nuisance animal species;
- **iv.** Identify possible factors causing or contributing to the problem (e.g., nutrients, invasive species);
- **v.** Establish past or present aquatic nuisance animal densities to serve as action threshold(s) for implementing pest management strategies; and
- **vi.** In the event there are no data for your pest management area in the past calendar year, see Part IV. F.3 for documentation requirements regarding why current data are not available and the data you used to meet the permit conditions in Section A.1.a.i. above.

**b. Pest Management.** Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the State, and at least once each year thereafter prior to the first pesticide application during that calendar year, you shall 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 aquatic nuisance animals. In developing these pest management strategies, you shall evaluate the following management options, considering impact to water quality, impact to nontarget organisms, pest resistance, feasibility, and cost effectiveness:

- **i.** No action.
- **ii.** Prevention
- **iii.** Mechanical or physical methods
- **iv.** Biological control agents
- **v.** Pesticides

**c. Pesticide Use.** If a pesticide is selected to manage aquatic nuisance animals and application of the pesticide will result in a discharge to surface waters of the State, you shall:

- **i.** Conduct monitoring prior to each 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.

**4. Forest Canopy Pest Control**

This part applies to discharges from the application of pesticides for forest canopy pest control as defined in Part II of this permit.

**a. Identify the Problem**. Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the State, and at least once each calendar year thereafter prior to the first pesticide application in that calendar year, you shall do the following for each pest management area, as defined in Appendix A:

- **i.** Establish target pest densities to serve as action threshold(s) for implementing pest management strategies;
- **ii.** Identify target species to develop a species-specific pest management strategy based on developmental and behavioral considerations for each species;
- **iii.** Identify current distribution of the target pest and assess potential distribution in the absence of control measures; and
- **iv.** In the event there are no data for your pest management area in the past calendar year, see Part IV. F.3 for documentation requirements regarding why current data are not available and the data you used to meet the permit conditions in Section A.1.a.i. above.

**b. Pest Management.** Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, you shall 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, you shall evaluate the following management options, considering impact to water quality, impact to nontarget organisms, pest resistance, feasibility, and cost effectiveness:

- **i.** No action
- **ii.** Prevention
- **iii.** Mechanical/physical methods
- **iv.** Cultural methods
- **v.** Biological control agents
- **vi.** Pesticides

**c. Pesticide Use.** If a pesticide is selected to manage forestry pests and application of the pesticide will result in a discharge to surface waters of the State, you shall:

- **i.** Conduct monitoring prior to each application to assess the pest management area and to determine when the pest 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 to identify conditions that support target pest development and are conducive for treatment activities.

**5. Agricultural Activities**

This part applies to discharges from the application of pesticides to Surface waters of the State, which are used in the operation of agricultural activities as defined in Part II of this permit.

**a. Identify the Problem**. Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the State, and at least once each calendar year thereafter prior to the first pesticide application in that calendar year, you shall do the following for each pest management area, as defined in Appendix A:

**v.** Establish target pest densities to serve as action threshold(s) for implementing pest management strategies;
**vi.** Identify target species to develop a species-specific pest management strategy based on developmental and behavioral considerations for each species;
**vii.** Identify current distribution of the target pest and assess potential distribution in the absence of control measures; and
**viii.** In the event there are no data for your pest management area in the past calendar year, see Part IV. F.3 for documentation requirements regarding why current data are not available and the data you used to meet the permit conditions in Section A.1.a.i. above.

**b. Pest Management.** Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, you shall 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 pests. In developing these pest management strategies, you shall evaluate the following management options, considering impact to water quality, impact to non-target organisms, pest resistance, feasibility, and cost effectiveness:

**vii.** No action
**viii.** Prevention
**ix.** Mechanical/physical methods
**x.** Cultural methods
**xi.** Biological control agents
**xii.** Pesticides

**c. Pesticide Use.** If a pesticide is selected to manage pests and application of the pesticide will result in a discharge to surface waters of the State, you shall:
**i.** Conduct monitoring prior to each application to assess the pest management area and to determine when the pest action threshold is met that necessitates the need for pest management;
**ii.** Assess environmental conditions (e.g. temperature, precipitation, and wind speed as applicable) in the treatment area to identify conditions that support target pest development and are conducive for treatment activities.

## D. WATER QUALITY BASED EFFLUENT LIMITATIONS

**1.** Your discharge shall be controlled as necessary to meet applicable numeric and narrative State Water Quality Standards.

**2.** If at any time you become aware, or DEP determines, that your discharge causes or contributes to an excursion of applicable State Water Quality Standards, you shall take corrective action as required in Section G below.

## E. SITE MONITORING

**1. Usage Monitoring Requirements for all Pesticide Applicators.**

**a.** You shall monitor the amount of pesticide applied to ensure that you are using the lowest amount to effectively control the pest, consistent with reducing the potential for development of pest resistance.

**b.** You shall also monitor your pesticide application activities to ensure you are performing regular maintenance activities and to ensure that your application equipment is in proper operating condition to reduce the potential for leaks, spills, or other unintended discharge of pesticides to surface waters of the State.

**c.** You shall monitor your pesticide application activities to ensure that the application equipment is in proper operating condition by adhering to any manufacturer's conditions and industry practices, and by calibrating, cleaning, and repairing equipment on a regular basis.

2. **Visual Monitoring Requirements for all Operators.** All operators covered under this permit shall conduct visual monitoring in the area to and around where pesticides are applied for possible and observable adverse incidents, as defined in Appendix A, caused by 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. Visual assessments of the application site shall be performed:
   **a.** During any post-application monitoring or efficacy check that you conduct, if monitoring or an efficacy check is conducted.
   **b.** During any pesticide application, when considerations for safety and feasibility allow.

3. **Additional Visual Monitoring Requirements for Discharges to Waters Designated Pinelands or FW1 waters.** Applicators or operators discharging to Pinelands or FW1 waters on any given calendar day shall choose one of the Pinelands or FW1 waterbodies treated on that day to conduct post application monitoring. The waterbody that received the highest quantity of pesticides shall be the one chosen for post application monitoring in order to check for any adverse effects.

## F. PESTICIDE DISCHARGE MANAGEMENT PLAN

1. This Part applies to any operator required to submit an RFA, as required in Part II. Some sections of the Pesticide Discharge Management Plan (PDMP) will require input from the pesticide applicator. Operators who are not required to submit an RFA are <u>not required to prepare a PDMP</u>.

2. If you are required to submit an RFA, you shall prepare a PDMP for your pest management area. You shall keep the plan up-to-date thereafter for the duration of coverage under this general permit, even if your discharges subsequently fall below the applicable RFA threshold. You shall develop a PDMP consistent with the deadline outlined below.

   **a.** Operators who know or should have reasonably known, prior to commencement of discharge, that they will exceed an annual treatment area threshold identified in Part II for that year <u>shall prepare the PDMP prior to the first pesticide application</u> covered under this permit.
   **b.** Operators who do not know or would reasonably not know until after commencement of discharge, that they will exceed an annual treatment area threshold identified in Part II for that year <u>shall prepare the PDMP prior to exceeding an annual treatment area threshold</u>.

**3.** The PDMP records how you will implement the effluent limitations in Section A and D, including your evaluation and selection of control measures to meet those effluent limitations and minimize discharges. In your PDMP, you may incorporate by reference any procedures or plans in other documents that meet the requirements of this permit. If you rely upon other documents to describe how you will comply with the effluent limitations in this permit, such as a pre-existing integrated pest management (IPM) plan, you shall attach to your PDMP a copy of any portions of any documents that you are using to document your implementation of the effluent limitations. All operators subject to the effluent limitations described above shall implement control measures to satisfy the effluent limitations. This includes the operator who submitted the RFA as well as any employees, contractors, subcontractors, or other agents. The control measures implemented shall be documented and the documentation shall be kept up-to-date.

**4.** Your PDMP shall include the elements specified in Part II. D.

**5. Pesticide Discharge Management Plan Modifications.** You shall modify your PDMP whenever necessary to address any of the triggering conditions for corrective action in Section F. below or when a change in pest control activities significantly changes the type or quantity of pollutants discharged. Changes to your PDMP shall be made before the next pesticide application that results in a discharge, if practicable, or if not, as soon as possible thereafter. The revised PDMP shall be signed and dated in accordance with Part II. E.7.

a. You shall review your PDMP at a minimum once per calendar year and whenever necessary to update the pest problem identified and pest management strategies evaluated for your pest management area.

**6. Pesticide Discharge Management Plan Availability.**
You shall retain a copy of the current PDMP, along with all supporting maps and documents, at the address provided on your RFA. The PDMP and all supporting documents shall be immediately available, upon request, and copies of any of these documents provided, upon request, to DEP or a local agency governing pesticide applications within their respective jurisdictions.

## G. CORRECTIVE ACTION

**1. Situations Requiring Revision of Control Measures.** If any of the following situations occur, you shall review and, as necessary, revise the evaluation and selection of your control measures to ensure that the situation is eliminated and will not be repeated in the future:

**a.** An unauthorized release or discharge associated with the application of pesticides (e.g., spill, leak, or discharge not authorized by this or another NJPDES permit) occurs;
**b.** You become aware, or NJDEP concludes, that your control measures are not adequate/sufficient for the discharge to meet applicable water quality standards;
**c.** You become aware, or NJDEP concludes, that your control measures are not adequate/ sufficient to avoid adverse incidents to state and/or federally listed endangered and threatened plant and wildlife species;
**d.** Any monitoring activities indicate that you failed to:

**i.** Use only the amount of pesticide and frequency of pesticide application necessary to control the target pest, using equipment and application procedures appropriate for this task;

**ii.** 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

**iii.** 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. You shall ensure that the equipment's rate of pesticide application is calibrated to deliver the precise minimum quantity of pesticide needed to achieve greatest efficacy against the target pest.

2. **Corrective Action Deadlines.** If you determine that changes to your control measures are necessary to eliminate any situation identified in Section G.1, such changes shall be made before the next pesticide application that results in a discharge if practicable, or if not, as soon as possible thereafter.

3. **Effect of Corrective Action.** The occurrence of a situation identified in Section G.1 may constitute a violation of the permit. Correcting the situation according to Section G.1 does not absolve you of liability for any original violation. However, failure to comply with Section G.1 constitutes an additional permit violation. DEP will consider the appropriateness and promptness of corrective action in determining enforcement responses to permit violations. DEP or a court 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 Section G.1 if such requirements conflict.

4. **Adverse Incident, Reportable Spills and Leaks, and Other Unpermitted Discharge Documentation and Reporting**

   a. **Adverse Incident, Reportable Spill and Leaks, and Other Unpermitted Discharge Notification**

   If you observe or are otherwise made aware of an adverse incident, as defined in Appendix A, that may have resulted from a discharge from your pesticide application, or a reportable spill or leak established under either 40 CFR Part 110, 117, or 302 occurs, or any other unpermitted discharge you shall immediately notify the DEP Hotline at 1-877-WARN-DEP. This notification shall be made by telephone immediately but no later than 2 hours of you becoming aware of the adverse incident and shall include at least the following information:

   **i.** The caller's name and telephone number;
   **ii.** Operator name and mailing address;
   **iii.** If you received a General Permit Authorization , the NJPDES permit number;
   **iv.** The name and telephone number of a contact person, if different than the person providing the 24-hour notice;
   **v.** How and when you became aware of the adverse incident, spill, leak, or other unpermitted discharge;
   **vi.** Description of the location of the adverse incident, spill, leak, or other unpermitted discharge;

**vii.** Description of the adverse incident, spill, leak, or other unpermitted discharge identified, and the pesticide product name, formulation, EPA pesticide registration number, and amount for each product that was applied, spilled, leaked, or discharged in the affected area; and

**viii.** Description of any steps you have taken or will take to correct, repair, remedy, cleanup, or otherwise address any adverse effects.

**b.** If you are unable to notify DEP within 2 hours, you shall do so as soon as possible and also provide your rationale for why you were unable to provide such notification within 2 hours. The adverse incident notification and reporting requirements are in addition to what the registrant is required to submit under FIFRA section 6(a)(2) and its implementing regulations at 40 CFR Part 159. Reporting of adverse incidents is not required under this permit in the following situations:

**i.** You are aware of facts that clearly establish that the adverse incident was not related to toxic effects or exposure from the pesticide application when applied according to label directions.

**ii.** You have been notified in writing by the DEP that the reporting requirement has been waived for this incident or category of incidents.

**iii.** You receive information notifying you of an adverse incident but that information is clearly erroneous.

**5. Ten (10) Day Adverse Incident, Reportable Spill or Leak, or Other Unpermitted Discharge Written Report.** Within ten (10) business days of an adverse incident, reportable spill or leak, or other unpermitted discharge pursuant to Section G.4.a., you shall provide a written report of the incident to the Bureau of Pesticide Operations at the address listed in Section I. You shall report adverse incidents even for those instances when the pesticide labeling states that adverse effects may occur. Your incident report shall include at least the following information:

**a.** Information required to be provided in Section G.4.a;
**b.** Date and time you contacted DEP notifying the Department of the incident and who you spoke with at DEP and any instructions you received from DEP;
**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 incident including species affected, estimated number of individual and approximate size of dead or distressed organisms;
**e.** Magnitude and scope of the effected 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, and name of pesticide product, formulation, description of pesticide ingredients, amount applied, and EPA registration number;
**g.** Description of the habitat and the circumstances under which the 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, and provide a summary of the test results within 5 days after they become available;

**i.** If applicable, explain why you believe the incident could not have been caused by exposure to the pesticide;
**j.** Summary of corrective action taken or to be taken including date initiated and date completed or expected to be completed;
**k.** Actions to be taken to prevent recurrence of adverse incident, spill or leak, or other unpermitted discharge; and
**l.** Signed and dated in accordance with Part II.E.7.

## H. RECORDKEEPING AND ANNUAL REPORTING

### 1. Recordkeeping

You shall keep written records as required in this permit. These records shall be accurate and complete and sufficient to demonstrate your compliance with the conditions of this permit. You 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.

DEP recommends that all operators covered under this permit keep records of acres or linear miles treated for all applicable use patterns covered under this general permit. The records should be kept up-to-date to help you determine if you will meet the annual treatment area threshold during any calendar year.

**a.** All operators shall keep the following records:
**i.** A copy of this permit (an electronic copy is also acceptable);
**ii.** A copy of any Adverse Incident Reports;
**iii.** Your rationale for any determination that reporting of an identified adverse incident is not required consistent with allowances identified in Section G.4.b;
**iv.** A copy of any corrective action documentation.

**b.** This part applies to any entity required to submit an RFA and to any pesticide applicator hired by such entity to perform activities covered under this permit. Records listed below are required to be kept at the address provided on the RFA. Records of equipment maintenance and calibration are to be maintained only by the entity performing the pest application activity (on behalf of self or client).

**i.** A copy of the RFA submitted to DEP, any correspondence exchanged between you and DEP specific to coverage under this permit, and a copy of the Pesticide General Permit Authorization (PGPA);
**ii.** The date on which you knew or reasonably should have known that you would exceed an annual treatment area threshold during any calendar year, as identified in Part II;
**iii.** Monitoring method(s) used, date(s) of monitoring activities, and findings of monitoring;
**iv.** Target pest(s);
**v.** Pest density prior to pesticide application;
**vi.** Company name and contact information for pesticide applicator
**vii.** Pesticide application date(s);
**viii.** Description of treatment area, including location and size (acres or linear feet) of treatment area and identification of any waters, either by name or by location, to which you discharged any pesticide(s);
**ix.** Name of each pesticide product used including the EPA registration number;

**x.** Quantity of pesticide applied (and specify if quantities are for the pesticide product as packaged or as formulated and applied)
**xi.** Concentration (%) of active ingredient in formulation;
**xii.** For pesticide applications directly to waters, the effective concentration of active ingredient required for control;
**xiii.** Any unusual or unexpected effects identified to non-target organisms
**xiv.** Documentation of any equipment cleaning, calibration, and repair (to be kept by pesticide application equipment operator);
**xv.** A copy of your PDMP, including any modifications made to the PDMP during the term of this permit.

**c.** All required records shall be documented as soon as possible but no later than 14 days following completion of such activity. You shall retain any records required under this permit for at least 5 years from the date that your coverage under this permit expires or is terminated. You shall make available to DEP, including an authorized representative of DEP, all records kept under this permit upon request and provide copies of such records, upon request.

**2. Annual Reporting:** If you are required to submit an RFA and you reported an adverse incident(s) in the previous calendar year as described in Part IV. G.4.a, you shall submit an annual report to NJDEP. You shall submit the annual report to the Bureau of Surface Water Permitting at the address specified in Section I. below. You shall submit the annual report to no later than February 15 of the following year (and retain a copy for your records), which includes the following:

**a.** Operator's name
**b.** NJPDES permit number(s)
**c.** Contact person name, title, e-mail address (if any), and phone number
**d.** A summary report of all adverse incidents that occurred during the previous calendar year; and
**e.** A summary of any corrective actions, including spill responses, in response to adverse incidents, and the rationale for such actions.

**3. Annual Reporting Requirements for Discharges to Waters Designated as Pinelands or FW1:** Operators discharging to Pinelands or FW1 waters shall submit an annual report to the Bureau of Surface Water Permitting at the address specified in Section I below no later than February 15 of the following year that includes all the items in number 2 above, if applicable, including the following:

**a.** Brief description of what was observed at the post application monitoring, including the location, date, and time.

## I. DEP CONTACT INFORMATION AND MAILING ADDRESSES

**a.** Bureau of Surface Water Permitting
Mail Code 401-02B
P.O. Box 420
Trenton, NJ 08625-0420
(609) 292-4860

**b.** Bureau of Pesticide Operations
P.O. Box 420
Trenton, NJ 08625-0420
(609) 984-6507

# APPENDIX A
# Definitions, Abbreviations, and Acronyms

**This is to supplement the Definitions, Abbreviations, and Acronyms specified at N.J.A.C. 7:14A-1.1 and 1.2.**

## A.1. DEFINITIONS

**Action Threshold** – A point at which pest populations or environmental conditions indicate that pest control action must be taken. Action thresholds help determine both the need for control actions and the proper timing of such actions.

**Active ingredient –** any substance (or group of structurally similar substances if specified by the Agency) 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]

**Adverse incident** – means an incident which you have observed upon inspection or of which you 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 a water 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 either directly or indirectly from a discharge to waters of the State which are temporally and spatially related to exposure to a pesticide residue (e.g., vomiting, lethargy).

**Biological Control Agents** – These agents are organisms which can be introduced to your sites, such as herbivores, predators, parasites, and hyperparasites. [Source: US FWS IPM Guidance, 2004]

**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 dessicant, that (1) is a eucaryotic microorganism including, but not limited to, protozoa, algae, and fungi; (2) is a procaryotic microorganism, including, but not limited to, Eubacteria and Archaebacteria; or (3) is a parasitically replicating microscopic element, including but not limited to, viruses. [40 CFR 158.2100(a)] Biochemical pesticide mean 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 pesticides, 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). [40 CFR 158.2000(a)] 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. [40 CFR 174.3]

**Chemical pesticides** – all pesticides not otherwise classified as biological pesticides.

**Control Measure** – refers to any BMP or other method used to meet the effluent limitations to minimize the discharge of pollutants to waters of the State.

**Cultural Methods** - manipulation of the habitat to increase pest mortality by making the habitat less suitable to the pest.

**Approved or Established Total Maximum Daily Loads (TMDLs)** – "Approved TMDLs" are those that are developed by a State and approved by EPA. "Established TMDLs" are those that are finalized by the State and submitted to EPA for approval.

**Establishment** – generally a single physical location where business is conducted or where services or industrial operations are performed (e.g., factory, mill, store, hotel, movie theater, mine, farm, airline terminal, sales office, warehouse, or central administrative office).

**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).

**Herbicides –** kill weeds and other plants that grow where they are not wanted. The use patterns associated with this pesticide may include aquatic weed and algae control, forest canopy pest control, and aquatic agricultural activities.

**Hydrologic Unit Code (or HUC) -** The United States is divided and sub-divided into successively smaller hydrologic units which are classified into four levels: regions, sub-regions, accounting units, and cataloging units. The hydrologic units are arranged within each other, from the smallest (cataloging units) to the largest (regions). Each hydrologic unit is identified by a unique hydrologic unit code (HUC) consisting of two to eight digits based on the four levels of classification in the hydrologic unit system. (http://water.usgs.gov/GIS/huc.html)

**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 by NJDEP pursuant to Section 303(d) of the Clean Water Act as not meeting applicable State water quality standards (these waters are called "water quality limited segments" under 40 CFR 30.2(j)). Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established.

**Inert Ingredient -** any substance (or group of structurally similar substances if designated by the Agency), other than an active ingredient, which is intentionally included in a pesticide product. [40 CFR 152.3] 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. [40 CFR 174.3]

**Insecticides**- kill insects and other arthropods. The use patterns associated with this discharge may include mosquito and other flying insect pest control, aquatic nuisance animal control, forest canopy pest control, and aquatic agricultural activities.

**Integrated Pest Management** – is an effective and environmentally sensitive approach to pest management that relies on a combination of common-sense practices. IPM uses 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.

**Mechanical/Physical Methods -** mechanical tools, or physical alterations of the environment, for pest prevention or removal.

**Minimize -** to reduce and/or eliminate pesticide discharges to waters of the State through the use of control measures and to the extent technologically available and economically practicable and achievable.

**Near** – for the purposes of this permit, on an embankment leading to or within three feet from surface waters of the State.

**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.

**Operator** – any entity involved in the application of a pesticide that results in a discharge to surface waters of the State that meets either of the following two criteria:

(i) The entity has control over the financing for, or the decision to perform pesticide applications that result in discharges, including the ability to modify those decisions; or

(ii) The entity has day-to-day control of or performs activities that are necessary to ensure compliance with the permit (e.g., they are authorized to direct workers to carry out activities required by the permit or perform such activities themselves).

**Outstanding National Resource Waters –** means high quality waters that constitute an outstanding national resource (for example, waters of National/State Parks and Wildlife Refuges and waters of exceptional recreational or ecological significance). Waters classified as FW1 waters and Pinelands waters (PL) are Outstanding National Resource Waters.

**Permittee –** For the purposes of this permit, the permittee is the same as operator.

**Person –** an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

**Pest** – Consistent with 40 CFR 152.5, 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 (as defined in Federal Food, Drug, and Cosmetic Act (FFDCA) sec. 201(g)(1)) and cosmetics (as defined in FFDCA sec. 201(i)).

**Pest Management Area** – The area of land, including any water, which you are responsible for pest management.

**Pesticide** – means (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, except that the term ‘‘pesticide’’ shall not include any article that is a ‘‘new animal drug’’ within the meaning of section 201(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(w)), that has been determined by the Secretary of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of section 201(x) of such Act (21 U.S.C. 321(x)) bearing or containing a new animal drug. The term ‘‘pesticide’’ does not include liquid chemical sterilant products (including any sterilant or subordinate disinfectant claims on such products) for use on a critical or semi-critical device, as defined in section 201 of the FFDCA (21 U.S.C. 321). For purposes of the preceding sentence, the term ‘‘critical device’’ includes any device which is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body and the term ‘‘semi-critical device’’ includes any device which contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body. [FIFRA Section 2(u)]

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).

Note: 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. Biological control agents, except for certain microorganisms, are exempted from regulation as pesticides under FIFRA. (Biological control agents include beneficial predators such as birds or ladybugs that eat insect pests, parasitic wasps, fish, etc).

*This permit uses the term “pesticide” when referring to the “pesticide, as applied.” When referring to the chemical in the pesticide product with pesticidal qualities, the permit uses the term “active ingredient.”*

**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.

**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 (experimental development). These types of activities are generally categorized under the four-digit code of 5417 under the 2007 NAICS.

**Pesticide Residue** – includes that portion of a pesticide application that is discharged from a point source to waters of the State and no longer provides pesticidal benefits. It may include the pesticide and its degradates of the pesticide.

**Pollutant –** In addition to the definition provided in N.J.A.C. 7:14A-1.2, for purposes of this permit, a "biological pesticide" is considered a "biological material," and any "pesticide residue" resulting from use of a "chemical pesticide" is considered a "chemical waste."

**Surface Water** - means water at or above the land's surface which is neither ground water or contained within the unsaturated zone, including, but not limited to, the ocean and its tributaries, all springs, streams, rivers, lakes, ponds, wetlands, and artificial waterbodies.

**Target Pest** – the organism toward which pest control measures are being directed.

**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.

**Water Quality Impaired** – See 'Impaired Water'.

**"You" and "Your"** – as used in this permit are intended to refer to the operator, or the discharger as the context indicates and that party's activities or responsibilities.

## A.2. ABBREVIATIONS AND ACRONYMS

ESA – Endangered Species Act
FFDCA- Federal Food, Drug, and Cosmetic Act
FIFRA – Federal Insecticide, Fungicide, and Rodenticide Act, 7 USC 136 et seq.
HUC – Hydrologic Unit Code
IPM – Integrated Pest Management

NPDES – National Pollutant Discharge Elimination System
NRC – National Response Center
PDMP – Pesticide Discharge Management Plan

PGP Surface Water Criteria Chart

| Parameter | Fresh Water (µg/L) | Saline Water (µg/L) |
|---|---|---|
| Phosphorus, Total (for Lakes) | 0.05 mg/L | -- |
| Phosphorus, Total (for Streams) | 0.1 mg/L | -- |
| Aldrin | | 1.3 |
| Gamma-BHC (Lindane) | 0.95 | 0.16 |
| Chlordane | 2.4 | 0.09 |
| Chlorpyrifos | 0.083 | 0.011 |
| 4,4'-DDT | 1.1 | 0.13 |
| Dieldrin | 0.24 | 0.71 |
| Endosulfans (alpha and beta) | 0.22 | 0.34 |
| Endrin | 0.86 | 0.037 |
| Heptachlor | 0.52 | 0.053 |
| Heptachlor Epoxide | 0.52 | 0.053 |
| Parathion | 0.065 | -- |
| Toxaphene | 0.73 | -- |
| Copper, Dissolved (with hardness of 50 mg/L) | 6.6 | 4.8 |
| Copper, Dissolved (with hardness of 100 mg/L) | 12.7 | 4.8 |
| Copper, Dissolved (with hardness of 150 mg/L) | 18.67 | 4.8 |
| Copper, Dissolved (with hardness of 200 mg/L) | 24.4 | 4.8 |
| Copper, Dissolved (Newark Bay, Raritan Bay, Arthur Kill, Kill Van Kull, saline portions of the Passaic, Hackensack and Hudson Rivers and saline portions of tributaries to all of these waters) | -- | 7.9 |

# State of New Jersey
# Department of Environmental Protection
# Division of Water Quality

## NEW JERSEY POLLUTANT DISCHARGE ELIMINATION SYSTEM
## Pesticide General Permit (NJ0178217)
## REQUEST FOR AUTHORIZATION

## 1. OPERATOR IDENTIFICATION

Name _____

Mailing Address _____

City or Town _____ State _____ Zip Code _____

Federal Tax I.D.# _____ Telephone (  ) _____

Fax (  ) _____ E-Mail _____

Contact Name (include telephone & email, if different) _____

## 2. WATERBODY DESCRIPTION

Type(s) (Ex.: Lake/Pond/Stream/Wetland) _____

Waterbody(ies) (If more than 5, or aerial spray, do not list individually but specify counties/municipalities) _____

_____

_____

County(ies) _____ Municipality(ies) _____

Total Estimated Treatment Area

-Acres (If over 6400 acres including multiple applications per site per calendar year) _____

-Linear Miles (If over 20 linear miles regardless of number of applications per calendar year) _____

## 3. PESTICIDE USE PATTERN(S)

Choose all patterns to be used (See the general permit, Part 2, Section B.1.):

☐ Mosquito and Other Flying Insect Pest Control

☐ Aquatic Weed and Algae Control

☐ Aquatic Nuisance Animal Control

☐ Forest Canopy Pest Control

☐ Agricultural Activities In Waters of the State (Aquatic Agricultural Activities)

☐ Utility Transmission and Distribution Line Vegetation Control if:
1) the aquatic pesticide permit is required and
2) multiple applications per calendar year are more than 20 linear miles

## 4. PESTICIDE(S)

List all pesticides to be used: _____

_____

_____

## 5. CERTIFICATION OF FIFRA COMPLIANCE

"I certify under penalty of law that I will apply pesticides in accordance with all other applicable federal, state, local laws and regulations that pertain to the application of pesticides, including but not limited to the following: Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)."

_____ _____ _____
Operator Signature Date Print or Type: Name

_____
Print or Type: Position

## 6. CERTIFICATION BY OPERATOR

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for purposely, knowingly, recklessly, or negligently submitting false information."

_____ _____ _____
Operator Signature Date Print or Type: Name

_____
Print or Type: Position