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**GENERAL PERMIT FOR DISCHARGES FROM THE APPLICATION OF PESTICIDES**

**GENERAL DISCHARGE PERMIT NO. 11PE**

**NPDES PERMIT NO. MDG87**

**Effective Date: October 31, 2011**

**Expiration Date: October 30, 2016**

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## **Part I. PERMIT ELIGIBILITY AND COVERAGE**

Pursuant to the provisions of Title 9 of the Environment Article, Annotated Code of Maryland, and the provisions of the Clean Water Act, 33 U.S.C. §1251 et seq. and implementing regulations, the Department of the Environment hereby authorizes discharges to waters of the State from the application of pesticides by operators regulated under this permit according to its conditions.

### **A. Persons Covered**

This permit covers operators (see Definitions) located in the State of Maryland involved in the application of a pesticide that results in an eligible discharge to waters of the State.

### **B. Eligible Discharges**

This permit covers discharges to State waters 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:

1. Mosquito and Other Flying Insect Pest Control. These are applications 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.
2. Weed, Algae, and Pathogen Control. These are applications to control invasive or other nuisance weeds, algae, or pathogens in water and at water's edge, including public drainage ditches and/or roadside ditches.
3. Nuisance Animal Control. These are applications to control invasive or other nuisance animals in water and at water's edge. Nuisance animals in this use category include, but are not limited to fish and mollusks.
4. Forest Canopy Pest Control. These are aerial applications of a pesticide over or ground-based applications onto 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.

### **C. Ineligible Discharges**

The following discharges are not covered under this general permit:

1. Weed (other than wetland species such as phragmites), algae, or pathogen control applications in tidal waters;
2. Applications to Tier III waters by other than federal, State, or local natural resource management agencies or operators contracting for such;
3. Weed, algae or pathogen control and nuisance animal control in industrial or publicly-owned treatment works (such application shall be regulated by the wastewater discharge permits for such facilities);

Any discharges from a pesticide application to waters of the State if the water is identified as impaired by that pesticide or its degradates. Before commencing an application at a new location, the operator shall view the list of impaired water bodies in Maryland at

<http://www.mde.maryland.gov/programs/water/tmdl/integrated303dreports/pages/303d.aspx> .

If the proposed discharge would not be eligible under this permit because the water is listed as impaired for that specific pesticide, but the operator has evidence that shows the water is no longer impaired, the operator may submit this information to the Department for a decision as to whether coverage be allowed under this permit; and

4. Weed, algae or pathogen control, insect larva control, and nuisance animal control for which a State toxic material permit has been denied.

**D. State Requirements**

Compliance with this general permit does not supersede the need to comply with any more stringent individual requirements imposed by the Department, including instances where the Department prohibits or limits a specific application.

**E. Alternative Coverage under an Individual Permit**

1. If a permittee is determined to cause an in-stream exceedance of water quality standards, additional actions or an application for an individual permit may be required by the Department.
2. The Department may require any person authorized by this permit to apply for and obtain an individual State or State/NPDES discharge permit if there is evidence indicating potential or realizable impacts on water quality due to any activity covered by this permit. If the owner or operator fails to submit an application for an individual State or State/NPDES discharge permit as required by the Department under this condition, the coverage of the above activity under this permit is automatically terminated at the end of the day specified by the Department for submission of the permit application.
3. Any person authorized by this permit may request that a specific pesticide application be excluded from coverage under this permit by applying for an individual State or State/NPDES discharge permit. The request may be granted by issuing an individual State or State/NPDES discharge permit if the reasons cited by the operator are adequate to support the request.
4. When an individual State or State/NPDES discharge permit is issued to a person for the a specific discharge covered under this permit, the applicability of this general permit to that discharge is automatically terminated on the effective date of the individual State or State/NPDES discharge permit.
5. If a pesticide application otherwise covered under this permit is denied an individual State or State/NPDES discharge permit, the denial automatically terminates, on the date of the denial, the specific pesticide application's coverage under this general permit, unless otherwise specified by the Department.
6. The Department may terminate coverage under this general permit for an existing pesticide application if the Department finds that:
  - a. Conditions or requirements of the discharge permit have been or are about to be violated;
  - b. Substantial deviation from plans, specifications or requirements has occurred;

- c. The Department has been refused entry to the treatment site for an inspection to insure compliance with the conditions of the discharge permit;
- d. A change in conditions exists that requires temporary or permanent reduction or elimination of the permitted discharge;
- e. Any other good cause exists for denying coverage under this permit.

**F. Authorization to Discharge under This Permit**

Persons are not required to submit a registration statement to apply for coverage under this permit. Operators meeting the eligibility provisions under Part I are automatically authorized to discharge after April 9, 2011, in compliance with the requirements of this permit.

**G. Continuation of an Expired General Permit**

The terms and conditions of this permit are automatically continued and remain fully effective and enforceable upon expiration of this permit until the date(s) specified under a reissued general permit unless the permit or authorization is revoked or terminated by the Department.

**H. Requirements for a Pesticide Management Plan**

Operators applying pesticides are required to maintain a Pesticide Discharge Management Plan (PDMP) if they exceed the annual treatment area thresholds in Table 1 below:

| Table 1. Annual Treatment Area Thresholds |  |  |
|---|--|--|
|   | Pesticide Use                            | Annual Threshold   |
|   | Mosquitoes and Other Flying Insect Pests | 6,400 acres of treatment area <sup>1</sup>                     |
|   | Weed, Algae, and Pathogen Control:       |  |
|   | - In Water                               | 80 acres of treatment area <sup>2</sup>                        |
|   | - At Water's Edge:                       | 20 linear miles of treatment area at water's edge <sup>3</sup> |
|   | Nuisance Animal Control:                 |  |
|   | - In Water                               | 80 acres of treatment area <sup>2</sup>                        |
|   | - At Water's Edge                        | 20 linear miles of treatment area at water's edge <sup>3</sup> |
|   | Forest Canopy Pest Control               | 6,400 acres of treatment area <sup>1</sup>                     |

<sup>1</sup> For calculating annual treatment area totals, count each pesticide application activity as a separate activity. For example, applying pesticides twice a year to a ten-acre site should be counted as twenty acres of treatment area.

<sup>2</sup> Calculations should include the area of the applications made to: (1) waters of the State and (2) conveyances with a hydrologic surface connection to waters of the State at the time of pesticide application. For calculating annual treatment area totals, count each treatment area once, regardless of how many applications are performed to that area.

<sup>3</sup> Calculations should include the linear extent of the application made at water's edge adjacent to: (1) waters of the State and (2) conveyances with a hydrologic surface connection to waters of the State at the time of pesticide application. For

calculating annual treatment totals, count each treatment area once, regardless of how many applications are performed to that area and count each side of a linear water body (other than a ditch) as a separate activity or area. For example, treating both sides of a ten-mile stream is equal to twenty miles of water treatment area.

“Annual” shall refer to the calendar year, and that includes the year in which this permit is issued.

If multiple operators are associated with an application (for example, a decision-maker and a licensed applicator), each person shall count that application in their individual tally.

#### **I. Duty to Comply**

For any pesticide application, all persons meeting the definition of “operator” in Part II.BB are together responsible for compliance with this permit, unless there is a written agreement between those persons assigning all or partial responsibility. Operators shall comply with Part III Special Conditions A, B, C, D, and J of this permit beginning no later than 90 calendar days after the effective date of this permit.

#### **Part II. DEFINITIONS**

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

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

- a. Distressed or dead juvenile and small fishes
- b. Washed up or floating fish
- c. Fish swimming abnormally or erratically
- d. Fish lying lethargically at water surface or in shallow water
- e. Fish that are listless or nonresponsive to disturbance
- f. Stunting, wilting, or desiccation of non-target submerged or emergent aquatic plants
- g. 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 or wildlife (e.g., vomiting, lethargy) that occur either directly or indirectly from a discharge to waters of the State. that are temporally and spatially related to exposure to a pesticide residue.

- D. **“Best Management Practices (BMPs)”** means examples of control measures that may be implemented to meet effluent limitations. These include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to minimize the discharge of pollutants to waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control spillage or leaks, waste disposal, or drainage from raw material storage.
- E. **“Biological Control Agents”** means organisms that can be introduced to sites, such as herbivores, predators, parasites, and hyperparasites.
- F. **“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 Archaeobacteria; or (3) is a parasitically replicating microscopic element, including but not limited to, viruses. [40 CFR 158.2100(b)] 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)(1)] 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.
- G. **“CFR”** means Code of Federal Regulations.
- H. **“COMAR”** means Code of Maryland Regulations.
- I. **“Chemical Pesticides”** means to all pesticides not otherwise classified as biological pesticides.
- J. **“Control Measure”** means any BMP or other method used to meet the effluent limitations. Control measures must comply with manufacturer specifications, industry standards and recommended industry practices related to the application of pesticides, and relevant legal requirements. Additionally, control measures could include other actions that a prudent operator would implement to reduce and/or eliminate pesticide discharges to waters of the State to comply with the effluent limitations in this permit.
- K. **“Cultural Methods”** means manipulation of the habitat to increase pest mortality by making the habitat less suitable to the pest.
- L. **Declared Pest Emergency Situation** means an event defined by a public declaration by a federal agency, state, or local government of a pest problem determined to require control

through application of a pesticide beginning less than ten days after identification of the need for pest control. This public declaration may be based on:

1. Significant risk to human health;
2. Significant economic loss; or
3. Significant risk to:
  - a. Endangered species,
  - b. Threatened species,
  - c. Beneficial organisms, or
  - d. the environment.

- M. “Department”** means the Maryland Department of the Environment.
- N. “Discharge”** means, when used without qualification, the "discharge of a pollutant."
- O. “Federal Act”** means the federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), its amendments, and all rules and regulations adopted under the Act.
- P. “Facility or Activity”** means any NPDES “point source” (including land or appurtenances thereto) that is subject to regulation under the NPDES program.
- Q. “Federal Facility”** means any buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned, operated, or leased by, or constructed or manufactured for the purpose of leasing to, the federal government.
- R. “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).
- S. “General permit”** means a discharge permit issued for a class of dischargers.
- T. “Impaired Water”** means a body of water whose quality does not meet its designated use(s). For purposes of this permit ‘impaired’ refers to threatened and impaired waters:
1. For which TMDLs have been established,
  2. For which existing controls such as permits are expected to resolve the impairment, or
  3. For which a TMDL is required.
- Impaired waters compilations are also sometimes referred to as §303(d) lists, and are included in the Integrated Report of Surface Water Quality in Maryland as parts F4 and F5, found at <http://www.mde.maryland.gov/programs/water/tmdl/integrated303dreports/pages/303d.aspx>
- U. “Includes” or “including”** means includes or including by way of illustration and not by way of limitation.
- V. “Inert Ingredient”** means any substance (or group of structurally similar substances if designated by the Agency), other than an active ingredient, that 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.

- W. “Mechanical/Physical Methods”** means mechanical tools or physical alterations of the environment, for pest prevention or removal.
- X. “Minimize”** means to reduce and/or eliminate pesticide discharges to waters of the State through the use of “control measures” to the extent technologically available and economically practicable and achievable.
- Y. “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.
- Z. “NPDES permit”** means a National Pollutant Discharge Elimination System permit issued under the federal Clean Water Act.
- AA. “Operator”** means any entity involved in the application of a pesticide that results in a discharge to waters of the State that meets either or both of the following two criteria:
1. The person 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
  2. The person 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).
- BB. “Permittee”** means the person holding a permit.
- CC. “Person”** means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind, and any partnership, firm, association, corporation, or other entity. Person includes the federal government, this State, any county, municipal corporation or other political subdivision of this State or any of their units.
- DD. “Pest”** means, consistent with 40 CFR 152.5, any organism under circumstances that make it deleterious to man or the environment, if it is:
1. Any vertebrate animal other than man;
  2. 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;
  3. 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
  4. 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 FFDCa sec. 201(g)(1)) and cosmetics (as defined in FFDCa sec. 201(i)).
- Any organism classified as endangered, threatened, or otherwise protected under federal or state laws is excluded from this definition.
- EE. “Pest Management Area”** means the area of land, including any water, for which a person is conducting pest management activities covered by this permit.
- FF. “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 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). For purposes of the preceding sentence, the term "critical device" includes any device that 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 that 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 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."

**GG. "Pesticide Product"** means 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.

**HH. "Pesticide Research and Development"** means 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.

**II. "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 also includes any degradates of the pesticide.

**JJ. "Point source"** means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff. [40 CFR 122.2]

**KK. “Pollutant”** means, for the purpose of this permit, biological pesticides and any pesticide residue resulting from use of a chemical pesticide.

**LL. “Target Pest”** means the organism toward which pest control measures are being directed.

**MM. “Treatment Area”** means 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 or stream (other than a ditch) is equal to ten miles of treatment area. Treating five miles of shoreline, coast, or a ditch would equal a five-mile treatment area.

**NN. “State discharge permit”** means a discharge permit issued under the Environment Article, Title 9, Subtitle 3, Annotated Code of Maryland.

**OO. “Total Maximum Daily Loads (TMDLs)”** means a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources.

**PP. “Waters of the State”** includes:

1. Surface waters within the boundaries of the State of Maryland subject to its jurisdiction, including that part of the Atlantic Ocean within the boundaries of this State, the Chesapeake Bay and its tributaries, and all ponds, lakes, rivers, streams, tidal and nontidal wetlands, public ditches, tax ditches, and public drainage systems within this State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and
2. The flood plain of free-flowing waters determined by the Department on the basis of the 100-year flood frequency.

### **Part III. SPECIAL CONDITIONS**

#### **A. Technology-based Limits**

To meet the effluent limitations in this permit, the operator must implement site-specific control measures that minimize discharges of pesticides to waters of the State. The terms “minimize” and “control measure” are defined in Part II.

1. **Minimize Pesticide Discharges to Waters of the State.** All operators must minimize the discharge of pollutants resulting from the application of pesticides. All operators must also do the following:

- a. Use the optimum 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;
  - b. Perform regular maintenance activities to reduce leaks, spills, or other unintended discharges of pesticides associated with the application of pesticides covered under this permit; and
  - c. Maintain pesticide application equipment in proper operating condition by adhering to any manufacturer's conditions and industry practices, and by calibrating, cleaning, and repairing such equipment to ensure effective pesticide application and pest control as well as to reduce leaks, spills, or other unintended discharges.
2. Pest management measures that minimize pesticide discharges to State waters. The operator shall implement pest management practices to ensure that discharges resulting from the application of pesticides to State waters are minimized. Operators that exceed the annual treatment area thresholds established in Part I.H are also required to maintain a Pesticide Discharge Management Plan (PDMP) in accordance with Part III.D of this permit. The PDMP documents the operator's pest management practices.

If the discharge of pollutants results from the application of a pesticide that is being used solely for the purpose of "pesticide research and development," as defined in Part II, the operator is not required to fully implement this requirement for such discharge, but the operator still must implement this requirement to the extent that its requirements do not compromise the research design.

The operator's pest management practices shall consider the following for each pesticide use pattern:

- a. 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.
  - i.) Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, the operator shall consider the following for each pest management area:

Establish densities for larval and adult mosquito or flying insect pest populations to serve as action thresholds for implementing pest management strategies;

Identify target mosquito or flying insect pest species to develop species-specific pest management strategies based on developmental and behavioral considerations for each species;

Identify known breeding sites for source reduction, larval control program, and habitat management; and

Analyze existing surveillance data to identify new or unidentified sources of mosquito or flying insect pest problems as well as sites that have recurring pest problems.

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

No action  
Prevention  
Mechanical or physical methods  
Cultural methods  
Biological control agents  
Pesticides

- iii.)* Pesticide Use. If a pesticide is selected to manage mosquitoes or flying insect pests and application of the pesticide will result in a discharge to waters of the State, the operator shall:

Conduct larval and/or adult surveillance prior to each pesticide application to assess the pest management area and to determine when action threshold(s) are met that necessitate the need for pest management;

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;

Reduce the impact on the environment and on non-target organisms by applying the pesticide only when the action threshold has been met;

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

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.

- b. Weed, Algae, and Pathogen Control. This part applies to discharges from the application of pesticides for weed, algae, and pathogen control.

- i.)* Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the State, and at least once each calendar year thereafter prior to the first pesticide application for that

calendar year the operator shall do the following for each pest management area:

Identify areas with weed, algae, or pathogen problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g. wildlife habitat, fisheries, vegetation, and recreation);

Identify target weed, algae, or pathogen species;

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

Establish past or present weed, algae, or pathogen densities to serve as action threshold(s) for implementing pest management strategies.

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

No action  
Prevention  
Mechanical or physical methods  
Cultural methods  
Biological control agents  
Pesticides

- iii.)* Pesticide Use. If a pesticide is selected to manage weeds, algae, or pathogens and application of the pesticide will result in a discharge to waters of the State, the operator shall:

Conduct surveillance prior to each pesticide application to assess the pest management area and to determine when the action threshold is met that necessitates the need for pest management; and

Reduce the impact on the environment and non-target organisms by applying the pesticide only when the action threshold has been met.

- c. Nuisance Animal Control. This part applies to discharges from the application of pesticides for nuisance animal control.

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

Identify areas with nuisance animal problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g. wildlife habitat, fisheries, vegetation, and recreation);

Identify target nuisance animal species;

Identify possible factors causing or contributing to the problem (e.g., nutrients, invasive species); and

Establish past or present nuisance animal densities to serve as action threshold(s) for implementing pest management strategies.

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

No action  
Prevention  
Mechanical or physical methods  
Cultural methods  
Biological control agents  
Pesticides

- iii.)* Pesticide Use. If a pesticide is selected to manage nuisance animals and application of the pesticide will result in a discharge to waters of the State, the operator shall:

Conduct surveillance prior to each pesticide application to assess the pest management area and to determine when the action threshold is met that necessitates the need for pest management; and

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.

- d. Forest Canopy Pest Control. This part applies to discharges from the application of pesticides for forest canopy pest control where, to target the pests effectively, a portion of the pesticide unavoidably will be applied over and deposited to State waters.

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

Establish target pest densities to serve as action threshold(s) for implementing pest management strategies;

Identify target species to develop a species-specific pest management strategy based on developmental and behavioral considerations for each species;

Identify current distribution of the target pest and assess potential distribution in the absence of control measures; and

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

No action  
Prevention  
Mechanical or physical methods  
Cultural methods  
Biological control agents  
Pesticides

- iii.)* Pesticide Use. If a pesticide is selected to manage forestry pests and application of the pesticide will result in a discharge to waters of the State, the operator shall:

Conduct surveillance 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;

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;

Reduce the impact on the environment and non-target organisms by evaluating the restrictions, application timing, and application methods in addition to applying the pesticide only when the action thresholds have been met; and

Evaluate using pesticides against the most susceptible developmental stage.

#### **B. Water Quality-Based Effluent Limitations**

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

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

Operators that treat water supply impoundments that are over a half mile long with copper compounds shall not raise copper concentrations above the State water quality criteria (9 ug/l) below the outlet of the impoundment and in over one third the cross-sectional area of the impoundment.

Operators that treat water supply impoundments that are under a half mile long with copper compounds shall not raise copper concentrations above the State water quality criteria below the outlet of the impoundment only.

### **C. Monitoring Requirements**

#### **1. Monitoring Requirements for Pesticide Applicators**

- a. The operator must monitor the amount of pesticide applied to ensure that the operator is using the lowest amount to effectively control the pest, consistent with reducing the potential for development of pest resistance.
- b. The operator must also monitor the pesticide application activities to ensure the operator is performing regular maintenance activities and to ensure that the application equipment is in proper operating condition to reduce the potential for leaks, spills, or other unintended discharge of pesticides to waters of the State.
- c. The operator must monitor the 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 must conduct a visual monitoring assessment (i.e. spot checks in the area to and around where pesticides are applied) for possible and observable adverse incidents, as defined in Part II.C, 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 must be performed:**

- a. During any post-application surveillance or efficacy check that one conducts, if surveillance or an efficacy check is conducted.
- b. During any pesticide application, when considerations for safety and feasibility allow.

### **D. Pesticide Discharge Management Plan (PDMP)**

Any operator applying pesticides and exceeding the annual application thresholds established in Table 1 must prepare a PDMP for the pest management area. The plan must be kept up-to-date thereafter for the duration of coverage under this general permit, even if discharges subsequently fall below the annual application threshold levels. The operator applying pesticides shall develop a PDMP consistent with the deadline outlined in Table 2 below.



| Table 2. Pesticide Discharge Management Plan Deadline  |  |
|--|--|
| Category   | PDMP Deadline  |
| Operators who know prior to commencement of discharge that they will exceed an annual treatment area threshold identified in Table 1 for that year.                                  | Prior to first pesticide application covered under this permit.              |
| Operators who do not know until after commencement of discharge that they will exceed an annual treatment area threshold identified in Table 1 for that year.                        | Prior to exceeding an annual treatment area threshold.                       |
| Operators commencing discharge in response to a declared pest emergency situation as defined in Part II.L that will cause the operator to exceed an annual treatment area threshold. | No later than 90 days after responding to declared pest emergency situation. |

The PDMP does not contain effluent limitations; the limitations are contained in Parts III.A and B of the permit. The PDMP documents how the operator will implement the effluent limitations in Parts III.A and B of the permit, including an evaluation and selection of control measures to meet those effluent limitations and minimize discharges. In the PDMP, one may incorporate by reference any procedures or plans in other documents that meet the requirements of this permit. If one relies upon other documents to describe how one will comply with the effluent limitations in this permit, such as a pre-existing pest management plan, one must attach to the PDMP a copy of any portions of any documents that one is using to document the implementation of the effluent limitations. The control measures implemented must be documented and the documentation must be kept up-to-date.

The PDMP shall include the following elements:

1. **PDMP Team.** The operator shall 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.

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

2. **Control Measure Description.** The operator must document an evaluation of control measures for the pest management areas. The documentation shall include the control measures that will be implemented to comply with the effluent limitations

required in Parts III.A and B. The operator shall include in the description the active ingredient(s) evaluated.

3. **Control Measures Used to Comply with the Effluent Limitations in Part III.** The following must be documented in the PDMP:
  - a. 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;
  - b. 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;
  - c. Pesticide Application Equipment. Schedules and procedures for maintaining the pesticide application equipment in proper operating condition, including calibrating, cleaning, and repairing the equipment;
  - d. Pest Surveillance. Procedures and methods for conducting pre- application pest surveillance; and
  - e. Assessing Environmental Conditions. Procedures and methods for assessing environmental conditions in the treatment area.
4. **Other Actions Necessary to Minimize Discharges.** The following must be documented in the PDMP:
  - a. Spill Response Procedures – At a minimum the PDMP must have:
    - i.) Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of the PDMP team and
    - ii.) Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies.
  - b. Adverse Incident Response Procedures – At a minimum the PDMP must have:
    - i.) Procedures for responding to any incident resulting from pesticide applications and
    - ii.) Procedures for notification of the incident, both internal to the operator's agency/organization and external. Contact information for MDE, nearest emergency medical facility, and nearest hazardous chemical responder must be in locations that are readily accessible and available.
  - c. Pesticide Monitoring Schedules and Procedures – The operator shall document procedures for monitoring consistent with the requirements in Part III.C including:
    - i.) The process for determining the location of any monitoring;
    - ii.) A schedule for monitoring;
    - iii.) The person (or position) responsible for conducting monitoring; and

*iv.*) Procedures for documenting any observed impacts to non-target organisms resulting from the pesticide discharge.

5. **Pest Management Area Description.** As an addendum to the PDMP, the operator shall maintain a record of the following for each pest management area:
  - a. Pest problem description. Document a description of the pest problem at each 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 each 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 waters of the State; and
  - d. Water quality standards. Document the water quality standards applicable to waters to which there may be a discharge, including the list of pesticide(s) or any degradates for which the water is impaired.
6. **Signature Requirements.** The operator must sign, date and certify its PDMP in accordance with Part V.H.
7. **Pesticide Discharge Management Plan Modifications.** The operator shall modify the PDMP whenever necessary to address any of the triggering conditions for corrective action in Part III.E.1 or when a change in pest control activities significantly changes the type or quantity of pollutants discharged. Changes to the PDMP must be made before the next pesticide application that results in a discharge, if practicable, or if not, as soon as possible thereafter. The revised PDMP must be signed and dated in accordance with Part V.H.

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

8. **Pesticide Discharge Management Plan Availability.** One must retain a copy of the current PDMP, along with all supporting maps and documents, at the operator office address. The PDMP and all supporting documents must be readily available, upon request, and copies of any of these documents provided, upon request, to the Department and representatives of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS). The Department may provide copies of the PDMP or other information related to this permit that is in its possession to members of the public. Any Confidential Business Information (CBI), as defined in 40 CFR Part 2, may be withheld from the public provided that a claim of confidentiality is properly asserted and documented in accordance with 40 CFR Part 2; however, CBI must be submitted to the Department, if requested, and may not be withheld from those staff within the Department, FWS, and NMFS cleared for CBI review.

## **E. Corrective Action**

1. **Situations Requiring Revision of Control Measures.** If any of the following situations occur, the operator shall review and, as necessary, revise the evaluation and selection of control measures to ensure that the situation is eliminated and will not be repeated in the future:
  - a. An unauthorized release or discharge associated with the application of pesticides (e.g., spill, leak, or discharge not authorized by this or another NPDES permit) occurs;
  - b. The operator becomes aware, or the Department concludes, that control measures are not adequate/sufficient for the discharge to meet applicable water quality standards;
  - c. Any monitoring activities indicate that the operator failed to meet the requirements of Part III.A.1 of this permit;
  - d. An inspection or evaluation of the operator's activities by the Department reveals that modifications to the control measures are necessary to meet the non-numeric effluent limits in this permit; or
  - e. The operator observes, for example, during visual monitoring or is otherwise made aware of, an adverse incident.
2. **Corrective Action Deadlines.** If the operator determines that changes to the control measures are necessary to eliminate any situation identified in Part E.1, such changes must 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 Part E.1 may constitute a violation of the permit. Correcting the situation according to Part E does not absolve the operator of liability for any original violation. However, failure to comply with Part E constitutes an additional permit violation.

## **F. Adverse Incident Documentation and Reporting**

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

If the operator observes or is otherwise made aware of an adverse incident that may have resulted from a discharge from the operator's pesticide application, the operator shall immediately notify the Department, Water Management Compliance Program, at 410-537-3510, and the Science Services Administration, Field Evaluation Division, at 410-537-3572, within 24 hours of becoming aware of the adverse incident and the notification must include at least the following information:

- a. The caller's name and telephone number;
- b. Operator name and mailing address;
- c. The name and telephone number of a contact person, if different than the person providing the 24-hour notice;
- d. How and when the operator became aware of the adverse incident;

- e. Description of the location of the adverse incident;
- f. Description of the adverse incident identified and the EPA pesticide registration number for each product that the operator applied in the area of the adverse incident; and
- g. Description of any steps the operator has taken or will take to correct, repair, remedy, cleanup, or otherwise address any adverse effects.

If the operator is unable to notify the Department within 24 hours, the operator must do so as soon as possible and also provide the rationale for why the operator was unable to provide such notification within 24 hours.

The adverse incident notification and reporting requirements are in addition to what the operator 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.)* The operator is aware of facts that clearly establish that the adverse incident was not related to toxic effects or exposure from the pesticide application.
- ii.)* The operator has been notified in writing by the Department that the reporting requirement has been waived for this incident or category of incidents.
- iii.)* The operator receives information notifying the operator of an adverse incident but that information is clearly erroneous.
- iv.)* An adverse incident occurs to pests that are similar in kind to pests identified as potential targets on the FIFRA label.

## **2. Thirty (30)-Day Adverse Incident Written Report**

Within thirty days of a reportable adverse incident pursuant to Part III.F.1, the operator shall provide a written report of the adverse incident to the Department, Water Management Compliance Program. The adverse incident report must include at least the following information:

- a. Information required to be provided in Part III.F.1;
- b. Date and time the operator contacted the MDE notifying the Department of the adverse incident and with whom at the Department the operator spoke and any instructions the operator received from the Department;
- c. Location of incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, etc);
- d. A description of the circumstances of the adverse incident including species affected, estimated number of individual and approximate size of dead or distressed organisms;
- e. Magnitude and scope of the 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, description of pesticide ingredients, and EPA registration number;
- g. Description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data for pesticides applied);
- h. If laboratory tests were performed, indicate what test(s) were performed, and when, and provide a summary of the test results within 5 days after they become available;
- i. If applicable, explain why the operator believes the adverse incident could not have been caused by exposure to the pesticide;

- j. Actions to be taken to prevent recurrence of adverse incidents; and
- k. Signed and dated in accordance with Part V.H.

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

**G. Adverse Incident to Threatened or Endangered Species or Critical Habitat**

Notwithstanding any of the other adverse incident notification requirements of this section, if the operator becomes aware of an adverse incident to threatened or endangered species or critical habitat, that may have resulted from a discharge from the operator's pesticide application, the operator shall immediately notify the National Marine Fisheries Service (NMFS) and Maryland Department of Natural Resources in the case of an anadromous or marine species, or the U.S. Fish and Wildlife Service (FWS) and Maryland Department of Natural Resources in the case of a terrestrial or freshwater species. This notification must be made by telephone immediately upon the operator becoming aware of the adverse incident and must include at least the following information:

1. The caller's name and telephone number;
2. Operator name and mailing address;
3. The name of the affected species, size of area impacted, and, if applicable, the approximate number of animals affected;
4. How and when the operator became aware of the adverse incident;
5. Description of the location of the adverse incident;
6. Description of the adverse incident, including the EPA pesticide registration number for each product the operator applied in the area of the adverse incident; and
7. Description of any steps the operator has taken or will take to alleviate the adverse impact to the species.

Additional information on federally-listed threatened or endangered species and federally-designated critical habitat is available from NMFS ([www.nmfs.noaa.gov](http://www.nmfs.noaa.gov)) for anadromous or marine species or FWS ([www.fws.gov](http://www.fws.gov)) for terrestrial or freshwater species.

**H. Reportable Spills, Leaks, or Other Unpermitted Discharges Notification**

Where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302 occurs in any 24-hour period, the operator shall notify the National Response Center (NRC) immediately at (800) 424-8802 or, in the Washington, DC, metropolitan area, call (202) 267-2675 in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302 as soon as the operator has knowledge of the release. Contact information must be in locations that are readily accessible and available in the area where the spill, leak, or other unpermitted discharge may occur.

**I. Five-day spill, leak, or other unauthorized discharge report**

Within five (5) days of the operator becoming aware of a spill, leak, or other unauthorized discharge triggering the notification in subsection a above, the operator shall submit a written report to the Water Management Administration Compliance Program. The report shall contain the following information:

1. A description of the nature and location of the spill, leak or discharge;
2. The cause of the spill, leak or discharge;
3. The date on which the spill, leak or discharge occurred;
4. The length of time that the spill, leak or discharge continued;
5. The volume of the spill, leak or discharge;

6. If the discharge is continuing, how long it is expected to continue, and what the expected total volume of the discharge will be;
7. A summary of corrective action taken or to be taken including date initiated and date completed or expected to be completed; and
8. Any steps planned or taken to prevent recurrence of such a spill or leak or other discharge, including notice of whether PDMP modifications are required as a result of the spill or leak.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

The Department may waive the written report on a case-by-case basis for reports of noncompliance if the oral report has been received within 24 hours and no adverse impact on State waters has been reported.

#### **J. Recordkeeping and Annual Reporting**

The operator shall keep records as required in this permit. These records must be accurate and complete and sufficient to demonstrate compliance with the conditions of this permit. The operator can rely on records and documents developed for other obligations, such as requirements under FIFRA, and state or local pesticide programs, provided all requirements of this permit are satisfied. The Department 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.

1. All operators must keep the following records:
  - a. A copy of any Adverse Incident Reports.
  - b. The operator's rationale for any determination that reporting of an identified adverse incident is not required consistent with allowances identified in Part III.F.1.
  - c. Any corrective action documentation
2. Any operator applying pesticides and exceeding the annual application thresholds established in Table 1 must also maintain a record of each pesticide applied. This shall apply to both general use and restricted use pesticides. Each record shall contain the:
  - a. Name, address, and telephone number of customer and address or location, if different, of site of application;
  - b. Name and Maryland Department of Agriculture certification number of the person making the application or certification number of the supervising certified applicator;
  - c. Day, month and year of application;
  - d. Type of plants, crop, animals, or sites treated and principal pests to be controlled;
  - e. Acreage, area, or number of plants or animals treated;
  - f. Brand name or common product name;
  - g. EPA registration number;
  - h. Amount of pesticide concentrate and amount of diluting used, by weight or volume, in mixture applied; and
  - i. Type of application equipment used.
3. All required records must be assembled as soon as possible but no later than 30 days following completion of such activity. The operator shall retain any records required under this permit, including copies of all reports required by this permit, for a period of at least 3 years from the date of the sample, measurement, observation, report, or other required record. The operator shall make available to the Department, including

an authorized representative of the Department, all records kept under this permit upon request and provide copies of such records, upon request.

4. Annual reporting

a. Any operator applying pesticides that reports an adverse incident as described in Part III.F must submit an annual report to the Department no later than February 10th of the following year (and retain a copy for the operator's records).

b. The annual report must contain the following information:

*i.)* Operator's name;

*ii.)* Contact person name, title, e-mail address (where available), and phone number;

*iii.)* A summary report of all adverse incidents that occurred during the previous calendar year; and

*iv.)* A summary of any corrective actions, including spill responses, in response to adverse incidents, and the rationale for such actions.

**Part IV. VIOLATION OF PERMIT CONDITIONS**

**A. Compliance with This General Permit and Water Pollution Abatement Statutes**

The permittee shall comply at all times with the terms and conditions of this permit, the provisions of the Title 7, Subtitle 2, and Title 9, Subtitles 2 and 3 of the Environment Article, Annotated Code of Maryland, and the federal Clean Water Act.

**B. Civil and Criminal Liability**

In issuing or reissuing this permit, the Department does not waive or surrender any right to proceed in an administrative, civil, or criminal action for any violations of State law or regulations occurring before the issuance or reissuance of this permit. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any civil or criminal responsibilities, liabilities, or penalties for noncompliance with Title 9 of the Environment Article, Annotated Code of Maryland or any federal, local or other State law or regulation.

**C. Civil Penalties for Violations of Permit Conditions**

In addition to civil penalties for violations of State water pollution control laws set forth in Section 9-342 of the Environment Article, Annotated Code of Maryland, the federal Clean Water Act provides that any person who violates Section 301, 302, 306, 307, 308, 318, or 405 of the federal Clean Water Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the federal Clean Water Act or in a permit issued under Section 404 of the federal Clean Water Act, is subject to a civil penalty not to exceed \$27,500 per day for each violation.

**D. Criminal Penalties for Violations of Permit Conditions**

In addition to criminal penalties for violations of State water pollution control laws set forth in Section 9-343 of the Environment Article, Annotated Code of Maryland, the federal Clean Water Act provides that:

1. Any person who negligently violates Section 301, 302, 306, 307, 308, 318, or 405 of the federal Clean Water Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the federal Clean Water Act, or in a permit issued under Section 404 of the federal Clean Water Act, is subject to a fine



of not less than \$2,500 nor more than \$27,500 per day of violation, or by imprisonment for not more than one (1) year, or by both.

2. Any person who knowingly violates Section 301, 302, 306, 307, 308, 318, or 405 of the federal Clean Water Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the federal Clean Water Act, or in a permit issued under Section 404 of the federal Clean Water Act, is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than three (3) years, or by both.
3. Any person who knowingly violates Section 301, 302, 306, 307, 308, 318, or 405 of the federal Clean Water Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the federal Clean Water Act, or in a permit issued under Section 404 of the federal Clean Water Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, is subject to a fine of not more than \$250,000 or imprisonment of not more than fifteen (15) years, or both. A person who is an organization shall, upon conviction of violating this paragraph, be subject to a fine of not more than \$1,000,000.

**E. Penalties for Falsification and Tampering**

The Environment Article, Section 9-343, Annotated Code of Maryland, provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, or who knowingly falsifies, tampers with or renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both. The federal Clean Water Act provides that any person who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under the Act, or who knowingly makes any false statement, representation, or certification in any records or other documents submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both.

**Part V. GENERAL CONDITIONS**

**A. Right of Entry**

The permittee shall permit the Secretary of the Department, the Regional Administrator for the EPA, or their authorized representatives, upon the presentation of credentials:

1. To enter upon the permittee's premises where an effluent source is located or where any records are required to be kept under the terms and conditions of this permit;
2. To access and copy, at reasonable times, any records required to be kept under the terms and conditions of this permit;
3. To inspect, at reasonable times, any monitoring equipment or monitoring method required in this permit;
4. To inspect, at reasonable times, any collection, treatment, pollution management, or discharge facilities required under this permit;

5. To sample, at reasonable times, any discharge of pollutants;
6. To install ground water monitoring wells; and
7. To take photographs.

**B. Property Rights/Compliance with Other Requirements**

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor does it authorize any infringement of federal, State or local laws or regulations.

**C. Duty to Provide Information**

The permittee shall furnish to the Department, within the time frame stipulated by the Department, any information which the Department may request to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

**D. Other Information**

When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in a report to the Department, he or she shall submit, within 30 calendar days, the facts or information.

**E. Availability of Reports**

Except for data determined to be confidential under the Maryland Public Information Act, and 40 CFR § 123.25, all submitted data shall be available for public inspection at the Department.

**F. Total Maximum Daily Load (TMDL)**

The permit may be reopened in accordance with Maryland's Administrative Procedures Act to incorporate future Total Maximum Daily Load requirements.

**G. Severability**

The provisions of this permit are severable. If any provisions of this permit shall be held invalid for any reason, the remaining provisions shall remain in full force and effect. If the application of any provision of this permit to any circumstances is held invalid, its application to other circumstances shall not be affected.

**H. Required Signatures**

1. Certification. Any person signing PDMP shall make the following certification as part of the plan:

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

2. Signatories. Plans or other documents shall be signed as follows:
  - a. 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 facility 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; the manager can ensure 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.
  - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
  - c. For a municipal, 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 of the agency (e.g., Regional Administrators of EPA).
3. Report Submission
  - a. All reports required by permits, and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
    - i.)* The authorization is made in writing by a person described above;
    - ii.)* The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator, superintendent, position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company; and
    - iii.)* The written authorization is submitted to the Department.
  - b. If an authorization under this subsection is no longer effective because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the above requirements must be submitted to the Department prior to or together with any reports, information or applications to be signed by an authorized representative.

**Part VI. AUTHORITY TO ISSUE GENERAL NPDES PERMITS**

On September 5, 1974, the Administrator of the EPA approved the proposal submitted by the State of Maryland for the operation of a permit program for discharges into navigable waters under Section §402 of the federal Clean Water Act, 33 U.S.C. §Section 1342.

On September 30, 1990, the Administrator of the EPA approved the proposal submitted by the State of Maryland for the operation of a general permit program.

Under the approvals described above, this general discharge permit is both a State of Maryland general discharge permit and an NPDES general discharge permit.

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Jay Sakai, Director  
Water Management Administration