



NEW YORK
STATE OF
OPPORTUNITY

**Department of
Environmental
Conservation**

NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPDES GENERAL PERMIT
FOR POINT SOURCE DISCHARGES
TO SURFACE WATERS OF NEW YORK

from

PESTICIDE APPLICATIONS

Permit No. GP-0-21-003

Issued Pursuant to Article 17, Titles 7, 8 and Article 70
of the Environmental Conservation Law

Effective Date: **November 1, 2021**

Expiration Date: **October 31, 2026**

Scott E. Sheeley
Chief Permit Administrator


Authorized Signature

October 13, 2021
Date

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**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
SPDES GENERAL PERMIT FOR POINT SOURCE DISCHARGES
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***Note: The italicized words/phrases within this permit are defined in Appendix A**

Part I - SPDES GENERAL PERMIT COVERAGE AND LIMITATIONS

A. SPDES General Permit Eligibility

This *SPDES general permit* authorizes point source *discharges* to *surface waters of the State* by *operators* from the application to, in, or over *surface waters of the State* of any New York State registered *pesticide* that is *labeled for aquatic uses*, including both *biological pesticides* and *chemical pesticides that leave a residue*.

A *pesticide* registered in New York State has undergone an additional level of review beyond that conducted at the Federal level, which may result in the inclusion of additional *label* requirements and limitations where required by the Department for protection of human health and the environment. *Operators* covered by this *SPDES general permit* must comply with all aspects of New York State registered *pesticide label* and any additional provisions in the 6 NYCRR Part 320 series regulations, where applicable based on the type of *pesticide* application.

B. Maintaining Water Quality

The Department expects that compliance with the conditions in this general permit, which includes conformance with other Department permits and requirements related to *pesticides* (e.g., Environmental Conservation Law (ECL) Article 15 permit, Pesticide label requirements, ECL Article 24 permit), will reasonably protect classified water use and assure compliance with applicable *water quality standards*. It shall be a violation of the Environmental Conservation Law for any *discharge* authorized by this *SPDES general permit* to either cause or contribute to a violation of *water quality standards* as contained in Part 700-705 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York. All *operators* must control *discharges* as necessary to meet applicable numeric and narrative *water quality standards*, for any *discharges* authorized under this permit, with compliance required upon beginning such *discharge*.

If at any time an *operator* becomes aware (e.g., through self-monitoring or by notification from the Department) that a *discharge* directly or indirectly causes, or has the reasonable potential to cause or contribute to the violation of an applicable *water quality standard*, the *operator* must implement corrective measures as required in Part IV and document the action as required in Part VII, up to and including ceasing the *discharge*, if necessary.

Where a *discharge* authorized under this *SPDES general permit* is later determined to directly or indirectly cause or have the reasonable potential to cause or contribute to the violation of an applicable *water quality standard*, the Department will notify the *operator* of such violation(s) and may take enforcement actions for such violations. The *operator* must take all necessary actions to ensure future *discharges* do not directly or indirectly cause or contribute to the violation of a *water quality standard*, and the *operator* must document these actions as required in Part IV and Part VII. Compliance with these requirements does not preclude, limit, or eliminate any enforcement activity as provided by the Federal and/or State law for the underlying violation.

Additionally, if violations of applicable *water quality standards* occur, then coverage under this *SPDES general permit* may be terminated by the Department in accordance with 6 NYCRR Part 750-1.21(e) and the Department may require an application for an alternative *SPDES general permit* or individual *SPDES* permit.

C. Activities Which Are Ineligible for Coverage Under This SPDES General Permit

All the following are **not** authorized by this permit:

1. **Discharges to Water Quality Impaired Waters.** *Operators* are not eligible for coverage under this *SPDES general permit* for *discharges* from application to, in, or over *surface waters of the State* of a *pesticide labeled for aquatic uses* if the water is identified as impaired by that *pesticide* or its degradates. For purposes of this *SPDES general permit*, *impaired waters* are those that have been identified by the Department pursuant to Section 303(d) of the Clean Water Act as not meeting applicable *water quality standards*, including waters with EPA-approved *Total Maximum Daily Loads (TMDLs)* and waters for which EPA has not yet approved or the Department has not yet established a *TMDL*. The current List in effect is the Final 2018 NYS Section 303(d) List of Impaired/TMDL Waters (June 2020).
2. **Discharges Currently or Previously Covered by an Individual SPDES Permit.** *Operators* are not eligible for coverage under this *SPDES general permit* if the *discharges* were covered within five years prior to the effective date of this permit by an individual *SPDES* permit where that permit established site-specific numeric water quality-based limitations. *Operators* are also not eligible for coverage under this *SPDES general permit* if the *discharges* were included in a permit that within the last five years has been or is in the process of being denied, suspended, or revoked by the Department.
3. **Discharges Determined to Require an Individual SPDES Permit or Another SPDES General Permit.** *Operators* are not eligible for coverage under this *SPDES general permit* if the Department has determined that the *operator's discharge* to a *surface water of the State* from application of a *pesticide labeled for aquatic uses* is required to be covered by an individual *SPDES* permit or another *SPDES general permit* and has notified the *operator* of that requirement.
4. **Discharges Adversely Affecting Endangered or Threatened Species.** *Operators* are not eligible for coverage under this *SPDES general permit* for *discharges* from application to or over *surface waters of the State* of a *pesticide labeled for aquatic uses* that adversely affects a State or federally listed, or proposed to be listed, endangered or threatened species, or its critical habitat. However, if the *pesticide* application is proposed in the vicinity of an endangered or threatened species, and that *pesticide* application has been reviewed in one of the following which are relevant to the current *discharge* covered by the *SPDES general permit*: (a) an Environmental Impact Statement, (b) an *ECL* §§15-0313, 24-

0701, or 24-0801 permit (hereinafter referred to as Article 15 or Article 24 permits), or (c) an Incidental Take Permit (6 NYCRR Part 182.10-13); and the Article 15, Article 24, or Incidental Take permit was approved and issued, then the presence of the endangered or threatened species will not be grounds for denying coverage under this *SPDES general permit*.

Part II - OBTAINING SPDES GENERAL PERMIT COVERAGE

A. Notice of Intent (NOI) Submittal

Operators that have authorization under PGP GP-0-16-005 shall continue to be authorized to discharge under the renewed *SPDES general permit (GP-0-21-003)*. An *operator* not currently authorized to discharge under GP-0-16-005, and seeking coverage under the renewed permit GP-0-21-003, meeting the eligibility requirements in Part I.A of this *SPDES general permit*, must submit the NOI electronically (eNOI), unless the Operator has obtained a waiver from the electronic submittal requirement, in order to be authorized to *discharge* under this *SPDES general permit*. Access and directions for use, for electronic submission of the NOI, are located on the Department's website.

For each application to, in or over *surface waters of the State* of *pesticides labeled for aquatic uses* authorized by this *SPDES general permit*, there shall be a single entity identified as the *operator* which meets one of the following criteria:

1. The entity with control over the decision to perform *pesticide* applications eligible for coverage under this *SPDES general permit*, including the ability to modify those decisions, that results in a *discharge to surface waters of the State*: or
2. The entity who performs the application of a *pesticide* eligible for coverage under this *SPDES general permit* or who has day-to-day control of the application (i.e., they are authorized to direct workers to carry out those activities) that results in a *discharge to surface waters of the State*.

The *operator* under this *SPDES general permit* must be the same as the permittee for an Article 15 or 24 permit addressing the same *discharge*, where applicable.

An *operator* that is involved in applications to, in, or over *surface waters of the State* of *pesticides labeled for aquatic uses* may address multiple applications (including multiple treatment dates or *treatment area* locations) of such *pesticides* in a single NOI if:

(1) the *pesticide* applications are authorized by a single permit under ECL §§15-0313, 24-0701, or 24-0801, or

(2) the *pest* control activities address similar *target pest* species and the *pest management areas* or *treatment areas*:

- a. are within contiguous locations owned by a single owner, or
- b. lie within the jurisdiction of a governmental agency identified as the *operator*, or
- c. lie within right-of-way easements held by the *operator*, provided that the provisions of the easements are not violated.

B. SPDES General Permit Authorization

1. An *operator* shall not commence *pesticide* applications to, in, or over *surface waters of the State* of a *pesticide labeled for aquatic uses* until their authorization to *discharge* under this *SPDES general permit* goes into effect.
2. Authorization to *discharge* under this *SPDES general permit* will be effective when the *operator* has satisfied all of the following criteria:
 - a. Where applicable, all necessary project review pursuant to the State Environmental Quality Review Act (SEQRA) has been satisfied (e.g., SEQRA conducted for Article 15 permits);
 - b. Where applicable, all other necessary Department permits that address the *pesticide* application have been obtained, including applicable Article 15 permits;
 - c. Where applicable, an *Integrated Pest Management (IPM)* evaluation has been completed, as required in Part III.A.5, prior to submittal of an NOI;
 - d. Where applicable, a Pesticide Discharge Management Plan (PDMP) has been completed, as required in Part III.B, prior to submittal of an NOI;
 - e. A complete NOI that identifies all target pests and pesticides associated with the discharge has been submitted to the Department in accordance with the requirements of this *SPDES general permit*.
3. An *operator* that has satisfied the requirements of Part II.B.2 above will be authorized to *discharge* under this SPDES general permit in accordance with the following schedule:
 - a. Five (5) business days from the date the Department receives a complete electronic version of the NOI (eNOI); or
 - b. Twenty (20) business days from the date the Department receives a complete paper version, if a waiver has been granted; or
 - c. Upon the effective date of this SPDES general permit if the discharger has authorization to discharge under PGP-0-16-005.

C. Modifying the Notice of Intent

After authorization to *discharge* under this SPDES general permit, an owner/operator must notify the Department of any corrections or updates to the information provided in the original NOI. In order to modify the original NOI, an owner/operator must submit corrections or updated information, by modifying their NOI in the format originally submitted.

Modification to the owner/operator is not allowed under Part II.C. Modification of the owner/operator must follow Part II.D.

D. Change of Owner/Operator

When there is a change in operational control over the pest control activities, the original *operator* must notify the new *operator*, in writing, of the requirement to obtain SPDES general permit coverage (in accordance with Part II of this *SPDES general permit*). SPDES general permit coverage for the new operator will be effective only after a Notice of Termination (see Part V.A) from the original operator has been accepted by the Department and the new operator has submitted to the Department a complete NOI that satisfied the applicable requirements identified in Part II above.

Part III - REQUIREMENTS FOR OPERATORS

A. Minimize Discharges

To meet the requirements in this Part, all *operators* under this *SPDES general permit* must ensure that *control measures* are implemented that *minimize discharges* to *surface waters of the State* from the application of *pesticides labeled for aquatic uses*. To *minimize discharges* resulting from the application of *pesticides*, *operators* must do the following:

1. *Operators* covered by this *SPDES general permit* must comply with all aspects of New York State registered *pesticide label*.
2. *Operators* shall ensure that all *pesticide* applications performed under their direction are in conformance with the principles and practices of *pest* control and other requirements of 6 NYCRR Part 360 series regulations;
3. *Operators* applying *pesticides* under the authority of any permits issued under Article 15 or Article 24, shall ensure that all *pesticide* applications performed under their direction are in conformance with the *control measures* and other requirements of those permits;
4. *Operators* shall *minimize* leaks, spills or other unintended *discharges* of *pesticides* associated with the application of *pesticides* covered under this *SPDES general permit* by ensuring that *pesticide* application and storage equipment is maintained in proper operating condition by adhering to any manufacturer's conditions and industry practices for calibrating, cleaning, and repairing such equipment.

5. Integrated Pest Management (IPM) Evaluation

- a. *Operators* shall ensure that the principles of *IPM* are evaluated for the *pest* control activity. This evaluation shall address the following:
 - i. Identification of *target pest*;
 - ii. Identification of the problem or impacts that the *pest* is causing;
 - iii. Identification of the level of *pest* population that can be tolerated before a *pesticide* application is warranted;
 - iv. Description of alternative methods for *pest* control or resolving the problems caused by the pest, including an assessment of any alternative methods that have been attempted, implemented, and/or rejected; and
 - v. Identification of *pest* problem prevention measures that may be employed by the *operator* to *minimize* future problems and reduce the need for control through *pesticide* application. These may include outreach and education programs.
- b. *Operators* shall document this *IPM* evaluation and retain a copy of the evaluation in records, as required in Part VII of this *SPDES general permit*.
- c. An *IPM* evaluation that was completed in the process of obtaining an Article 15 permit or within a Pesticide Discharge Management Plan (refer to Part III.B of this *SPDES general permit*), and which addresses the objectives identified in Part III.A.5.a. of this *SPDES general permit*, in whole or part, may be used as a part of or serve as the complete IPM evaluation.
- d. Operators applying pesticides labeled for aquatic uses to freshwater wetlands which are not under the jurisdiction of Article 24 of the ECL are not required to complete this IPM evaluation.

B. Pesticide Discharge Management Plan

1. *Operators* shall develop a Pesticide Discharge Management Plan (PDMP) related to *pesticide* applications associated with the *operator's* NOI.
2. *Operators* shall document and retain a copy of the PDMP in records, as required in Part VII of this *SPDES general permit*.

3. PDMP Minimum Elements

The PDMP must include the following elements:

a. Identification of Responsibilities

Identify all the persons (by name and contact information) and individual responsibilities related to the following:

- i. the *operator*;
- ii. person(s) responsible for developing and revising the PDMP and implementing corrective measures and other *SPDES general permit* requirements; and
- iii. person(s) responsible for *pesticide* applications or expected date that *applicator* will be identified (in such cases, the PDMP shall be updated as soon as the *applicator* is determined, but in no case later than the *pesticide* application).

b. Pest Management Area Description

Document the *pest management area* conditions, including:

- i. *target pest* species and description of the pest problem at the *pest management area*; and
- ii. identify the source of the *target pest*; and
- iii. identify the action threshold, and how the action threshold was determined, for the Pest Management Area; and
- iv. location, size and water classification of the *pest management area* and treatment areas.

In cases where the PDMP addresses multiple *pest management areas* or *treatment areas* under a single NOI, as described in Part II.A, each *pest management area* or *treatment area* must be documented in the PDMP.

c. Control Measures, Procedures and Schedules

Document the selection of *control measures* and procedures including:

- i. pesticide product name and pesticide (application information (rates and quantities), and
- ii. applicable schedules (pesticide application dates and equipment maintenance) and
- iii. spill response and adverse incident procedures (for containing leaks, spills, and other releases to surface waters; monitoring; and notification of regulatory and emergency personnel, as applicable).
- iv. Assess weather conditions (e.g. temperature, precipitation, and wind speed) in the treatment area to ensure application is consistent with State/Federal applicable requirements.

d. Signature Requirements:

The PDMP and any revisions or modifications of the PDMP must be signed in accordance with the signatory requirements of Part VIII.H of this permit.

e. PDMP Modifications

Operators must modify the PDMP whenever necessary:

- 1) to address any of the triggering conditions for corrective measures (refer to Part IV.A.2 of this *SPDES general permit*); or
- 2) to update the *pest* problem identified and *pest management* strategies selected for the *pest management areas*; or
- 3) when there is any change in responsibilities, *pest management areas*, *control measures* and procedures, type of pollutants *discharged*, or schedules, as documented in Part III.B.1(a) through III.B.1(c) above; and
- 4) to address any addition of new *pest management areas* or *treatment areas*.

4. PDMP Annual Review and Updates

At a minimum the PDMP must be reviewed and updated:

- a. at least once per calendar year or
- b. if modification is necessary during the application season:
 - i. before the next *pesticide* application that results in a *discharge* if related to a component of Part IV of this permit, or
 - ii. within 30 days of the next discharge.

Revised or modified PDMPs must be retained in records, as required in Part VII of this permit.

5. Reliance on other documents

The PDMP compliant with this *SPDES general permit* may incorporate by reference any procedures or plans in other documents (e.g. Article 15 permit, other permits, SEQRA) that meet the requirements of this *SPDES general permit*. If an *operator* relies upon other documents to describe how the *operator* will comply with the requirements of the PDMP in this *SPDES general permit*, the *operator* must attach to the PDMP a copy of these documents.

6. Exemptions

Operators applying pesticides labeled for aquatic uses to freshwater wetlands which are not under the jurisdiction of Article 24 of the ECL are not required to complete this PDMP.

C. Monitoring

1. *Operators* shall ensure that visual monitoring is conducted in and around the area where *pesticides* are applied for possible and observable *adverse incidents*.
2. Visual assessments of the *pest management area* and *treatment areas* must be performed during any *pesticide* application and during any post-application surveillance or efficacy check that is conducted by the *operator*, or under the *operator's* supervision or direction.

PART IV - CORRECTIVE MEASURES

A. Situations Requiring Revision of Control Measures

1. *Operators* must comply with the provisions in this Part for any discharge authorized under this permit. *Operators* must also comply with such conditions of other permits if applicable (Article 15, Article 24 permits), in order to maintain coverage under this *SPDES general permit*.
2. In accordance with Part III.B above, *operators* must review and, as necessary, revise the selection of *control measures*, if any of the following situations occur:
 - a. An unauthorized release or *discharge* associated with the application of *pesticides* occurs (e.g., spill, leak, or *discharge* not authorized by this or another *SPDES* permit);
 - b. When current *control measures* are not adequate or sufficient for the *discharge* to meet *the requirements of this SPDES general permit*;
 - c. Monitoring activities determine that *pesticide* applications conducted under this *SPDES general permit* were not in compliance with the requirements of 6 NYCRR 325.2, or with other requirements of this *SPDES general permit*; or
 - d. The *operator* observes or is otherwise made aware of an *adverse incident*.

B. Corrective Measure Deadlines

Where changes to the *control measures* are necessary to correct a situation identified in Part IV.A, such changes must be made before the next *pesticide* application that results in a *discharge*. *Control measure* revisions shall be identified in modifications or updates to the PDMP, according to the requirements of Part III.B.4.

C. Effect of Corrective Measures

Correcting the situation according to Part IV.A does not absolve the *operator* of liability for the situation. The Department will consider the appropriateness and promptness of implementation of corrective measures in determining enforcement responses to *SPDES general permit* violations.

D. Adverse Incident Reporting

1. Twenty-Four (24) Hour Adverse Incident Notification
 - a. *Operators* shall notify the Regional Water Engineer in the appropriate Department Regional Office orally within 24 hours of becoming aware or have reason to believe that any activity has occurred or will occur that would result in *pesticide discharges* to *surface waters of the State* that are not authorized by this *SPDES general permit*.

- b. *Operators* shall notify the Regional Water Engineer in the appropriate Department Regional Office orally within 24 hours from the time that the *operator* becomes aware of an *adverse incident*, in which a person or *non-target organisms* (including fish, plants amphibians, invertebrates or other animals) may have been exposed to a *pesticide* and suffered a toxic or adverse effect that may have resulted from a *discharge* from a *pesticide* application under this *SPDES general permit*.
- c. Notwithstanding any of the other *adverse incident* notification requirements of this section, *operators* shall notify the Regional Water Engineer in the appropriate Department Regional Office orally within 24 hours if the *operator* becomes aware of, or has reason to believe that any activity has occurred or will occur that would result in an *adverse incident* to a State or federally-listed threatened or endangered species or its State or federally-designated critical habitat, that may have resulted from a *discharge* from the *pesticide* application.

2. Thirty (30) Day Adverse Incident Written Report

Operators shall submit a written report to the Regional Water Engineer in the appropriate Department Regional Office of any adverse incident reported under Part IV.D.1 within thirty (30) days of the time that the *operator* becomes aware of the adverse incident(s) reported. The written adverse incident report must include the following information:

- a. Description of the incident including species affected and the nature of the observed adverse effects;
- b. The cause of the incident including *pesticide* applied;
- c. Date and duration of incident; and
- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the incident.

A one time, thirty (30) day extension may be requested for submission of the adverse incident report, provided a written request detailing the basis for the extension is submitted within 14 days of the time the operator becomes aware of the adverse incident.

Part V - TERMINATION OF SPDES GENERAL PERMIT COVERAGE

A. Termination of SPDES General Permit Coverage

1. An *operator* must terminate coverage when one or more of the following conditions have been met:
 - a. the *operator* no longer has control over the financing for, or the decision to perform *pesticide* applications that result in *discharges*, including the ability to modify those decisions; and/or the *operator* no longer has day-to-day control of or performs activities that are necessary to ensure compliance with this *SPDES general permit* (e.g., authorization to direct workers to carry out activities required by this *SPDES general permit* or perform such activities themselves);
 - b. a new *operator* has obtained coverage under this *SPDES general permit* in accordance with Part II.D
2. An *operator* terminates coverage under this *SPDES general permit* by submitting a completed Notice of Termination. An electronic Notice of Termination (eNOT) must be used where an eNOI has been used. A paper NOT may be used only if the Operator 1) has obtained a waiver from the electronic submittal requirement, or 2) had obtained authorization to discharge via NOI paper submission under GP-0-16-005. Access and directions for use, for electronic submission of the NOI, are located on the Department's website. The NOT form shall be one which is associated with this *SPDES general permit*, signed in accordance with Part VIII.H.
3. Coverage under this *SPDES general permit* may be terminated by the Department in accordance with conditions identified in Part VIII.B and Part VIII.K of this *SPDES general permit*.

Part VI - ELECTRONIC SUBMISSION WAIVER

Operators must submit all NOIs and subsequent NOTs electronically unless the Operator has received a waiver from the Department based on one of the following conditions:

- If the *Operator* is physically located in a geographical area (i.e., zip code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission; or
- If the *Operator* has limitations regarding available computer access or computer capability.

If an *Operator* wishes to obtain a waiver from submitting a NOI or NOT electronically, the Operator must submit a request to the Department at the following address:

NOTICE OF INTENT WAIVER
NYSDEC, Bureau of Water Permits
625 Broadway, 4th Floor
Albany, New York 12233-3505

To submit for a Waiver from the electronic submittal requirement the operator must submit the Department's Waiver Form, available on Department's Pesticide General Permit webpage. In the Waiver request the Operator must document which exemption they meet, provide evidence supporting any claims, and supply a copy of the completed NOI Form. A waiver may only be considered granted once the Operator receives written confirmation from the Department.

Part VII - RECORDS MAINTENANCE AND RETENTION SCHEDULE

A. *Operators* must maintain written records as required by this *SPDES general permit*. These records must be accurate and complete and sufficient to demonstrate compliance with the conditions of this *SPDES general permit*. Records listed below are required to be kept at the address provided on the NOI.

B. Records required under this *SPDES general permit* shall be retained for at least five (5) years from the date that coverage under this *SPDES general permit* expires or is terminated. All records kept under this *SPDES general permit* must be made available to the Department upon request and copies of such records shall be provided to the Department upon request.

C. All *operators* covered by this *SPDES general permit* shall document and maintain the following records:

1. A copy of this *SPDES general permit*;
2. A copy of the complete NOI;
3. A copy of any EIS, Management Plan, or Standard Operating Procedure that was required or necessitated by or for the *pesticide* application;
4. A copy of any *Adverse Incident* Reports, in accordance with Part IV.D of this *SPDES general permit*;
5. A copy of any corrective measure documentation, in accordance with Part IV of this *SPDES general permit*; and
6. Documentation of any equipment maintenance related to the specific *pesticide discharge* associated with the NOI, in accordance with Part III.A.4 of this *SPDES general permit*.

D. All *operators* required to obtain an Article 15 permit addressing the *pesticide* application shall document and maintain the following additional records:

1. A copy of the Article 15 permit addressing the *pesticide* application;
2. A copy of the *IPM* evaluation (see Part III.A.5) or documentation of *IPM* evaluation that was completed in the process of obtaining an Article 15 permit; and
3. Documentation of the following: (a) identification of persons responsible for *pest* management decisions, *pesticide* applications and corrective measures; (b) *pest*

management area and treatment area descriptions; (c) *control measures* and procedures descriptions; and (d) schedules (*pesticide* application dates, equipment maintenance and monitoring).

4. As may be required by the Article 15 Aquatic Pesticide Permit, the Aquatic Pesticide Modeling spreadsheet and documents associated with notifications provided to the public related to a pesticide application.

E. All *operators* required to develop a PDMP (see Part III.B) addressing the *pesticide* application shall document and maintain the following additional records:

1. A copy of the PDMP,
2. PDMP modifications in accordance with Part III.B.3(e) and Part III.B.4,
3. A copy of the *IPM* Evaluation (see Part III.A.5; the *IPM* evaluation may be incorporated within the PDMP);

F. In order to be compliant with the recording requirements of this *SPDES general permit*, *operators* can rely on records and documents developed for other obligations, such as requirements under the Department's Bureau of Pesticide Management Program and associated Article 15 permits, provided all requirements of this *SPDES general permit* are satisfied. If an *operator* relies upon other documents to meet the recording requirements of this *SPDES general permit*, the *operator* must maintain a copy of any documents that are used.

Part VIII - STANDARD PERMIT CONDITIONS

A. Duty to Comply

The *operator* must comply with all conditions of this *SPDES general permit*. All contractors and subcontractors (including *pesticide applicators*) associated with the *pesticide* application activity must comply with the conditions of this *SPDES general permit*. Any non-compliance with this *SPDES general permit* constitutes a violation of the *ECL* and is grounds for an enforcement action against the *operator* and/or the contractor/subcontractor; and/or ineligibility for this *SPDES general permit* or denial of a permit renewal application.

B. Continuation of the Expired SPDES General Permit

This *SPDES general permit* expires five (5) years from the effective date. If a new general permit is not issued prior to the expiration of this general permit and this general permit is extended pursuant to the State Administrative Procedure Act and 6 NYCRR Part 621, *operators* with coverage under this *SPDES general permit* may continue to operate and discharge in accordance with the terms and conditions of this general permit until a new *SPDES general permit* is issued.

C. Enforcement

Failure of the *operator*, its contractors, subcontractors, agents and/or assigns to strictly adhere to any of the *SPDES general permit* requirements contained herein shall

constitute a violation of this *SPDES general permit*. There are substantial criminal, civil, and administrative penalties associated with violating the provisions of this *SPDES general permit*. Fines of up to \$37,500 per day for each violation and imprisonment for up to fifteen (15) years may be assessed depending upon the nature and degree of the offense.

D. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for an *operator* in an enforcement action that it would have been necessary to halt or reduce the *pest* control activities in order to maintain compliance with the conditions of this *SPDES general permit*.

E. Duty to Mitigate

The *operator* and its contractors and subcontractors shall take all reasonable steps to *minimize* or prevent any *discharge* in violation of this *SPDES general permit* which has a reasonable likelihood of adversely affecting human health or the environment.

F. Duty to Provide Information

The *operator* shall make available to the Department, for review and copying, or furnish to the Department, within five (5) business days of receipt of a Department request for such information, any information requested to determine compliance with this *SPDES general permit* or to determine whether cause exists for modifying or denying coverage under this permit, in accordance with the terms and conditions of Part VII.K. The NOI, and other records required in Parts III and IV, are public documents that the *operator* must make available for review and copying by any person within twenty-five (25) business days of the operator receiving a written request by any such person to review these documents. Copying will be done at the requester's expense.

G. Other Information

When the *operator* becomes aware that they failed to submit any relevant facts, or submitted incorrect information in the NOI or in any other report, the *operator* shall promptly submit such facts or information to the Department. Failure of the *operator* to correct or supplement any relevant facts within five (5) business days of becoming aware of the deficiency shall constitute a violation of this *SPDES general permit*.

H. Signatory Requirements

1. All NOIs and NOTs shall be signed as follows:
 - a. For a corporation these forms shall be signed 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 these forms shall be signed by a general partner or the proprietor, respectively; or
 - c. For a municipality, State, Federal, or other public agency these forms shall be signed by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a government 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.
 - d. Certification - In accordance with 6 NYCRR 750-2.5(b): Any person signing a document under this SPDES general permit 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 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. Other information requested by the Department shall be signed by a person described in Part VII.H.1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- a. The authorization is made in writing by a person described in Part VII.H.1;
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated activity, such as

- superintendent, a position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the *operator*. (A duly authorized representative may thus be either a named individual or any individual occupying a named position) and,
- c. The written authorization shall include the name, title and signature of the authorized representative.
 - d. The written authorization is submitted to the Department.
3. It shall constitute a permit violation if an incorrect and/or improper signatory authorizes any required forms, plans, or reports.

I. Property Rights

The issuance of this *SPDES general permit* does not: convey any property rights of any sort; convey any exclusive privileges; authorize any injury to private property; authorize any invasion of personal rights; or authorize any infringement of Federal, State or local laws or regulations. *Operators* must obtain any applicable conveyances, easements, licenses and/or access to real property prior to commencing *discharges* authorized by this *SPDES general permit*.

J. Severability

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

K. Denial of Coverage Under This Permit

1. Pursuant to 6 NYCRR 750-1.21(e), the Department may require any *operator* authorized by this *SPDES general permit* to apply for and obtain either an individual *SPDES* permit or another *SPDES general permit*. When the Department requires any discharger authorized by a *SPDES general permit* to apply for an individual *SPDES* permit, it shall notify the discharger in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a time frame for the *operator* to file the application for an individual *SPDES* permit, and a deadline, not sooner than 180 days from *operator* receipt of the notification letter, whereby the authorization to *discharge* under this *SPDES general permit* shall be terminated. Applications must be submitted to the appropriate Department Regional Office, Regional Permit Administrator. The Department may grant additional time upon demonstration, to the satisfaction of the Regional Water Engineer, that additional time to apply for an alternative authorization is necessary or where the Department has not provided a permit determination in accordance with 6 NYCRR Part 621.
2. When an individual *SPDES* permit is issued to a discharger authorized to *discharge* under a *SPDES general permit* for the same *discharge(s)*, the *SPDES*

general permit authorization for *discharges* authorized under the individual *SPDES* permit is automatically terminated on the effective date of the individual permit unless termination is earlier in accordance with 6 NYCRR Part 750.

L. Proper Operation and Maintenance

The *operator* shall at all times properly operate and maintain all equipment and systems of control, including related appurtenances, which are installed or used by the *operator* to achieve compliance with the conditions of this *SPDES general permit*.

M. Inspection and Entry

The *operator* shall allow the commissioner of the Department, the regional administrator of USEPA, the applicable county health department, or their Department or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the *operator's* premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this *SPDES general permit*;
2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this *SPDES general permit*, including records required to be maintained for purposes of operation and maintenance;
3. Inspect at reasonable times any facilities, equipment, practices, operations regulated or required under the conditions of this *SPDES general permit*; and
4. Sample or monitor at reasonable times, for purposes of assuring permit compliance or as otherwise authorized by the CWA or ECL, any substances or parameters at any location under the conditions of this *SPDES general permit*.

N. Permit Actions

This *SPDES general permit* may, at any time, be modified, suspended, revoked, or renewed. The administration of this *SPDES general permit* shall be in accordance with 6 NYCRR 750-1.21(d). Such actions on a *SPDES* general permit, or a notification of a planned change, filing of an NOT, or anticipated noncompliance, does not limit, diminish and/or stay compliance with any terms of this *SPDES general permit*.

O. Definitions

Definitions of key terms as related to this *SPDES general permit* are included in Appendix A of this *SPDES general permit*, and do not apply to any other Department programs.

P. Penalties for Falsification of Forms and Reports

In accordance with 6 NYCRR 750-2.4 and 750-2.5, any person who knowingly makes any false material statement, representation, or certification in any application, record, report or other document filed or required to be maintained under this permit, including reports

on compliance or noncompliance shall, upon conviction, be punished in accordance with ECL §71-1933 and Articles 175 and 210 of the New York State Penal Law.

Q. Other Permits

Nothing in this *SPDES general permit* relieves the *operator* from a requirement to obtain any other permits required by law. All *discharges* from *pesticide* applications covered by this *SPDES general permit* must also be authorized by an Article 15 or Article 24 permit, where applicable.

APPENDIX A DEFINITIONS

Adverse Incident means an unusual or unexpected incident that the operator has observed upon inspection or of which the operator has otherwise become aware, in which:

1. There is evidence that a person or non-target organism has likely been exposed to a pesticide residue, and
2. The person or non-target organisms suffered a toxic or adverse effect.

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

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

The phrase, “toxic or adverse effects” also includes any acute or chronic adverse effects to humans (e.g., skin rashes) or domesticated animals that occur either from direct contact with or as a secondary effect from a discharge (e.g. sickness from consumption of plants or animals containing pesticides) to surface waters of the State that are temporally and spatially related to exposure to a pesticide residue (e.g., vomiting, lethargy).

Applicator means any individual who is certified to use or supervise the use of any pesticide in any category of use covered by the individual’s certification.

Biological Pesticides include microbial pesticides, biochemical pesticides, and plant-incorporated protectants (PIP). Microbial pesticide means a microbial agent intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, that (1) is a eukaryotic microorganism including, but not limited to, protozoa, algae, and fungi; (2) is a prokaryotic microorganism, including, but not limited to, Eubacteria and Archaeobacteria; or (3) is a parasitically replicating microscopic element, including but not limited to, viruses. [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. [40 CFR 174.3]

Chemical Pesticides means all pesticides not otherwise classified as biological pesticides.

Control Measure refers to any management practice or other method used to minimize discharges and meet the requirements of this permit. Control measures include specific requirements of Article 15 or Article 24 permits that address a pesticide application. Control measures also include pesticide application procedures, equipment maintenance and calibration procedures, general operating procedures, adherence to pesticide label requirement, and practices to control spillage or leaks of pesticides.

Discharge(s) means any addition of any pollutant to waters of the State through an outlet or point source.

Environmental Conservation Law (ECL) means chapter 43-B of the Consolidated Laws of the State of New York, entitled the Environmental Conservation Law.

Impaired Water (or “Water Quality Impaired Water” or “Water Quality Limited Segment”) – A water is impaired for purposes of this SPDES general permit if it has been identified by the State or EPA 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 130.2(j)). Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established.

Integrated Pest Management (IPM) As defined in the 6 NYCRR Part 320 series regulations, Integrated Pest Management means a systematic approach to managing pests which focuses on long-term prevention or suppression with minimal impact on human health, the environment and non-target organisms. IPM incorporates all reasonable measures to prevent pest problems by properly identifying pests, monitoring population dynamics, and utilizing cultural, physical, biological, or chemical pest population control methods to reduce pests to acceptable levels.

Label means the written, printed, or graphic matter on, or attached to, the pesticide, or its immediate container and any outside containers or wrappers. The label specifically identifies where, how often, and how much of a pesticide can be applied, and specific measures that must be taken to protect the health of the applicator, anyone exposed to the treated area, and the environment.

Labeled for Aquatic Uses means that the New York State registered pesticide label for the pesticide, including both biological pesticides and chemical pesticides, indicates that the pesticide is labeled for direct application to, in or over *surface waters of the state*.

Minimize means to reduce and/or eliminate discharges to surface waters of the State to the extent achievable using control measures that are technologically available and economically practicable and achievable.

Non-target Organisms includes the plant and animal hosts of the target pest species, the natural enemies of the target pest 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 means any entity that meets either of the following criteria:

1. The entity with control over the decision to perform pesticide applications eligible for coverage under this SPDES general permit, including the ability to modify those decisions, that results in a discharge to surface waters of the state; or
2. The entity who performs the application of a pesticide eligible for coverage under this SPDES general permit or who has day-to-day control of the application (i.e., they are authorized to direct workers to carry out those activities) that results in a discharge to surface waters of the state.
3. Operator is synonymous with Owner/Operator where used in this permit and in accompanying forms and documents.

Pest means (1) any insect, rodent, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other living animals) which the Commissioner of DEC declares to be a pest.

Pest Management Area means the area of land, including any surface water, for which the operator is conducting pest management activities covered by this SPDES general permit.

Pesticide means:

1. Any substance or mixture or substances intended for preventing, destroying, repelling, or mitigating any pest; and
2. Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant

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.

Pesticide Residue includes that portion of a pesticide application that is discharged from a point source to surface waters of the New York and no longer provides pesticidal benefits. It also includes any degradates of the pesticide.

SPDES general permit means a SPDES permit issued pursuant to Part 750-1.21 of this Subpart authorizing a category of discharges.

State Pollutant Discharge Elimination System (SPDES) means the system established pursuant to Article 17 of the ECL and Part 750 for issuance of permits authorizing discharges to the waters of the state.

Surface Waters of the State means lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Waters of the state are further defined in 6 NYCRR Parts 800 to 941. Storm sewers or conveyances (e.g., roadside ditches) are not surface waters of the state unless they are mapped in 6 NYCRR Parts 800 to 941 or continuously flowing. For this SPDES general permit, surface waters of the State do not include a pond of one acre or less in size which has no outlet to a surface water of the State and which lies wholly within the boundaries of lands privately owned or leased by a person.

Target Pest means those organisms which the pesticide is intended to inhibit or destroy pursuant to its registered labeled usage.

Total Maximum Daily Loads (TMDL): A TMDL is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. It is a calculation of the maximum amount of a pollutant that a waterbody can receive on a daily basis and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL stipulates waste load allocations (WLAs) for point source discharges, load allocations (LAs) for nonpoint sources, and a margin of safety (MOS).

Treatment Area means the area of land including any waters to which pesticides are being applied. Multiple treatment areas may be located within a single "pest management area."

Water Quality Standard means such measures of purity or quality for any waters in relation to their reasonable and necessary use as promulgated in 6 NYCRR Part 700, et seq.