



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

**GENERAL DISCHARGE PERMIT NO. 17PE, NPDES PERMIT NO. MDG87**

**FINAL**

**Effective Date: April 1, 2020      Expiration Date: March 31, 2025**

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Appendices with additional requirements for permittees:

- Appendix A : Definitions, Abbreviations, and Acronyms,
- Appendix B : Pesticide Discharge Evaluation Worksheet,
- Appendix C : Adverse Incident Template,
- Appendix D : Annual Report Template, and
- Appendix E : Desirable Species Procedures.

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## PART I. Permit Applicability

In compliance with the provisions of the Clean Water Act (CWA), as amended (33 *United States Code* [U.S.C.] 1251 *et seq.*), pursuant to the provisions of Title 9 of the Environment Article, Annotated Code of Maryland and implementing regulations in COMAR 26.08.04 - .01 and 26.08.03.02, any Operator (see Definitions), with a point source discharge of pollutants (*i.e.*, discharge) resulting from the application of pesticides who meets the eligibility requirements identified in Part I.B and if so required, has submitted a Notice of Intent (NOI) in accordance with Part II, is authorized to discharge to Waters of this State in accordance with the requirements of this permit, and the appendixes herein incorporated.

For the purpose of this permit, "Operator" is defined in Appendix A to mean any entity associated with the application of pesticides which results in a discharge to Waters of this State that meets either of the following two criteria: (1) any entity who performs the application of a pesticide or who has day-to-day control of the application (*i.e.*, they are authorized to direct workers to carry out those activities); or (2) any entity with control over the decision to perform pesticide applications including the ability to modify those decisions. Operators identified in (1) above are referred to in this permit as Applicators while Operators identified in (2) are referred to in this permit as Decision-makers. As defined, more than one Operator may be responsible for complying with this permit for any single discharge from the application of pesticides.

For purposes of this permit, all Operators are defined as 1) either an Applicator or a Decision-maker or 2) both an Applicator and a Decision-maker.

When an Operator is both an Applicator and a Decision-maker, the Operator must comply with all applicable requirements imposed on both Applicators and Decision-makers. When the permit references all "Operators," both Applicators and Decision-makers must comply.

### A. Geographic Coverage

This permit applies to Operators located within the state of Maryland.

### B. Eligibility

#### 1. Activities Covered

This permit covers discharges to Waters of this State from the application of biological pesticides or chemical pesticides that leave a residue (hereinafter collectively "pesticides"), or colorants, when the application of pesticides or colorants is for one of the following pesticide use patterns:

- a. 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 and black flies.
- b. Weed and Algae 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, roadside ditches, and/or canals.
- c. 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, insects, pathogens and mollusks.

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- d. 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.

**2. Ineligible Discharges (Limitations on Coverage)**

The following discharges are not covered under this general permit:

a. Discharges to Waters Designated as Tier 3 for Antidegradation Purposes

Except for discharges from pesticide applications made to restore or maintain water quality or to protect public health or the environment that either do not degrade water quality or only degrade water quality on a short-term or temporary basis, Operators are not eligible for coverage under this permit for discharges to waters of the United States if the water is designated by the state as Tier 3 (Outstanding National Resource Waters) for antidegradation purposes under COMAR 26.08.02.04-2. When Tier 3 waters are identified, they will be listed and found on MDE's website at <http://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Pages/HighQualityWatersMap.aspx>.

b. Discharges to Water Quality Impaired Waters

- Any discharges from a pesticide application to Waters of this State if the water is identified as impaired by a substance in that pesticide or a degradate of such an active ingredient. Before commencing an application at a new location, the Operator shall view the list of impaired water bodies in Maryland at "<http://mdewin64.mde.state.md.us/WSA/IR-TMDL/index.html>".
- If the proposed discharge would not be eligible under this permit because the water is listed as impaired for that specific pesticide or its degradates, 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.

c. Discharges Currently or Previously Covered by another Permit

Discharges are not eligible for coverage under this permit if any of the following circumstances apply:

- The application of the pesticide and eventual discharge to Waters of this State, is covered by another NPDES permit (weed, algae or pathogen control and nuisance animal control in industrial or publicly-owned treatment works shall be regulated by the wastewater discharge permits for such facilities), or
- The discharge was included in a State toxic material permit that in the past 5 years has been, or is in the process of being, denied, terminated, or revoked by the Department (this does not apply to the routine periodic reissuance of permits or where required under this permit to apply for coverage).

d. Washing or Cleaning Limitations

- The mixing, handling or transfer of toxic substances or the washing of or cleaning operations for toxic substances containers or equipment may not result in any way in application, discharge or deposition in Waters of this State.
- Wastes and wastewaters from the washing of toxic substance containers or equipment may not be discharged to or permitted to flow into subsurface drainage or disposal systems, municipal sanitary sewer systems or storm water drainage systems.

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e. Desirable Species and Critical Habitat Protection

Coverage under this permit is available only for discharges and discharge-related activities that are not likely to adversely affect “Desirable Species”, as defined in Appendix A, except as provided in Criterion B, C, and, D, below. As one of the provisions in this permit that help limit adverse effects to these resources, the six criteria (A-F) below relate to the impacts a prospective discharger’s activities may have on a subset of these listed species and critical habitat. Specifically, the conditions below relate to potential impacts on “Desirable Species”, as defined in Appendix A. These are resources that have been identified through consultation with MD DNR as having potential vulnerability that warrants the additional protections entailed in compliance with A-F. Other provisions that protect listed species more broadly include Section II.I, which requires compliance with any conditions resulting from an ESA Section 7 consultation or ESA Section 10 permit, and the waiting period between NOI submittal and authorization to discharge, which provides an opportunity for the DNR and members of the public to identify any potential impacts on listed species and for the Department to notify the permittee if further conditions or an individual permit are necessary.

A step-by-step guide for determining eligibility with these conditions relating to the protection of “Desirable Species”, as defined in Appendix A, is provided in Appendix E of the permit. To demonstrate eligibility, Decision-makers must meet one or more of the following six criteria (A-F) for the entire term of coverage under the permit:

**Criterion A.** Pesticide application activities will not result in a point source discharge to Waters of this State containing a “Desirable Species”, as defined in Appendix A, for this permit.

**Criterion B.** Pesticide application activities for which permit coverage is being requested will discharge to Waters of this State containing “Desirable Species”, as defined in Appendix A, but consultation with Environmental Review Program (DNR ERP) and consultation under Section 7 of the ESA has been concluded for pesticide application activities covered under this permit. Consultations can be either formal or informal, and would have occurred only as a result of a separate federal action. The consultation addressed the effects of pesticide discharges and discharge-related activities on “Desirable Species”, and must have resulted in either:

- i. A biological opinion from DNR ERP or NMFS finding no jeopardy to “Desirable Species” and no destruction/adverse modification of critical habitat; or
- ii. Written concurrence from DNR ERP or NMFS with a finding that the pesticide discharges and discharge-related activities are not likely to adversely affect “Desirable Species” or critical habitat.

**Criterion C.** Pesticide application activities for which permit coverage is being requested will discharge to Waters of this State containing “Desirable Species”, as defined in Appendix A, but all “take” of these resources associated with such pesticide application activities has been authorized through DNR ERP issuance of a permit under COMAR 08.03.08, and such authorization addresses the effects of the pesticide discharges and discharge-related activities on “Desirable Species” and critical habitat. (The term “take” means to harass, harm, pursue, hunt, shoot,

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wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. See Section 3 of the Endangered Species Act, 16 U.S.C. § 1532(19).)

**Criterion D.** Pesticide application activities were, or will be, discharged to Waters of this State containing “Desirable Species”, as defined in Appendix A, but only in response to a Declared Pest Emergency Situation. Decision-makers must provide the Department and DNR ERP with their rationale supporting the determination whether the discharge is likely to adversely affect “Desirable Species”, including the description of appropriate measures to be undertaken to avoid or eliminate the likelihood of adverse effects. Activities allowed under this criterion are limited to no longer than 60 days per application unless otherwise specified by the Department or DNR ERP.

**Criterion E.** Pesticide application activities for which permit coverage is being requested in the NOI will discharge to Waters of this State containing “Desirable Species”, as defined in Appendix A, but the Decision-maker includes in the NOI written correspondence from DNR ERP that pesticide application activities performed consistent with appropriate measures will avoid or eliminate the likelihood of adverse effects to “Desirable Species”. Eligibility under this criterion is contingent upon the Decision-maker following the measures described in correspondence from DNR ERP designed to avoid or eliminate the likelihood of adverse effects.

**Criterion F.** Pesticide application activities for which permit coverage is being requested in the NOI will discharge to Waters of this State containing “Desirable Species”, as defined in Appendix A, but pesticide application activities are demonstrated by the Decision-maker as not likely to adversely affect “Desirable Species” or the pest poses a greater threat to the “Desirable Species” than does the discharge of the pesticide. Decision-makers must provide the Department and DNR ERP with their documentation demonstrating the basis for their finding.

## **PART II. Authorization to Discharge under This Permit**

### **A. How to Obtain Authorization**

The following discharges, consistent with the permit eligibility provisions in Part II.B, are automatically authorized by this permit beginning on the effective date of this permit.

- Eligible discharges that result from the application of a pesticide as part of pesticide research and development, as defined in Appendix A;
- Eligible discharges for which submission of an NOI is not required. See Parts II.B and II.C.

To obtain authorization under this permit for all other eligible discharges, a Decision-maker must submit a timely, complete, and accurate NOI consistent with the requirements of Parts II.B and II.C.

### **B. Decision-makers Required to Submit an NOI**

Any “Decision-maker who is or will be required to submit an NOI” as defined in Appendix A, is identified in Table 1.

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**Table 1 - Decision-makers required to Submit NOIs**

<b>17-PE Part/ Pesticide Use</b>	<b>Which Decision-makers Must Submit NOIs?</b>	<b>For Which Pesticide Application Activities?</b>
<b>All four use patterns identified in Part I.B.1</b>	Any Decision-maker with an eligible discharge to a Tier 3 water consistent with Part I.B.2.a	Activities resulting in a discharge to a Tier 3 water
<b>All four use patterns identified in Part I.B.1</b>	Any Decision-maker with an eligible discharge to Waters of this State containing a Desirable Species <sup>(1)</sup>	Activities resulting in a discharge to Waters of this State containing Desirable Species, as defined in Appendix A
<b>1.B.1.a - Mosquito and Other Flying Insect Pest Control</b>	Any Agency for which pest management for land resources stewardship is an integral part of the organization's operations	All mosquito and other flying insect pest control activities resulting in a discharge to Waters of this State
	Mosquito control districts, or similar pest control districts	All mosquito and other flying insect pest control activities resulting in a discharge to Waters of this State
	Local governments or other entities that exceed the Annual Treatment Area Threshold <sup>(1)</sup> identified in this table	Adulticide treatment of more than 6400 acres during a calendar year or more than 1 acre of water (surface area) discharge of a larvicide into Waters of this State
<b>1.B.1.b - Weed and Algae Pest Control</b>	Any Agency for which pest management for land resources stewardship is an integral part of the organization's operations	All weed and algae pest control activities resulting in a discharge to Waters of this State
	Weed control districts, or similar pest control districts	All weed and algae pest control activities resulting in a discharge to Waters of this State
	Any operator treating SAV (defined as underwater grasses and algae) in Tidal Waters using chemicals	Removing SAV by chemical means in Tidal Waters, regardless of the size of treatment area
	Local governments or other entities that exceed the Annual Treatment Area Threshold <sup>(1)</sup> identified in this table	Treatment of more than 1 acre of water (surface area) during a calendar year
<b>1.B.1.c - Animal Pest Control</b>	Any Agency for which pest management for land resources stewardship is an integral part of the organization's operations	All animal pest control activities resulting in a discharge to Waters of this State
	Local governments or other entities that exceed the Annual Treatment Area Threshold <sup>(1)</sup> identified in this table	Treatment of more than 1 acre of water (surface area) during a calendar year
<b>1.B.1.d - Forest Canopy Pest Control</b>	Any Agency for which pest management for land resources stewardship is an integral part of the organization's operations	All forest canopy pest control activities resulting in a discharge to Waters of this State
	Local governments or other entities that exceed the Annual Treatment Area Threshold <sup>(1)</sup> identified in this table	Treatment of more than 6400 acres during a calendar year

<sup>(1)</sup> As defined in Appendix A.

For calculating annual treatment area totals for purposes of determining if an NOI must be submitted, see the definition for “annual treatment area threshold” in Appendix A of the permit.

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An NOI provides notice to the Department that a Decision-maker intends to discharge to Waters of this State from pesticide application activities eligible for coverage under this permit. The NOI form delineates the information required. The NOI must identify the pest management area where the Decision-maker will conduct activities resulting in discharges to Waters of this State to be covered under this permit. If the activities will result in discharges to any Tier 3 water, eligible under Part I.B.2.a, the NOI must specifically identify the Tier 3 water by the name listed at <http://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Pages/HighQualityWatersMap.aspx>.

If required to submit an NOI, a Decision-maker must submit the NOI once, in accordance with the deadlines in Part II.C, Table 2. Late NOIs will be accepted, but authorization to discharge will not be retroactive.

Coverage will be available for the duration of the permit for Decision-makers who file an NOI, including the Decision-makers' employees, contractors, subcontractors, and other agents, for all activities identified on the NOI unless coverage is terminated pursuant to Parts II.F or II.H. If a submitted NOI is not timely, accurate, or complete, any employee, contractor, subcontractor or other entity that discharges without the required NOI is not covered by this permit.

Applicators who are not also Decision-makers do not need to submit an NOI.

### **C. Discharge Authorization Date**

Except for discharges identified in Table 1, any Operator with eligible discharges is automatically authorized to discharge under this permit without submission of an NOI.

All Decision-makers with eligible discharges for which an NOI is required are required to submit an NOI consistent with the earliest applicable due date identified in Table 2, and any modifications to registrations are required to submit a change of information submittal consistent with Table 3.

Decision-makers will receive authorization for discharging upon receiving an authorization letter from the Department. Decision-makers who are required to submit an NOI, but are discharging under coverage of a state issued Toxics Material Permit (TMP), must begin complying with all applicable requirements specified in Part III as of the effective date of this permit, and apply for continued coverage according to the deadline in Table 2.

On the basis of a review of an NOI or other information, the Department may delay authorization to discharge, the Department may also require that you undertake additional control measures to meet the narrative water quality-based effluent limit in Part III.B, or deny coverage under this permit and require submission of an application for an individual NPDES permit, as detailed in Part II.H.

Decision-makers may submit multiple NOIs with different activities on each of those NOIs such that discharges from different activities are authorized at different times.

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**Table 2 - NOI Deadlines**

<b>Operator Type</b>	<b>NOI Submission Deadline</b>
Any Operator with an existing TMP whose discharges require coverage under this permit (as identified in Table 1)	At least 60 days prior to expiration of the existing TMP.
Any Decision-maker not previously categorized in this table who is discharging to Waters of the State <sup>(1)</sup> containing Desirable Species in response to a Declared Pest Emergency Situation <sup>(1)</sup> (with or without prior DNR consultation)	No later than 15 days after beginning to discharge in response to a Declared Pest Emergency Situation <sup>(1)(2)</sup> .
Any Decision-maker not previously categorized in this table who is requesting discharge to Waters of this State containing Desirable Species <sup>(1)</sup> and includes prior DNR consultation with the NOI	At least 30 days before any discharge to Waters of this State containing Desirable Species <sup>(1)</sup> .
Any Decision-maker not previously categorized in this table who is requesting discharge to Waters of this State containing Desirable Species <sup>(1)</sup> and does not include prior DNR consultation with the NOI	At least 60 days before any discharge to Waters of this State containing Desirable Species <sup>(1)</sup> . This is designed to allow 30 days for DNR to provide any feedback. <sup>(3) (4)</sup>
Any Decision-maker not previously categorized in this table discharging in response to a Declared Pest Emergency Situation which requires an NOI pursuant to Part II.B	No later than 30 days after beginning discharge in response to a Declared Pest Emergency Situation <sup>(1)(2)</sup> .
Any Decision-maker not previously categorized in this table who exceeds any annual treatment area threshold.	At least 10 days before exceeding an annual treatment area threshold.

<sup>(1)</sup> As defined in Appendix A

<sup>(2)</sup> In any Declared Pest Emergency Situation in areas with Waters of this State containing Desirable Species, DNR will have 30 days after submission of an NOI to provide the Department with a determination as to whether it believes the eligibility criteria of “not likely to adversely affect listed species or designated critical habitat” has been met, could be met with conditions that DNR identifies, or has not been met. The Department expects to rely on DNR’s determination in deciding whether to disallow continued permit coverage or if additional conditions are necessary. If DNR does not provide the Department with a recommendation within 30 days of the Department, authorization for these discharges will continue. If the Department identifies additional permit conditions or prohibitions, or includes additional permit conditions or prohibitions recommended by DNR, as necessary to qualify discharges for particular Operators as eligible for coverage beyond 60 days under this permit, those conditions remain in effect for the life of the permit registration.

<sup>(3)</sup> Within 30 days after the Department receives the NOI, for those areas with Desirable species, as defined in Appendix A, DNR will provide the Department with a determination as to whether it believes the eligibility criterion of “not likely to adversely affect listed species or designated critical habitat” has been met, could be met with conditions that DNR identifies, or has not been met. The Department expects to rely on DNR’s determination in deciding whether to withhold authorization. If DNR does not provide the Department with this information within 30 days, and it is determined to be a complete and accurate NOI, the Department will move forward and process the registration.

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- (4) The Department may authorize certain discharges in less than 30 days, but no fewer than 10 days, for any discharges authorized under Criterion B, C, or E of Part I.B.2.e (for which DNR has already evaluated the effects of these discharges).

**Table 3 - NOI Change of Information Submittal Deadlines and Discharge Authorization Dates**

Operator Type	NOI Submission Deadline
Any Decision-maker requiring permit coverage for a pest management area not identified on a previously submitted NOI for this permit, except for discharges to any; (1) Tier 3 water or (2) Waters of this State containing Desirable Species. Except for such waters, changes other than identification of a new pest management area or a new pesticide use pattern do not require a revised NOI submittal.	At least 10 days before beginning to discharge in that newly identified area unless discharges are in response to a Declared Pest Emergency Situation in which case not later than 30 days after beginning discharge.
Any Decision-maker discharging to a Tier 3 water not identified by name on a previously submitted NOI for this permit, except for Tier 3 waters containing Desirable Species.	At least 10 days before beginning to discharge in that newly identified Tier 3 water unless discharges are in response to a Declared Pest Emergency Situation in which case not later than 30 days after beginning discharge.
Any Decision-maker with any discharge to Waters of this State containing Desirable Species, as defined in Appendix A, not identified on a previously submitted NOI for this permit. This includes changes in any treatment area, pesticide product, method or rate of application, or approximate dates of applications.	At least 30 days before beginning to discharge in that newly identified water containing Desirable Species unless discharges are in response to a Declared Pest Emergency Situation in which case not later than 15 days after beginning discharge.

**D. Required Signatures**

1. Any person signing documents in accordance with part II.D.2 and II.D.3 below must include 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. All applications, including NOIs, must be signed by a Signatory 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



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<http://www.mde.maryland.gov/assets/document/permit/MDEWMA-PER005.pdf>. Information required to be included in an NOT is specified on the form. The authorization to discharge under this permit terminates at midnight of the day that a complete NOT is processed and acknowledged by the Department. If a Decision-maker submits an NOT without meeting one or more of the conditions identified in Part II.F.2 below, the NOT is not valid. Decision-makers are responsible for complying with the terms of this permit until authorization is terminated.

2. When to Submit an NOT. A Decision-maker who is required to submit an NOI as identified in Part II.B must submit the NOT within 30 days after one or more of the following conditions have been met:
  - a. A new Decision-maker has taken over responsibility of the pest control activities covered under an existing NOI;
  - b. The Decision-maker has ceased all discharges from the application of pesticides for which permit coverage was obtained and does not expect to discharge during the remainder of the permit term for any of the use patterns as identified in Part I.B.1; or
  - c. The Decision-maker has obtained coverage under an NPDES individual permit or an alternative NPDES general permit for all discharges required to be covered by an NPDES permit, unless coverage was obtained consistent with Part II.H, in which case coverage under this permit will terminate automatically.
3. Termination for Operators not Required to Submit an NOI. Operators covered under this permit, who are not required to submit an NOI, are terminated from permit coverage when there is no longer a discharge from the application of pesticides or the discharges are covered under an NPDES individual permit or alternative NPDES general permit.

## **G. Other Federal or State Requirements**

Operators must comply with all other applicable federal and state laws and regulations that pertain to the application of pesticides. For example, this permit does not negate the requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and its implementing regulations to use registered pesticides consistent with the product's labeling. In fact, applications in violation of certain FIFRA requirements could also be a violation of this permit and therefore a violation of the CWA (e.g., exceeding label application rates).

Clearing, cutting, or burning of plants including trees and/or shrubs in the Critical Area inside the 100-foot Buffer is not permitted without an approved Buffer Management Plan (BMP). To verify whether your treatment area is in a Critical Area, refer to the Critical Area Commission's website "[http://dnr.maryland.gov/criticalarea/Pages/map\\_update.aspx](http://dnr.maryland.gov/criticalarea/Pages/map_update.aspx)". If inside the Critical Area, you will need to work with your local planning office. Contacts can be found at "[http://dnr.maryland.gov/criticalarea/Pages/planning\\_zoning\\_contacts.aspx](http://dnr.maryland.gov/criticalarea/Pages/planning_zoning_contacts.aspx)".

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. Additionally, other laws and regulations might apply to certain activities that are also covered under this permit (e.g., United States Coast Guard regulations or local county restrictions).

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#### **H. 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 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.

#### **I. Desirable Species and Critical Habitat**

Operators must comply with all conditions and/or requirements that address discharges from activities also covered under this permit resulting from any of the following pre-existing situations:

1. Endangered Species Act (ESA) Section 7 consultation that Operators have completed with DNR, FWS and/or NMFS, and/or

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2. ESA Section 10 permit issued to the Operator by DNR, FWS and/or NMFS.

## **PART III. SPECIAL CONDITIONS**

### **A. Technology-Based Effluent Limitations**

This Part includes technology-based effluent limitations applicable to all Operators, as defined in Appendix A, for any discharges authorized under this permit, with compliance required upon beginning such discharge. All Operators are classified as either “Applicators” or “Decision-makers,” as defined in Appendix A, or both. Applicators must perform the tasks identified in Part III.A.1 – Applicators’ Responsibilities. Decision-makers must perform the tasks identified in Part III.A.2 – Decision-makers’ Responsibilities. There may be instances when a single entity acts as both an Applicator and a Decision-maker.

If an Operator’s discharge of pollutants results from the application of pesticide that is being used solely for the purpose of “pesticide research and development,” as defined in Appendix A, the Operator must use such pesticide consistent with any applicable research plan and experimental use permit.

As stated in Part II.G, this permit requires all Operators to comply with all other applicable federal or state laws and regulations that pertain to application of pesticides by the Operator.

#### **1. Applicators’ Responsibilities**

To meet the effluent limitations of this permit, all Applicators must implement Part III.A.1 to minimize the discharge of pesticides to Waters of this State from the application of pesticides, through the use of Pest Management Measures, as defined in Appendix A.

- a. To the extent not determined by the Decision-maker, use only the amount of pesticide and frequency of pesticide application necessary to control the target pest, using equipment and application procedures appropriate for this task.
- b. Maintain pesticide application equipment in proper operating condition, including requirement to calibrate, clean, and repair such equipment and prevent leaks, spills, or other unintended discharges.
- c. Assess weather conditions (e.g., temperature, precipitation, and wind speed) in the treatment area to ensure application is consistent with all applicable federal requirements.
- d. Achieve and maintain the required Pesticide Applicator Certification and Business Licensing Requirements from Maryland Department of Agriculture, or be supervised by an employee in your organization who achieves and maintains this same Certification and Licensing. Information is available on the following webpage: [http://mda.maryland.gov/plants-pests/Pages/licensing\\_and\\_certification.aspx](http://mda.maryland.gov/plants-pests/Pages/licensing_and_certification.aspx)
- e. Create the assurance plan and verify compliance with the water quality standards (Part III.B).

#### **2. Decision-makers’ Responsibilities: Basic Requirements for All Decision-makers**

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- To meet the effluent limitations in Part III.A.2, all Decision-makers must minimize the discharge of pesticides to Waters of this State from the application of pesticides, through the use of Pest Management Measures, as defined in Appendix A.
- To the extent the Decision-maker determines the amount of pesticide or frequency of pesticide application, the Decision-maker must use only the amount of pesticide and frequency of pesticide application necessary to control the target pest.

**Additional requirements for Any Decision-maker Who is or Will be Required to Submit an NOI.**

To meet the effluent limitations of this permit, prior to pesticide application, any Decision-maker who is or will be required to submit an NOI as required in Part II.B, must also implement Parts III.A.2.a - III.A.2.d to minimize the discharge of pesticides to Waters of this State from the application of pesticides, through the use of Pest Management Measures, as defined in Appendix A. However, these requirements do not apply to Decision-makers at smaller properties (less than an acres) that will need to submit an NOI solely because they discharge to Waters of this State containing Desirable Species and that also comply with provisions in Part II.I.

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 as defined in Part I.B.1.

i.) Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to Waters of this State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area, as defined in Appendix A:

- Identify target pest(s) to develop species-specific Pest Management Measures based on developmental and behavioral considerations for each pest;
- Identify known breeding sites for source reduction, larval control program, and habitat management;
- Establish densities for larval and adult mosquito or flying insect pest populations or identify environmental condition(s), either current or based on historical data, to serve as action threshold(s) for implementing Pest Management Measures;
- 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; and
- In the event there is no data for pest management from the past calendar year, use other available data as appropriate to meet the permit conditions in Part III.A.2.a.i.

ii.) Pest Management Options. Prior to the first pesticide application covered under this permit that will result in a discharge to Waters of this State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI shall select and implement, for each pest management area, efficient and effective Pest Management Measures that minimize discharges resulting

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from application of pesticides to control mosquitoes or other flying insect pests. In developing these Pest Management Measures for each pest management area, the Decision-maker must evaluate the following management options, including a combination of these 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 this State, any Decision-maker who is or will be required to submit an NOI must:

- Conduct larval and/or adult surveillance in an area that is representative of the pest problem or evaluate existing larval surveillance data, environmental conditions, or data from adjacent areas prior to each pesticide application to assess the pest management area and to determine when action threshold(s) are met;
- Reduce the impact on the environment and on non-target organisms by applying the pesticide only when the action threshold(s) have 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 threshold(s) 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 threshold(s) 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 as defined in Part I.B.1.

*i.)* Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to Waters of this State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area, as defined in Appendix A:

- 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 this State, and at least once

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each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement, for each pest management area, efficient and effective means of Pest Management Measures that minimize discharges resulting from application of pesticides to control weeds, algae, or pathogens. In developing these Pest Management Measures, the Decision-maker must evaluate the following management options, including a combination of these 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 (i.e. winter burning of phragmites canes unless site conditions or local ordinances prohibit such practice).
- Cultural methods
- Biological control agents
- Pesticides
- Colored dyes for algae suppression

If the treatment area is subject to a Buffer Management Plan (BMP) per Part II.G of this permit, the selected Pest Management Measures must be consistent with those approved plans.

*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 this State, any Decision-maker who is or will be required to submit an NOI must:

- Conduct surveillance prior to each pesticide application to assess the pest management area and to determine when the action threshold(s) are met; and
- Reduce the impact on the environment and non-target organisms by applying the pesticide only when the action threshold(s) have been met.
- Follow recommended hold time requirements to prevent any downstream impacts, including those from the manufacturer and those recommended under any desired species consultation.

*iv.)* Colorant use for Algae Suppression. Use of colorants is restricted to stormwater ponds or man-made decorative pools with outlets that may be controlled. The Operator must ensure that any discharges from a pond or pool following an application of a dye product does not cause a change in the color of Waters of this State beyond a mixing zone of 1/3 of the width of the receiving stream at the point of pond discharge, and not to exceed 50 feet, radial to the point of discharge. Failure to meet these requirements will be considered a violation of (Part III.B) Water Quality-Based Effluent Limitations.

c. Nuisance Animal Control.

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

*i.)* Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to Waters of this State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area, as defined in Appendix A:

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- 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);
  - Establish any pest- and site-specific action threshold, as defined in Appendix A, for implementing Part III.A.2.c.ii; and
  - In the event there are no data for pest management area from the past calendar year, use other available data as appropriate to meet the permit conditions in Part III.A.2.c.i.
- ii.) Pest Management Options. Prior to the first pesticide application covered under this permit that will result in a discharge to Waters of this State, and at least once each year thereafter prior to the first pesticide application during that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize discharges resulting from application of pesticides to control nuisance animals. In developing these pest management strategies, the Decision-maker must evaluate the following management options, including a combination of these 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 this State, any Decision-maker who is or will be required to submit and NOI must:
- Conduct surveillance in an area that is representative of the pest problem prior to each pesticide application to assess the pest management area and to determine when the action threshold(s) are met; 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(s) have been met.
- d. Forest Canopy Pest Control.
- This part applies to discharges from the application of pesticides for forest canopy pest control as defined in Part I.B.1.
- i.) Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to Waters of this State, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area, as defined in Appendix A:

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- Establish any pest- and site-specific action threshold, as defined in Appendix A, for implementing III.A.2.d.ii;
  - Identify target pest(s) to develop Pest Management Measures based on developmental and behavioral considerations for each species;
  - Identify current distribution of the target pest and assess potential distribution in the absence of Pest Management Measures; and
  - In the event there are no data for the pest management area from the past calendar year, use other available data as appropriate to meet the permit conditions in Part III.A.2.d.i.
- 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, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize discharges resulting from application of pesticides to control forestry pests. In developing the Pest Management Measures for each pest management area, the Decision-maker must evaluate the following management options, including a combination of these 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 this State, any Decision-maker who is or will be required to submit an NOI must:
- Conduct surveillance in an area that is representative of the pest problem prior to each application to assess the pest management area and to determine when the pest action threshold(s) are met;
  - 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 threshold(s) have been met; and
  - Evaluate using pesticides against the most susceptible developmental stage.

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

All Operators must control discharges as necessary to meet applicable numeric and narrative Maryland water quality standards.

1. Any Decision-maker involved in application of pesticides using copper, who is or will be required to submit an NOI, must develop and provide an assurance plan to the Department for approval, which will verify that the application will be in compliance with state water quality standards. The application of copper-based algacides and herbicides outlined in the plan must meet the following guidelines:

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- a. Prohibition on the use of copper compounds in free-flowing streams if the alkalinity of the receiving water is below 20 mg/L (as CaCO<sub>3</sub>). Otherwise use of the product must follow the manufacturer's required alkalinity adjustment based on instructions for the product.
  - b. Methods of applying the product to minimize the impact on non-target organisms (i.e. starting near shore, or applying directly on mats of algae, or along surface for bluegreen algae where the organism exists).
  - c. Provide verification that no reasonable potential exists for exceeding the following criteria (using a mass balance calculation, approved model, or other approved demonstration):
    - i. for reservoirs that are created by dams of intermittent or free flowing streams, dissolved copper concentration limits are below acute water quality criteria (13 ug/l fresh water or 4.8 ug/l salt water) in two thirds the cross-sectional area of the impoundment within 48 hours of application.
    - ii. for larger ponds (over 5 acres), dissolved copper concentrations must be below the chronic water quality criteria (9 ug/l fresh water or 4.8 ug/l salt water) at the edge of mixing zone within the receiving waterway below the conveyance from the pond within 48 hours of application.
    - iii. for smaller ponds (equal to or under 5 acres) use of instructions on label required, and visual monitoring to verify no impact on non-target organisms.
  - d. If you cannot demonstrate that the application will be in compliance with the above requirements and monitoring of dissolved copper is required, you must include a monitoring plan for before and after the application. Monitoring is only required during the periods when the pesticide is being used. At a minimum, monitoring must consist of grab samples before the application and 48 hours after the pesticide is used. The Department reserves the right to specify additional monitoring requirements at its discretion.
2. Requirements for pesticide applications to waters protected for drinking water (-P): Any Decision-maker involved in applying pesticides to waters protected for drinking water, should give preference to products recommended for drinking supplies. Any Decision-maker involved in applying pesticides to waters protected for drinking water, who is or will be required to submit an NOI, must develop and provide an assurance plan to the Department for approval, which will verify that the application will not impact human health, based on established Maximum Contaminant Levels (MCL) or your own research. Application of pesticides is prohibited within 100 feet of a drinking water intake. The plan will include the following:
- a. Identification of the drinking water criteria based on your own research, MCLs (primary and secondary), or Health Advisories for Short Term Exposure. A full list of MCLs can be found here ([https://www.epa.gov/sites/production/files/2016-06/documents/npwdr\\_complete\\_table.pdf](https://www.epa.gov/sites/production/files/2016-06/documents/npwdr_complete_table.pdf)). The known MCLs for common pesticides include: Aquathol (100 ug/l), Diquat (20 ug/l), Endothall (100 ug/l), 2,4-D (70 ug/l) and Glyphosate (700 ug/l).
  - b. Method of application to minimize the impact on the receiving water (i.e. holding pond treatment for 2 weeks per the label).
  - c. Provide verification that no reasonable potential exists for exceeding the established criteria (i.e. using a mass balance calculation, approved model, or other approved demonstration):
    - i. for reservoirs that are created by dams of intermittent or free flowing streams within 100 feet of the targeted pest control area.

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- ii. for larger ponds (over 5 acres), at the edge of mixing zone within the receiving waterway below the conveyance from the pond.
- d. If you cannot demonstrate that the application will be in compliance with the above requirements and monitoring is required, you must include a monitoring plan for before and after the application. Monitoring is only required during the periods when the pesticide is being used. At a minimum, monitoring must consist of grab samples before the application and 48 hours after the pesticide is used. The Department reserves the right to specify additional monitoring requirements at its discretion.
- e. A plan to notify the Department's Water Supply Program, and utilities downstream as directed on your registration letter in the event a pesticide is spilled or dosage is exceeded.

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.

### **C. Monitoring and Public Notice Requirements**

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

During any pesticide application with discharges authorized under this permit, all Applicators must, when considerations for safety and feasibility allow, visually assess the area to and around where pesticides are applied for possible and observable adverse incidents, as defined in Appendix A, caused by application of pesticides, including the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use.

Visual Monitoring by the Applicator must also include:

- a. monitoring 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. monitoring pesticide application activities to ensure that 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 Appendix A, caused by application of pesticides, including but not limited to the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use.

Visual assessments of the application site 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.

#### **3. Public Notice Requirements**

At a minimum, signage must be posted by applicators consistent with COMAR 15.05.01.00 for pesticides used for ornamental or turf management in cemeteries, golf courses, parks, and similar sites or as required on the FIFRA label. In addition, the applicator must carry information for the public and present it upon request during the

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time the pesticide is being applied, or alternatively refer the request to the Decision Maker who can provide the information. This printed or written information is to include: 1) Name and EPA ID of the pesticide applied; 2) Date applied; 3) Name of licensee/permittee; 4) Telephone number or email address of licensee/permittee.

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

Any Decision-maker who is or will be required to submit an NOI, as required in Part II.B, exceeds the annual treatment area in the Table 4 and is a large entity, as defined in Appendix A, must prepare a Pesticide Discharge Management Plan (PDMP) by the time the NOI is filed, with two exceptions (for which a PDMP is not required to be developed):

- Any application is made in response to a Declared Pest Emergency Situation, as defined in Appendix A; or
- Any Decision-maker who is required to submit an NOI solely because their application results in a point source discharge to Waters of this State containing Desirable Species, as defined in Appendix A.

**Table 4 - Annual Treatment Area Thresholds related to the PDMP**

Pesticide Use	Annual Threshold <sup>4</sup>
Mosquito and Other Flying Insect Pest Control	6,400 acres of treatment area <sup>1</sup>
Weed and Algae 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 this 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 this 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,

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treating both sides of a ten-mile stream is equal to twenty miles of water treatment area.

- (4) "Annual" shall refer to the calendar year, and that includes the year in which this permit is issued.

The PDMP does not contain effluent limitations; the effluent limitations are contained in Parts III.A and B of the permit. The PDMP documents how Decision-makers will implement the effluent limitations in Parts III.A and B of the permit, including the evaluation and selection of Pest Management Measures to meet those effluent limitations in order to minimize discharges. In the PDMP, Decision-makers may incorporate, by reference, any procedures or plans in other documents that meet the requirements of this permit. If Decision-makers rely upon other documents to comply with the effluent limitations in this permit, such as a pre-existing pest management plan, the Decision-maker 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.

#### 1. **Contents of the Pesticide Discharge Management Plan**

The PDMP shall include the following elements:

- Pesticide Discharge Management Team
  - Problem Identification
  - Pest Management Options Evaluation
  - Monitoring Procedures
  - Response Procedures
  - Documentation to support eligibility considerations under other federal laws
  - Signature Requirements.
- a. PDMP Team. Decision-makers must identify all persons (by name and contact information) that comprise the team as well as each person's individual responsibilities, including:
- i.)* Person(s) responsible for managing pests in relation to the pest management area
  - ii.)* Person(s) responsible for developing and revising the PDMP;
  - iii.)* Person(s) responsible for developing, revising, and implementing corrective actions and other effluent limitation requirements ; and
  - iv.)* Person(s) responsible for pesticide applications.
- b. Problem Identification. Decision-makers must document the following:
- i.)* Pest problem description. Document a description of the pest problem at the pest management area, including identification of the target pest(s), source(s) of the pest problem, and source of data used to identify the problem in accordance with Parts III.A.2.a, III.A.2.b, III.A.2.c, and III.A.2.d.;
  - ii.)* Action Threshold(s). Describe the action threshold(s) for the pest management area, including data used in developing the action threshold(s) and method(s) to determine when the action threshold(s) have been met;
  - iii.)* General location map. In the plan, include a general location map (e.g., Google, 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 the location of the Waters of this State; and



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2. **Pesticide Discharge Management Plan Modifications.** Decision-makers must 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, no later than 90 days after any change in pesticide application activities. The revised PDMP must be signed and dated in accordance with Part II.D.

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

3. **Pesticide Discharge Management Plan Availability.** Decision-makers must retain a copy of the current PDMP, along with all supporting maps and documents, at the address provided on the NOI. The PDMP and all supporting documents must be readily available and copies of any of these documents provided, upon request, to the Department, DNR, MDA 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, DNR, MDA, FWS, and NMFS cleared for CBI review.

#### **E. Corrective Action**

All Operators must comply with the provisions of Part III.E for any discharges authorized under this permit, with compliance required upon beginning such discharge.

##### **1. Situations Requiring Revision of Pest Management Measures.**

Operators must review and, as necessary, revise the evaluation and selection of Pest Management Measures consistent with Part III.A.1 and Part III.A.2 for the following situations:

- 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. Operator(s) becomes aware, or the Department concludes, that Pest Management Measures are not adequate/sufficient for the discharge to meet applicable water quality standards;
- c. Any monitoring activities indicate failure to meet applicable technology-based effluent limitations in Part III.A;
- d. An inspection or evaluation of the Operator's activities by the Department reveals that modifications to the Pest Management Measures are necessary to meet the effluent limitations in this permit; or
- e. The Operator observes, for example, during visual monitoring, or is otherwise made aware of, an adverse incident as defined in Appendix A.

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**2. Corrective Action Deadlines.**

If the Operator determines that changes to the Pest Management Measures are necessary to eliminate any situation identified in Part III.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 III.E.1 may constitute a violation of the permit. Correcting the situation according to Part III.E.1 does not absolve the Operator of liability for any original violation. However, failure to comply with Part III.E.2 constitutes an additional permit violation. The Department will consider the appropriateness and promptness of corrective action in determining enforcement responses to permit violations.

The Department or a court may impose additional requirements and schedules of compliance, including requirements to submit additional information concerning the condition(s) triggering corrective action or schedules and requirements more stringent than specified in this permit. Those requirements and schedules will supersede those of Part III.E.1 and III.E.2 if such requirements conflict.

**4. Adverse Incident Documentation and Reporting**

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

*i.)* **Adverse Incident Notification Required**

Except as provided for in Part III.E.4.d, if the Operator observes or is otherwise made aware of an adverse incident, as defined in Appendix A, which may have resulted from a discharge from a pesticide application, the Operator must immediately notify the Department, Water and Science Administration Compliance Program, at 410-537-3510, and the 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:

- The caller's name and telephone number;
- Operator name and mailing address;
- If covered under an NOI, the registration number assigned by the Department;
- The name and telephone number of a contact person, if different than the person providing the 24-hour notice;
- How and when the Operator became aware of the adverse incident;
- Description of the location of the adverse incident;
- 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
- 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.

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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.

In addition to reporting requirements (Part III.E), dead fish and/or vegetation resulting from an adverse event must be removed from the water as required in consultation with the Department and shall be disposed of on land in such a manner that will not create a nuisance.

*ii.) Adverse Incident Notification Not Required*

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

- 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;
- The Operator has been notified in writing by the Department that the reporting requirement has been waived for this incident or category of incidents;
- The Operator receives information notifying the Operator of an adverse incident but that information is clearly erroneous; or
- An adverse incident occurs to pests that are similar in kind to pests identified as potential targets on the FIFRA label.

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

Except as provided for in Part III.E.4.d, within thirty days of a reportable adverse incident pursuant to Part III.E.4.a.i, the Operator shall provide a written report of the adverse incident to the Department, Water and Science Administration Compliance Program. The adverse incident report must include at least the following information:

- i.)* Information required to be provided in Part III.E.4;
- ii.)* Date and time the Operator contacted 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;
- iii.)* Location of incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, etc);
- iv.)* A description of the circumstances of the adverse incident including species affected, estimated number of individual and approximate size of dead or distressed organisms;
- v.)* Magnitude and scope of the affected area (e.g. aquatic square area or total stream distance affected);
- vi.)* 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;
- vii.)* Description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data for pesticides applied);
- viii.)* 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;
- ix.)* If applicable, explain why the Operator believes the adverse incident could not have been caused by exposure to the pesticide;

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- x.) Description of actions to be taken to prevent recurrence of adverse incidents; and
- xi.) Signed and dated in accordance with Part II.D.

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

c. 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:

- i.) The caller's name and telephone number;
- ii.) Operator name and mailing address;
- iii.) The name of the affected species, size of area impacted, and, if applicable, the approximate number of animals affected;
- iv.) How and when the Operator became aware of the adverse incident;
- v.) Description of the location of the adverse incident;
- vi.) 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
- vii.) 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.

d. Notification and Reporting for Adverse Incidents Involving Multiple Operators

Where multiple Operators are authorized for a discharge that results in an adverse incident, notification and reporting by any one of the Operators constitutes compliance for all of the Operators, provided a copy of the written report required in Part III.E.4.b is also provided to all of the other authorized Operators within 30 days of the reportable adverse incident.

**5. Reportable Spills and Leaks**

a. 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

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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.

**b. 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 Part III.E.5.a above, the Operator shall submit a written report to the Water and Science Administration Compliance Program. The report shall contain the following information:

- i.)* Brand name or common product name including EPA registration number;
- ii.)* A description of the nature and location of the spill, leak or discharge;
- iii.)* The cause of the spill, leak or discharge;
- iv.)* The date on which the spill, leak or discharge occurred;
- v.)* The length of time that the spill, leak or discharge continued;
- vi.)* The volume of the spill, leak or discharge;
- vii.)* If the discharge is continuing, how long it is expected to continue, and what the expected total volume of the discharge will be;
- viii.)* A summary of corrective action taken or to be taken including date initiated and date completed or expected to be completed; and
- ix.)* 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.

**6. Other Corrective Action Documentation**

For situations identified in Part III.E.1, other than for adverse incidents (addressed in Part III.E.4), or reportable spills or leaks (addressed in Part III.E.5), Operators must document the situation triggering corrective action and document planned corrective action within 30 days of becoming aware of that situation, and retain a copy of this documentation. This documentation must include the following information:

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

**F. Recordkeeping and Annual Reporting**

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The recordkeeping and annual reporting requirements vary depending on the type of Operator, whether a Decision-maker is a small or large entity, or whether a Decision-maker is required to submit an NOI solely because the discharge overlaps with Desirable Species, as defined in Appendix A. Table 5 references applicable requirements for the range of Operators covered under this permit.

**Table 5 - Applicable Recordkeeping and Annual Reporting Requirements for Different Types of Operators..**

17-PE Part	Applicable Type of Operator
F.1	Recordkeeping for All Operators
F.2	Recordkeeping for All Operators who are For-Hire Applicators
F.3	Recordkeeping for Any Decision-maker Required to Submit an NOI and Who is a Small Entity <sup>(1)</sup>
F.4	Recordkeeping for Any Decision-maker Required to Submit an NOI and Who is a Large Entity <sup>(2)</sup>
F.5	Retention of Records for All Operators
F.6	Annual Reporting for Any Decision-maker Required to Submit an NOI and Who is a Large Entity <sup>(2)</sup>
F.7	Annual Reporting for Any Decision-maker with Discharges to waters of the United States containing a Desirable Species, as defined in Appendix A, and Who is a Small Entity <sup>(1)</sup>

<sup>1</sup>Small Entity – As defined in Appendix A, is any (1) public entity that serves a population of 10,000 or less or (2) private enterprise that does not exceed the Small Business Administration size standard identified at:

<https://www.sba.gov/federal-contracting/contracting-guide/size-standards>

<sup>2</sup>Large Entity – As defined in Appendix A, is any (1) public entity that serves a population of greater than 10,000 or (2) private enterprise that exceeds the Small Business Administration size standard as identified at:

<https://www.sba.gov/federal-contracting/contracting-guide/size-standards>

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. Operator(s) 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 Decision-makers who are or may be required to submit an NOI based on their annual treatment area, keep records of acres or linear miles treated for all applicable use patterns covered under this general permit.

1. **Recordkeeping for All Operators.** All Operators must keep the following records:
  - a. A copy of any Adverse Incident Reports (See Part III.E.4.b);
  - 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.E.4.a.ii;
  - c. Any corrective action documentation (See Part III.E.6); and ,
  - d. A copy of any spill and leak or other unpermitted discharge documentation (See Part III.E.5.b).

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2. **Recordkeeping for All Operators who are For-Hire Applicators.** Any Operator who is a For-Hire Applicator, as defined in Appendix A, must retain the following records:
  - a. Documentation of equipment calibration; and
  - b. Information on each treatment area to which pesticides are discharged, including:
    - i.) Description or map of each treatment area indicating at a minimum, the location and size, (acres or linear feet) of treatment area, and identification of any waters, either by name or by location, to which pesticide(s) are discharged;
    - ii.) Day, month and year of application;
    - iii.) Pesticide use pattern(s) (i.e. mosquito and other flying insects, weed and algae, animal pest or forest canopy);
    - iv.) Target pest(s);
    - v.) Brand name or common product name including EPA registration number;
    - vi.) Amount of pesticide concentrate and amount of diluting used, by weight or volume, in mixture applied; and
    - vii.) Whether or not visual monitoring was conducted during pesticide application and/or post-application and if not, why not, and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.
  
3. **Recordkeeping for Any Decision-maker Required to Submit an NOI and Who is a Small Entity.** Any Decision-maker required to submit an NOI who is defined as a small entity, must retain the following records at the address provided on the NOI:
  - a. Copy of the NOI submitted to the Department, any correspondence exchanged between the Decision-maker and the Department specific to coverage under this permit, and a copy of the registration letter with the assigned permit number;
  - b. Documentation of equipment calibration (only if Decision-maker is also the Applicator);
  - c. Information on each treatment area to which pesticides are discharged, including:
    - i.) Description or map of each treatment area indicating at a minimum, the location and size, (acres or linear feet) of treatment area, and identification of any waters, either by name or by location, to which pesticide(s) are discharged;
    - ii.) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weed and algae, animal pest, or forest canopy);
    - iii.) Target pest(s) and explanation of need for pest control;
    - iv.) Description of pest management measure(s) implemented prior to the first pesticide application;
    - v.) Company name and contact information for pesticide applicator;
    - vi.) Name of each pesticide product used including the EPA registration number;
    - vii.) Quantity of each pesticide product applied to each treatment area;
    - viii.) Pesticide Application Start Date;
    - ix.) Pesticide Application End Date; and
    - x.) Whether or not visual monitoring was conducted during pesticide application and/or post-application and if not, why not and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.

A worksheet for documenting this information on each treatment area is provided in Appendix B, Pesticide Discharge Evaluation Worksheet.

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4. **Recordkeeping for Any Decision-maker Required to Submit an NOI and Who is a Large Entity.** Any Decision-maker required to submit an NOI who is defined as a large entity must retain the following records at the address provided on the NOI:
  - a. Copy of the NOI submitted to the Department, any correspondence exchanged between the Decision-maker and the Department specific to coverage under this permit, and a copy of the registration letter with the assigned permit number;
  - b. A copy of the PDMP (if applicable), including any modifications made to the PDMP during the term of this permit;
  - c. Copy of annual reports (if applicable);
  - d. Documentation of equipment calibration (only if Decision-maker is also the Applicator);
  - e. Information on each treatment area to which pesticides are discharged, including:
    - i.) Description or map of each treatment area indicating at a minimum, the location and size, (acres or linear feet) of treatment area, and identification of any waters, either by name or by location, to which pesticide(s) are discharged;
    - ii.) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weed and algae, animal pest, or forest canopy);
    - iii.) Target pest(s) and explanation of need for pest control;
    - iv.) Action Thresholds;
    - v.) Method and/or data used to determine that action threshold(s) has been met;
    - vi.) Description of pest management measure(s) implemented prior to the first pesticide application;
    - vii.) Company name and contact information for pesticide applicator;
    - viii.) Name of each pesticide product used including the EPA registration number;
    - ix.) Quantity of each pesticide product applied to each treatment area;
    - x.) Pesticide application date(s); and
    - xi.) Whether or not visual monitoring was conducted during pesticide application and/or post-application, and if not, why not, and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.
5. **Retention of Records for All Operators.** All required records must be assembled as soon as possible but no later than 30 days following completion of such activity. Operators must 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. Operators must 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.
6. **Annual Reporting for Any Decision-maker Required to Submit an NOI and Who is a Large Entity.** Any Decision-maker required to submit an NOI and is defined as a large entity in Appendix A, must create an annual report, once the Operator reports an adverse incident as described in Part III.E.4.a. This Annual Report must be submitted to the Department, and a copy kept on-site. Once a Decision-maker meets the obligation to create an annual report, the Decision-maker must create the annual report each calendar year thereafter for the duration of coverage under this general permit, whether or not the Decision-maker has discharges from the application of pesticides in any subsequent calendar year. Decision-makers must create the annual report and have it available for the Department upon request. The annual report must be created no later than February 15 of the following year for all pesticide activities covered under this permit occurring during the previous calendar year.

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The annual report must contain the following information:

- a. Decision-maker's name and contact information;
- b. NPDES permit registration number(s);
- c. Contact person name, title, e-mail address (if any), and phone number; and
- d. For each treatment area, report the following information:
  - i.) Description or map of each treatment area indicating at a minimum, the location and size, (acres or linear feet) of treatment area, and identification of any waters, either by name or by location, to which pesticide(s) are discharged;
  - ii.) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weed and algae, animal pest, or forest canopy) and target pest(s);
  - iii.) Company name(s) and contact information for pesticide applicator(s), if different from the Decision-maker;
  - iv.) Total amount of each pesticide product applied for the reporting year by the EPA registration number(s) and by application method (e.g., aerially by fixed-wing or rotary aircraft, broadcast spray, etc.);
  - v.) Whether this pest control activity was addressed in the PDMP prior to pesticide application;
  - vi.) If applicable, an annual report of any adverse incidents as a result of these treatment(s), for incidents, as described in Part III.E.4.a; and
  - vii.) If applicable, description of any corrective action(s), including spill responses, resulting from pesticide application activities and the rationale for such action(s).

7. **Annual Reporting for Any Decision-maker with Discharges to waters of this State containing Desirable Species, as defined in Appendix A, and Who is a Small Entity.** Any Decision-maker required to submit an NOI for discharges to Waters of this State containing Desirable Species, as defined in Appendix A, and is a small entity, as defined in Appendix A, must create an annual report. Any Operator that reports an adverse incident as described in Part III.E.4.a must submit this annual report to the Department. Once a Decision-maker meets the obligation to create an annual report, the Decision-maker must create the annual report each calendar year thereafter for the duration of coverage under this general permit, whether or not the Decision-maker has discharges from the application of pesticides in any subsequent calendar year, and make it available upon request from the Department. The annual report must be created no later than February 15 of the following year for all pesticide activities covered under this permit occurring during the previous calendar year.

The annual report is due no later than February 15 of the next year.

The annual report must contain the following information for any discharges to Waters of this State containing Desirable Species:

- a. Decision-maker's name and contact information;
- b. NPDES permit registration number(s);
- c. Contact person name, title, e-mail address (if any), and phone number; and
- d. For each treatment area, report the following information:
  - i.) Description or map of each treatment area indicating at a minimum, the location and size, (acres or linear feet) of treatment area, and identification of any waters, either by name or by location, to which pesticide(s) are discharged;
  - ii.) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weed and algae, animal pest, or forest canopy) and target pest(s);

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- iii.) Company name(s) and contact information for pesticide applicator(s), if different from the Decision-maker;
- iv.) Total amount of each pesticide product applied for the reporting year by the EPA registration number(s) and by application method (e.g., aerially by fixed-wing or rotary aircraft, broadcast spray, etc.);
- v.) The approximate date(s) of any discharge;
- vi.) If applicable, an annual report of any adverse incidents as a result of these treatment(s), for incidents, as described in Part III.E.4.a; and
- vii.) If applicable, description of any corrective action(s), including spill responses, resulting from pesticide application activities and the rationale for such action(s).

### **G. Electronic Reporting Requirement**

Decision-makers must summarize and submit monitoring (Part III.B) reports electronically once per year. Your monitoring information is submitted electronically using NetDMR once you are granted access to this tool, unless you demonstrate a reasonable basis that precludes the use of NetDMR. Specific requirements regarding submittal of data and reports in hard copy form and for submittal using NetDMR are described below:

1. NetDMR is a U.S. EPA tool allowing regulated Clean Water Act permittees to submit monitoring reports electronically via a secure Internet application. You must apply for access to NetDMR at [www.epa.gov/netdmr](http://www.epa.gov/netdmr) and register for a NetDMR Webinar. Before you can submit official DMRs using NetDMR you must attend a training Webinar and successfully set-up and submit test monitoring results electronically. You must complete all requirements to gain access to NetDMR within one (1) month of authorization under this permit.
2. The permittee may be eligible for a temporary waiver by MDE from NPDES electronic reporting requirements if the permittee has no current internet access and is physically located in a geographic area (i.e., zip code) that is identified as underserved for broadband internet access in the most recent National Broadband Map from the Federal Communications Commission (FCC); or if the permittee can demonstrate that such electronic reporting of the monitoring data and reports would pose an unreasonable burden or expense to the NPDES-permitted facility. Waiver requests must be submitted in writing to the Department for written approval at least 120 days prior to the date the permittee would be required under this permit to begin using NetDMR. This demonstration shall be valid for one (1) year from the date of the Department approval and shall thereupon expire. At such time, DMRs and reports shall be submitted electronically to the Department unless the permittee submits a renewed waiver request and such request is approved by the Department. The application form for a waiver from electronic reporting requirements can be found at <http://mde.maryland.gov/programs/Permits/WaterManagementPermits/Documents/eReporting%20Waiver%20Request%20Form.pdf>. All subsequent hardcopy DMRs shall be sent to the Department's Compliance Program.
3. If you are required to perform numeric discharge monitoring for specific pollutants you must report the data, at least yearly, no later than February 15 of the next year.

### **H. Contact Information and Mailing Addresses**

1. Wastewater Permits Program: When directed to contact the Department's Wastewater Permits Program use the phone number 410-537-3323 and the address:  
Maryland Department of the Environment, Wastewater Permits Program, 1800 Washington Blvd, Suite 455, Baltimore, MD 21230

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2. Compliance Program: When directed to contact the Department's Compliance Program use the phone number 410-537-3510 and the address:  
Maryland Department of the Environment, WSA – Compliance Program, 1800  
Washington Blvd., Suite 425, Baltimore, MD 21230

## **PART VI. STANDARD PERMIT CONDITIONS**

### **A. *Submitting Additional or Corrected Information***

When you become aware that you failed to submit any relevant facts or submitted incorrect information in the NOI or in any other report to the Department, you must submit the facts or information to the Department within 30 days.

### **B. *Adverse Impact***

The permittee shall take all reasonable steps to minimize or prevent any adverse impact to waters of the State or to human health resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

### **C. *Right of Entry***

You must permit the Secretary of the Department, the Regional Administrator for the EPA, or their authorized representatives, upon the presentation of credentials, to:

1. enter upon your premises where a discharges' source is located or where any records are required to be kept under the terms and conditions of this permit;
2. access and copy, at reasonable times, any records required to be kept under the terms and conditions of this permit;
3. inspect, at reasonable times, any monitoring equipment or monitoring method required in this permit;
4. inspect, at reasonable times, any collection, treatment, pollution management, or discharge facilities required under this permit;
5. sample, at reasonable times, any discharge of pollutants; and
6. take photographs (which may require direction for reasons of national security).

### **D. *Availability of Reports***

Except for data determined to be confidential under the Maryland Public Information Act and/or Section 308 of the Clean Water Act, 33 U.S.C. § 1318, all submitted data must be available for public inspection at the offices of the Department and the Regional Administrator of the Environmental Protection Agency.

### **E. *Permit Modification***

The Department may revoke this permit or modify this permit to include different limitations and requirements, in accordance with the procedures contained in COMAR 26.08.04.10 and 40 C.F.R. §§ 122.62, 122.63, 122.64 and 124.5.

### **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. *Toxic Pollutants***

You must comply with effluent standards or prohibitions for toxic pollutants established under the Federal Clean Water Act, or under Section 9-314 and Sections 9-322 to 9-328 of the Environment Article, Annotated Code of Maryland. You must be in compliance within

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the time provided in the regulations that establish these standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

**H. *Oil and Hazardous Substances Prohibited***

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve you from any responsibility, liability, or penalties to which the permittee may be subject under Section 311 of the Clean Water Act (33 U.S.C. § 1321), or under the Annotated Code of Maryland.

**I. *Civil and Criminal Liability***

Nothing in this permit shall be construed to preclude the institution of any legal action nor relieve you from any civil or criminal responsibilities, liabilities, and/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.

**J. *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 any infringement of federal, state or local laws or regulations.

**K. *Severability***

The provisions of this permit are severable. If any provisions of this permit must be held invalid for any reason, the remaining provisions must 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 must not be affected.

**L. *Water Construction and Obstruction***

This permit does not authorize you to construct or place physical structures, facilities, or debris or undertake related activities in any waters of the State.

**M. *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, 33 U.S.C. § 1251 et seq. Any noncompliance with any of the requirements of this permit constitutes a violation of the Clean Water Act and is grounds for enforcement action, changes to or termination of the permit coverage, or denial of a permit renewal application.

Operators must comply with effluent standards or prohibitions established under CWA section 307(a) for toxic pollutants within the time provided in the regulations that establish these standards, even if the permit has not yet been modified to incorporate the requirement.

**N. *Action on Violations***

The issuance or reissuance of this permit does not constitute a decision by the State not to proceed in an administrative, civil, or criminal action for any violations of State law or regulations occurring before the issuance or re-issuance of this permit, nor a waiver of the State's right to do so.

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**O. *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 Clean Water Act provides that any person who violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act or in a permit issued under Section 404 of the Act, is subject to a civil penalty not to exceed \$37,500 per day for each violation. Statutory penalties of the CWA are subject to the Civil Monetary Penalty Inflation Adjustment Rule (40 CFR 19.4).

**P. *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 Clean Water Act provides that:

1. Any person who negligently violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or in a permit issued under Section 404 of the Act, is subject to a fine of not less than \$2,500 nor more than \$25,000 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 Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or in a permit issued under Section 404 of the 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 Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or in a permit issued under Section 404 of the 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 that is a corporation, must, upon conviction, be subject to a penalty of not more than \$1,000,000.
4. 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 the Act or who knowingly falsifies, tampers with or renders inaccurate any monitoring device or method required to be maintained under the Act, is subject to a fine of not more than \$10,000 or by imprisonment for not more than two (2) years, or by both.

**Q. *Duty to Provide Information***

You must provide within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit to the Department. You must also provide copies of records required to be kept by this permit to the Department, upon request.

**R. *Reopener Clause for Permits***

This permit must be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301, 304, and

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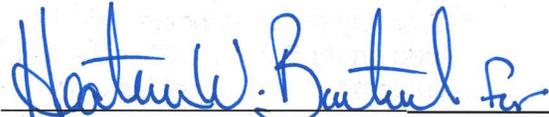
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307 of the Clean Water Act [33 USCS §§ 1311, 1314, 1317] if the effluent standard or limitation issued or approved:

1. contains different conditions or is otherwise more stringent than any effluent limitation in this permit; or
2. controls any pollutant not limited in this permit. This permit, as modified or reissued under this section, must also contain any other requirements of the Act then applicable.

## **PART VII. 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.



D. Lee Currey, Director  
Water and Science Administration