

Connecticut Department of

**ENERGY &
ENVIRONMENTAL
PROTECTION**

OFFICE OF ADJUDICATIONS

IN THE MATTER OF : ***DEP-WPED-GP-026***

***GENERAL PERMIT FOR POINT SOURCE
DISCHARGES ASSOCIATED WITH THE
APPLICATION OF PESTICIDES*** : ***APRIL 25, 2012***

PROPOSED FINAL DECISION

***I
INTRODUCTION***

The Department of Energy and Environmental Protection (DEEP/department) intends to issue a general permit to regulate point source discharges associated with the application of pesticides in or near the waters of the state (General Permit). The department currently regulates the application of these aquatic pesticides through the issuance of individual pesticide permits. However, the United States Appeals Court for the Sixth Circuit ruled that pesticides constitute a pollutant and their application is a point source discharge that requires regulation under the Clean Water Act.¹ In response, Connecticut has followed the lead of the federal government to provide this activity with the required authorization under the provisions of the Clean Water Act. Although the U.S. Environmental Protection Agency (EPA) is issuing a general permit to provide Clean Water Act coverage for this activity, Connecticut operates its own National Pollutant Discharge Elimination System (NPDES) permit program through a delegation from the EPA. Under this delegation, the department is planning to continue regulating this activity under the current aquatic pesticide permitting program while also authorizing, regulating, and in some

¹ The Sixth Circuit's decision in *Nat'l Cotton Council v. U.S. Environmental Protection Agency*, 553 F.3d 927 (2009) has not been overturned. In fact, appeals on the same issues were brought before several circuit courts but consolidated in the Sixth Circuit by an order of the judicial panel on multidistrict litigation. The Supreme Court denied certiorari in 2010.

cases registering and approving aquatic pesticide applications under the new General Permit to address the Sixth Circuit decision and the requirements of the Clean Water Act.

The Commissioner is authorized to issue a general permit to authorize certain discharges to the waters of the state by virtue of state law and a delegation from EPA to administer the federal clean water act for the state of Connecticut. The regulation of aquatic pesticide discharges through the current pesticide permitting program and the additional requirements the General Permit places on aquatic pesticide applications currently exempt from the permitting program provides protection to the waters of the state from pollution in accordance with § 22a-430 and the applicable implementing regulations.

The department provided notice of its tentative determination to issue the General Permit on November 15, 2011 and a petition signed by more than twenty-five members of the public requesting a hearing was submitted in a timely fashion. A hearing was held on March 6, 2012 for the collection of public comment and written comment was accepted until March 13, 2012. The department filed a memorandum in response to comments on April 4, 2012 that included minor corrections and clarifications that would be made in the proposed General Permit. A revised version of the proposed General Permit was submitted that corrected some formatting issues and added language requiring annual reports from water utilities and attempted to provide additional clarification on the effective date of authorization under the General Permit.

Based on substantial evidence in the record and my conclusion that the proposed General Permit meets the statutory and regulatory requirements, I recommend issuance of the proposed General Permit attached to this decision as Attachment 1 with the modifications recommended in this proposed final decision.

The following exhibits were admitted into the record and provide a basis for the findings below:

- DEEP-1 – Proposed Draft Permit, including fact sheet and summary of key points
- DEEP-2 – Aquatic Pesticide Permit Program Application Materials
- DEEP-3 – DEEP Memorandum re: Proposed General Permit Discussions
- DEEP-4 – Sixth Circuit decision in *Nat'l Cotton Council v. EPA*.
- DEEP-5 – Response to comments memorandum
- DEEP-6 – Modified proposed draft permit

II
DECISION
A
FINDINGS OF FACT

1
Procedural History

1. The department published notice of its tentative determination to issue a General Permit for Point Source Discharges to the Waters of the State Associated with the Application of Pesticides on November 15, 2011. A petition signed by more than twenty five members of the public was submitted requesting a public hearing on the notice of tentative determination and the proposed General Permit. The department published notice of the hearing on February 6, 2012. A hearing was held on March 6, 2012 at DEEP Headquarters in Hartford.²

2. Three individuals provided comments on the record at the public hearing. Nineteen written comments were received by the deadline of March 13, 2012. DEEP staff filed a report on April 4, 2012 that summarized the comment received both at the hearing and in writing and provided its response to those comments. The response to comments report included a description of any changes made to the proposed permit language in response to the comments. DEEP staff also provided a corrected draft permit that incorporates these changes. (Ex. DEEP-5³; Hearing Recording, 3/6/12⁴.)

2
The Proposed General Permit

3. The EPA delegated authority to the DEEP to regulate discharges of pollutants to the waters of the state through the use of general permits. The department currently uses an individual permit program to authorize the application of pesticides in aquatic settings. This permit program requires the permit applicant to consider impacts of the proposed application on

² All documents pertaining to the procedural history of this proceeding are contained in the docket file maintained by the Office of Adjudications and are part of the administrative record in this matter. General Statutes §4-177(d).

³ The response to comments report was labeled by the hearing officer as DEEP-5 after it was filed on April 4, 2012 for ease of reference.

⁴ The testimony and proceedings in this matter were recorded. No written transcript has been prepared. The audio recording of this hearing is on file with the Office of Adjudications and is the official record of this proceeding.

endangered and threatened species, aquifer protection areas, coastal resources, downstream users, and drinking water resources. Activities regulated by the individual aquatic pesticide permit program will also be regulated by the General Permit. (Exs. DEEP-2, 5; test. D. Gonyea.)

4. The proposed General Permit will regulate and provide coverage for different types of pesticide applications.

a. The General Permit will regulate pesticide applications required to receive individual aquatic pesticide permits under §22a-66z or for aerial spraying under §22a-54(e) through the application process for those programs, the terms of the individual permits, and the applicable terms of the General Permit. Those applications that require an individual permit but that are not required to register under the General Permit will not be required to file additional information with the department to be authorized under the General Permit

b. The application of biopesticides to state waters, applications conducted by water utilities, and applications conducted by state and federal entities that are not regulated by the individual aquatic pesticide permit program or by the permit for aerial spraying will be regulated by the General Permit. Those applications will be regulated by the terms of the General Permit and will not be required to submit additional information to the department unless required by the General Permit to submit a Notice of Intent (NOI) and Approval of Registration Form.

c. Pesticide applications that meet certain thresholds or conducted by certain entities will be required to register under the General Permit and include a pesticide management plan that incorporates integrated pest management methods for each application. The registration requirement applies to: (a) applications within a single waterbody that exceeds 80 acres in any calendar year; (b) wide area applications such as aerial spraying that exceeds 6400 acres annually; (c) applications to shorelines exceeding twenty linear miles in any calendar year; and (d) any application conducted by or the responsibility of a federal or state agency.

d. Pesticide applications that do not require an individual aquatic pesticide permit are required to file a NOI and an Approval of Registration form. Pesticide applications that require an individual permit but also meet the one of the applicable thresholds for registration must submit an Approval of Registration form but may substitute the individual permit application for the NOI.

5. The thresholds that require registration were developed in coordination with EPA, the Connecticut Department of Agriculture and the Agricultural Experiment Station with specific

consideration given to conditions in Connecticut and in consultation with other entities involved with pests and pest control. (Exs. DEEP-1, 6; test. D. Gonyea.)

6. The application of aquatic pesticides is a category of discharges that involve similar operating conditions. These pesticides can only be used in accordance with separately approved registration and label requirements. (Ex. DEEP-5; test. D. Gonyea.)

7. Local wetlands agencies will be notified of the actual date of the pesticide application prior to the application being conducted as part of the aquatic pesticide permitting application process. (Exs. DEEP-5, 6; test. D. Gonyea.)

8. Permittees must use pesticides registered for use in Connecticut for aquatic applications in accordance with the pesticide's registration and labeling. The list of registered pesticides is determined by a separate process mandated by a separate body of state and federal law. (Exs. DEEP-1, 5 and 6.)

9. All activities authorized by this General Permit are required to ensure that the proper amount of pesticide is used, the pesticide is properly applied using proper equipment, any adverse incident is reported to the department, pesticide applications are part of an integrated pest management plan, and pesticide applications around public infrastructure are conducted by individuals with a commercial supervisory certificate or by commercial operators under the supervision of someone with a supervisory certificate. (Exs. DEEP-1, 6)

10. The Commissioner can request from any permittee a pesticide discharge management plan and an integrated pesticide management plan for review. The Commissioner can also require that any pesticide application eligible for coverage under this General Permit apply for authorization under an individual permit. (Exs. DEEP-1, 6.)

11. Water companies must track and report information regarding applications of aquatic pesticides to water bodies used for water supply or tributaries to a water supply. This information shall be submitted annually to the department and to the Connecticut Department of Public Health. (DEEP-6.)

B

CONCLUSIONS OF LAW

The Commissioner may issue a general permit for a category or categories of discharges regulated pursuant to §22a-430 of the General Statutes, except for a discharge covered by an

individual permit. General Statutes §22a-430b. A general permit may regulate, within a geographical area, a category or categories of discharges that involve the same or substantially the same effluent limitations, operating conditions or standards, and require the same or similar monitoring and which, in the opinion of the Commissioner, are more appropriately controlled under a general permit.⁵ A general permit may require that any person or municipality initiating, creating, originating or maintaining any discharge under a general permit register the discharge with the Commissioner before the General Permit becomes effective. §22a-430b(a).

Prior to issuance, the Commissioner is required to publish notice of intent to issue a general permit, allow a thirty-day comment period, and must hold a hearing on a general permit upon receipt of a petition signed by at least twenty-five persons. §22a-430b(b). DEEP staff has complied with all procedural requirements for notice and hearing and with receipt of public comments applicable to the issuance of a general permit.

The activities eligible for authorization under this General Permit are appropriate for control through a general permit. This General Permit relies heavily on a long established permitting program administered by the DEEP's Pesticide Program. The aquatic pesticide program's existing permit process has specific requirements that ensure the waters of the state are protected. This General Permit also will regulate and, in some cases, require registration of activities not currently covered by the existing pesticide permitting programs. If requirements for registration are met, the General Permit provides for additional scrutiny of larger-scale applications.

Although the proposed General Permit does not require additional information in the form of an application or registration for certain pesticide applications (e.g. smaller-scale biopesticide applications), the applicator in those limited circumstances must follow the requirements of the pesticide's registration and labeling and adhere to the conditions of the General Permit. The pesticide's registration and label requirements coupled with other applicable conditions of the General Permit are sufficient to protect the waters of the state if followed. Failure to follow a pesticide's registration and label requirements under the General Permit will now be subject to enforcement under the applicable pesticide regulatory scheme and the provisions of the Clean Water Act. Furthermore, the Commissioner can require additional

⁵ General permits may also be issued for a category of discharges not requiring a permit under the federal Water Pollution Control Act.

information in the form of a pesticide discharge management plan and integrated pest management plan concerning any pesticide application authorized by the General Permit if necessary.

The proposed General Permit will expand the State's current regulation over the application of aquatic pesticides and will also meet the State's obligations under the Clean Water Act to protect the waters of the state from pollution. The report on comments received on the proposed General Permit meets the requirements articulated in Regs., Conn. State Agencies §22a-430-4 and I adopt it as part of this decision.

C

COMMENT RESPONSE

Some comments criticize DEEP for using the established aquatic pesticide program as means to comply with Clean Water Act requirements. The plan put forth by DEEP staff efficiently utilizes an existing permit process to provide coverage to activities under a general permit. The decision from the Sixth Circuit did not require EPA or the states to create a separate permitting regime for the application of aquatic pesticides. The additional oversight of the department's water permitting and enforcement division will bolster enforcement capabilities for violations of these permits and add water quality expertise to the current oversight of these pesticide applications. The Commissioner reserves his authority under 22a-430 to require an individual water discharge permit if impacts from the proposed pesticide application warrant the additional scrutiny and oversight of an individual permit.

Numerous comments centered on the overall functioning of the department such as the lack of available information over the internet and were not specifically focused on the impact of the permit or the activities authorized by the permit. The draft permit attempts to address concerns about the lack of public information regarding the regulated activity through requirements to file a Notice of Intent, Registration Approval Forms, and Pesticide Management Plans in addition to already required aquatic pesticide permit applications. All information provided to the department is publicly available unless exempt from disclosure under the Freedom of Information Act. The ability of the department to provide all of its public information electronically over the internet is evolving and expanding. Any current inability of

the pesticide or water permitting programs to inform the public of activities authorized by this General Permit over the internet does not reflect on the ability of the proposed General Permit and its use of the existing aquatic pesticide permitting program to protect the waters of the state from pollution.

Nevertheless, the department can prepare for the future of providing internet access to this information by requiring submittal of information in an electronic format suitable for integration into any internet based information center developed for the department. As such, as set out below, I have recommended modifications of the permit to require permittees conducting activities authorized by this General Permit to submit electronically, in addition to any paper copy it submits, any information required to be submitted for authorization in a format deemed acceptable by the department. Even if the information is not placed on the internet immediately for public viewing, it can be disseminated more easily to someone seeking information on aquatic pesticide applications under this General Permit.

Another set of comments expressed the belief that DEEP should delegate some or all of its authority for this program to local conservation commissions, wetlands agencies, or conservation districts. DEEP is delegated authority to issue NPDES permits from the EPA. This includes the authority to authorize certain classes of activity under a general permit. The current delegation does not authorize DEEP to further delegate its authority over this federal program. Further, providing a consistent set of applicable conditions statewide allows regulated entities and pesticide applicators to function under a universal set of conditions. In order to address concerns about local involvement, the aquatic pesticide permitting program will require permittees to provide notice to local wetlands agencies of the actual date of the pesticide application prior to the application being conducted. In addition, I recommend all pesticide applications not required to have an individual aquatic pesticide permit but required to register under this General Permit also be obligated to notify local wetlands agencies of the actual date of the pesticide application prior to the date of the application.

III
PROPOSED MODIFICATIONS
A
ELECTRONIC INFORMATION

In order to address the request that information be more readily available over the internet, DEEP staff indicated that the department is working toward this goal but is not yet there. In order to prepare for the eventual posting of permitting information on-line, I recommend that the General Permit require electronic submittals of all required information. This would allow more immediate posting to the internet rather than needing to scan paper copies at a later date or re-collect the information electronically.

Therefore, under Section 6, "General Conditions" the department shall insert the following language:

(k) Electronic Filing

All submittals required to be made to the department by this general permit or at the discretion of the Commissioner under the authority of this general permit must be submitted in an electronic format that is suitable to the department for storage of electronic records. This electronic submittal will be in addition to any paper filing required unless the department notifies a permittee that an electronic copy of the record is sufficient.

B
EFFECTIVE DATE OF PERMIT AUTHORIZATION

The current language regarding the effective date of authorization under the General Permit only references activity authorized by the registration process. It is not clear when other regulated activities that do not meet the threshold for registration are authorized by the General Permit. As a result, I recommend a modification to indicate that some activities will be authorized upon issuance of the aquatic pesticide permit and others will require no additional authorization and are authorized upon issuance of the General Permit, e.g. biopesticide applications under the registration threshold.

Therefore, under Section 3 “Authorization Under this General Permit”, subdivision, 3(b)(14) should be replaced with the following language:

(14) An activity is considered authorized under this general permit as follows:

a) On the effective date of an individual aquatic pesticide permit issued under §22a-66z or an aerial spraying permit issued under §22a-54(e) provided the applicant has submitted notice of the actual date of the pesticide application to the local wetlands agency prior to the pesticide application as required by section 5(h) of this permit unless such pesticide application is being conducted in response to a declared pest emergency situation;

b) On the date the permittee satisfies the applicable registration requirements of Sections 4(a), 4(b), 4(c) of this general permit provided any permit required under §22a-66z or §22a-54(e) is also issued and provided notice of the actual date of the application is submitted to the local wetlands agency prior to the pesticide application as required by section 5(h) of this permit unless such pesticide application is being conducted in response to a declared pest emergency situation; or

c) On the date the general permit is issued if an eligible activity does not require a separate permit under §22a-66z or §22a-54(e) or is not required to be registered under section 4 of this general permit.

C

NOTICE TO LOCAL WETLANDS AGENCIES

DEEP staff in its response to comments indicates it will require aquatic pesticide permittees to notify local wetlands agencies of the actual date of the pesticide application prior to the application. This is intended to address comments regarding the lack of local involvement under the current process. I appreciate staff’s recognition of the need to provide notice to local wetlands agencies but think the lack of specific conditions within this General Permit make the impact of this requirement uncertain. As indicated above, the effective date of authorization will be tied to the provision of the notice as required by the aquatic pesticide permit. Further, the General Permit should specifically require the same notice for a proposed pesticide application that does not require an individual pesticide permit but is still regulated by the general permit.

Therefore, I recommend that under section 5 “Specific Conditions of This General Permit”, the following language be inserted:

(8) For applications that require an aquatic pesticide permit under General Statutes §22a-66z or §22a-54(e) or an approval of registration under section 4 of this general permit, or both, written notice must be provided to the local wetlands agency for the municipality(ies) where the actual pesticide application will occur at least forty eight hours prior to the actual application, unless such pesticide application is being conducted in response to a declared pest emergency situation. Local wetlands agencies may specify a point of contact for this notice and must accept notification electronically via e-mail or facsimile. Evidence of this notice shall be provided to the Commissioner upon request.

D

OTHER MODIFICATIONS

In addition to the recommendations made in response to comments, I also recommend the following changes:

1

Registration Requirements

Section 4, “Registration Requirements”, is confusing to the reader. It attempts to lay out the conditions under which pesticide applications must register under the General Permit. In some cases, the department wants those applications that must register to file a Notice of Intent (NOI) and an Approval of Registration form and in some cases, the department wants the individual permit application forms and the Approval of Registration form but not the NOI. The NOI serves no clear purpose. The Approval of Registration form will require substantial information. If an application is covered by one of the individual permits, then a registrant may supplement the Approval of Registration Form with the permit application. If an individual permit is not required, this registrant should then be required to provide additional information on the Approval of Registration Form. The General Permit should focus on which permittees it wants to register and what information it wants to collect in the registration process. The creation of additional paperwork adds no value to this process and creates an unnecessary additional

category to distinguish permittees. I recommend that the department eliminate the NOI requirement. The section should be rewritten as follows:

(a) Who Must File a Registration

Any person or municipality conducting an activity regulated under this general permit shall register and obtain an approval of registration if:

- (1) The application is conducted by a person other than a state agency or federal agency whose use of pesticides is related to their primary function involving the use of pesticides as a land management tool and:
 - (A) The total area to be treated in any one waterbody exceeds 80 acres in any calendar year;
 - (B) The activity is a wide area application for the control of pests to an area exceeding 6,400 acres in any calendar year; or
 - (C) An area of shoreline exceeding 20 miles measured linearly is to be treated with a pesticide for the control of aquatic or terrestrial pests in any calendar year; or
- (2) The application is being conducted by a state or federal agency whose use of pesticides is part of their primary responsibility relating to the control of pest species, regardless of the total area to be treated.

(b) Contents of Registration

- (1) Fees
 - (A) For any person or registrant required to register and be issued an approval per Section 4(a) of this general permit, the registration fee of \$200.00 shall be submitted with a registration form, provided that the registration fee for a municipality shall be \$100.00. A registration shall not be deemed complete and no activity shall be authorized by this general permit unless the registration fee has been paid in full.
 - (B) If the person or municipality seeking authorization under this general permit has been issued a permit for the “Use of Pesticides in State Waters”, issued in accordance with section 22a-66z of the General Statutes, or a permit for “Pesticide and/or Fertilizer Application by Aircraft”, issued in accordance with section 22a-54(e) of the General Statutes, no registration fee is required.
 - (C) The registration fee shall be paid by check or money order made payable to the **Department of Energy and Environmental Protection**.
 - (D) The registration fee is non-refundable.

(2) Approval of Registration Form

- (A) Any person or municipality who is required to register per Section 4(a) of this general permit, shall submit the form(s) prescribed and provided by the Commissioner, which shall require information, including, but not limited to, the items in (i) through (xii) of this subdivision.
- (B) If the pesticide application is subject to the permitting requirements of either section 22a-66z or 22a-54(e) of the General Statutes, an Approval of Registration form shall be submitted together with the permit application(s) required for such permits.
- (C) A registration shall include the following and any additional information required by the established Approval of Registration form:
 - (i) Legal name, address, and telephone number of the registrant. If the registrant is an entity transacting business in Connecticut and is required to register with the Connecticut Secretary of the State, provide the exact name as registered with the Connecticut Secretary of the State.
 - (ii) Legal name, address, and telephone number of the primary contact for departmental correspondence or inquiries, if different from registrant.
 - (iii) Legal name, address, and telephone number of the registrant's attorney or other representative involved with this activity, if applicable.
 - (iv) Legal name, address, and telephone number(s) of all owner(s) of the site(s) to be treated.
 - (v) Legal name, address and telephone number of the person, municipality or company applying the pesticide(s), including primary contact person, and if applicable Certification Number issued by the Pesticides Division of DEEP.
 - (vi) Name of the waterbody to be treated. If applicable, the address of the waterbody, and if known the GIS/ID No. or GPS coordinates. If multiple waterbodies, all of which are managed under the authority of a single water company are to be treated, and all such waterbodies are in the watershed of one of the waterbodies to be treated, the water company may submit a single registration for all applications within that watershed.
 - (vii) An 8 1/2" by 11" copy of the relevant portion or a full-sized original of a United States Geological Survey (USGS) quadrangle map, with a scale of 1:24,000, showing the exact location of, and if appropriate the specific treatment area of the waterbody to be treated, or if aerial spraying, the extent of the area to be sprayed. Identify the quadrangle name and number on such copy.
 - (viii) The registrant shall submit a certification that they have developed and will implement the elements of a Pesticide Discharge Management Plan

(PDMP) that is consistent with the PDMP Minimum Requirements specified in Appendix A of this general permit.

- (ix) The certified PDMP shall include provision(s) to insure that pesticide applications are conducted as a component of an Integrated Pest Management (IPM) Plan that meets the minimum requirements of Section III of Appendix A of this general permit.
- (x) A list of prior applications of pesticides to the waterbody that have been conducted during the previous three years.
- (xi) The following certification signed by the registrant and the person, municipal, or company representative conducting the pesticide application:

“I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of the individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I also certify that the pesticide application is being conducted in accordance with a Pesticide Discharge Management Plan, and is being conducted in accordance with the principles of Integrated Pest Management. I understand that a false statement in the submitted information may be punishable as a criminal offense, in accordance with section 22a-6 of the General Statutes, pursuant to section 53a-157b of the General Statutes, and in accordance with any other applicable statute. I certify that this application is on complete and accurate forms as prescribed by the Commissioner without alteration of the text. I also certify that I have sent one copy of this completed application to the appropriate local inland wetland agency.
- (xii) Any information required by the Commissioner to determine that the proposed pesticide application is conducted in accordance with state and federal law.

(c) Scope of Registration

Any person or municipality shall register each activity for which the registrant /permittee seeks authorization during any calendar year under this general permit on a separate Approval of Registration form. The State of Connecticut’s Wetland Habitat and Mosquito Management Program may submit a single Approval of Registration form requesting approval of registration for statewide activities.

The remainder of section 4 (subsections *(d)*, *(e)*, and *(f)*) do not require alterations and should remain as written in Attachment 1.

MISCELLANEOUS CHANGES

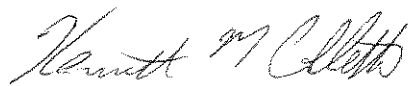
Under Section 5 “Specific Conditions of This General Permit, the heading “(a) *Conditions Applicable to All Discharges*” should be deleted because there is no longer a corresponding subsection *b*) and the list of these conditions under the section heading of “Specific Conditions of This General Permit” is sufficient.

As a result of the change stated above, the listing of conditions under Section 5 should be changed to *a) through h)* rather than 1 through 8.

IV**CONCLUSION AND RECOMMENDATION**

The proposed General Permit will provide a streamlined and efficient process for providing increased regulation of aquatic pesticide applications under the Clean Water Act. The department will combine its pesticide and water quality expertise to ensure aquatic pesticide applications are conducted in line with federal and more rigid state requirements. The additional layer of authority will bolster the current efforts of the aquatic pesticide permit program to protect and enhance existing water quality in the state without sacrificing the necessary control and eradication of invasive plant species, destructive insects, and other aquatic pests that threaten the state’s environmental health and safety.

As a result, I recommend issuance of the proposed General Permit attached to this decision as Attachment 1 with the proposed modifications as recommended in section III of this proposed decision.



Kenneth M. Collette, Hearing Officer

SERVICE LIST

In re General Permit For Point Source discharges Associated with the Application of Pesticides
Permit No. DEP-WPED-GP-026

PARTY

Department of Energy and
Environmental Protection
79 Elm Street
Hartford, CT 06106

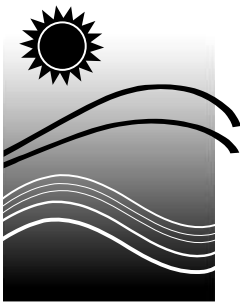
REPRESENTED BY

Donald Gonyea
Water Permitting and Enforcement
Division
Donald.gonyea@ct.gov

Bradford Robinson
DEEP Pesticide Program
Bradford.robinson@ct.gov

PETITIONER

Margaret Miner
Rivers Alliance of CT
P.O. Box 1797
Litchfield, CT 06759
rivers@riversalliance.org



Connecticut Department
of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

Attachment 1

General Permit for Point Source Discharges to Waters of the State from the Application of Pesticides

Issuance Date:
Expiration Date:

Bureau of Materials Management and Compliance Assurance
Water Permitting and Enforcement Division
79 Elm Street, Hartford, CT 06106-5127
860-424-3018
www.ct.gov/deep
Affirmative Action/Equal Opportunity Employer

General Permit for Point Source Discharges to Waters of the State from the Application of Pesticides

Table of Contents

Section 1.	Authority.....	1
Section 2.	Definitions	1
Section 3.	Authorization Under This General Permit	3
	(a) <i>Eligible Activities</i>	<i>3</i>
	(b) <i>Requirements for Authorization.....</i>	<i>4</i>
	(c) <i>Geographic Area.....</i>	<i>5</i>
	(d) <i>Effective Date and Expiration Date of this General Permit</i>	<i>5</i>
	(e) <i>Effective Date of Authorization</i>	<i>5</i>
	(f) <i>Transition to and from an Individual Permit</i>	<i>6</i>
Section 4.	Registration Requirements	6
	(a) <i>Who Must File a Registration</i>	<i>6</i>
	(b) <i>Scope of Registration</i>	<i>7</i>
	(c) <i>Contents of Registration</i>	<i>7</i>
	(d) <i>Where to File a Registration.....</i>	<i>9</i>
	(e) <i>Additional Information.....</i>	<i>9</i>
	(f) <i>Action by Commissioner</i>	<i>9</i>
Section 5.	Conditions of This General Permit	10
	(a) <i>Conditions Applicable to Certain Discharges</i>	<i>10</i>
Section 6.	General Conditions.....	12
	(a) <i>Reliance on Registration.....</i>	<i>12</i>
	(b) <i>Duty to Correct and Report Violations.....</i>	<i>12</i>
	(c) <i>Duty to Provide Information.....</i>	<i>12</i>
	(d) <i>Certification of Documents.....</i>	<i>12</i>
	(e) <i>Date of Filing.....</i>	<i>12</i>
	(f) <i>False Statements</i>	<i>13</i>
	(g) <i>Correction of Inaccuracies</i>	<i>13</i>
	(h) <i>Transfer of Authorization.....</i>	<i>13</i>
	(i) <i>Other Applicable Law</i>	<i>13</i>
	(j) <i>Other Rights.....</i>	<i>13</i>
Section 7.	Commissioner’s Powers	13
	(a) <i>Abatement of Violations.....</i>	<i>13</i>
	(b) <i>General Permit Revocation, Suspension, or Modification</i>	<i>14</i>
	(c) <i>Filing of an Individual Discharge Permit Application</i>	<i>14</i>
Appendix A: Pesticide Discharge Management Plan (PDMP) Minimum Requirements		15

General Permit for Point Source Discharges to Waters of the State from the Application of Pesticides

Section 1. Authority

This general permit is issued under the authority of section 22a-430b of the General Statutes.

Section 2. Definitions

As used in this general permit:

“Adverse Incident” means any event during which an applicator becomes aware that a person or non-target organism may have been exposed to a pesticide residue, and the person or non-target organism suffered a toxic or adverse effect.

“Appropriate amount” means the application rate of a pesticide required to control a target pest as specified in product labeling for a specific pesticide, or in compliance with any permit issued under section 22a-66z of the General Statutes, whichever is less.

“Approval of registration” means an approval of registration issued under Section 4 of this general permit.

“Authorized activity” means any activity authorized by this general permit.

“Biopesticides” means naturally occurring substances that control pests (biochemical pesticides), or microorganisms that control pests (microbial pesticides).

“Certified applicator” means any individual who is certified under section 22a-54 of the General Statutes.

“Commercial applicator” means any individual, whether or not such individual is a private applicator with respect to some uses, who uses or supervises the use of (1) any restricted use pesticides, or (2) any pesticide on property not owned or rented by such individual or such individual's employer

“Commissioner” means commissioner as defined by section 22a-2(b) of the General Statutes.

“Declared Pest Emergency Situation” means an event defined by a public declaration by a federal agency or state government of a pest problem determined to require control through application of a pesticide beginning less than ten days after identification of the need for pest control. Such declaration may be made in accordance with the terms specified in Title 40 part 166 of the Code of Federal Code of Regulations, as designated by the commissioner of the Connecticut Department of Public Health, the Connecticut state entomologist, or other authorized person when a condition exists that requires an application of pesticide to mitigate: a significant risk to human health; significant economic loss; a significant risk to endangered or threatened species or beneficial organisms, or otherwise poses a risk to the environment.

“Department” means the Department of Energy and Environmental Protection.

“Discharge(s)” as authorized by and regulated under this general permit means the same as incidental discharge.

“Incidental discharge” means the unavoidable depositing of pesticides on a waterbody while conducting aerial spraying; or the distribution of an aquatic pesticide within its target treatment area at concentrations consistent with product labeling, or the residues resulting from such applications outside the target treatment areas at concentrations below the target concentration specified in product labeling.

“Individual discharge permit” means a permit issued person under section 22a-430 of the General Statutes.

“Infrastructure” means the large-scale public systems, services, and facilities of a country or region, including power and water supplies, public transportation, telecommunications, roads, airports, waste disposal, and services including public safety and education.

“Integrated Pest Management (IPM)” means a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.

“Municipality” means municipality as defined by section 22a-423 of the General Statutes.

“Permittee” means any person or municipality who conducts activities authorized under this general permit, or to whom the commissioner has issued an approval of registration under this general permit.

“Person” means person as defined by section 22a-423 of the General Statutes.

“Pesticide” means pesticide as defined in section 22a-47(w) of the General Statutes.

“Pesticide discharge management plan (PDMP)” means a specific set of control measures developed to insure compliance with the terms, conditions and limits in this general permit.

“Private applicator” means a certified applicator who uses or supervises the use of any pesticide, which is classified for restricted use for the purpose of producing any agricultural commodity, on property owned or rented by such applicator or such applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the property of another person: A pesticide shall be construed to be applied under the direct supervision of a private applicator if it is applied by a competent person on property owned or rented by a private applicator acting under the instructions and control of a private applicator who is available if and when needed;

“Registrant” means a person who, or municipality which files a registration pursuant to Section 4 of this general permit.

“Registration” means a registration form filed with the commissioner pursuant to Section 4

of this general permit.

“*Site*” means geographically contiguous land or water on which an authorized activity takes place or on which an activity for which authorization is sought under this general permit is proposed to take place. Non-contiguous land or water owned by the same person or municipality and connected by a right-of-way which such person or municipality controls and to which the public does not have access shall be deemed the same site.

“*Toxic or adverse effects*” includes effects on persons or non-target plants, fish or wildlife that are unusual or unexpected or inconsistent with pesticide labeling as a result of exposure to a pesticide residue, including distressed or dead juvenile and small fishes, fish swimming abnormally or erratically, fish lying lethargically and unresponsive to disturbance, stunting, wilting, or desiccation of non-target submerged or emergent aquatic plants, or other dead or visibly distressed non-target aquatic or terrestrial organisms. In humans and domestic animals, this includes any adverse effect such as skin rashes, irritation to eyes or mucous membranes, lethargy, or vomiting.

“*Treatment area*” means the entire area, whether over land or water, where the pesticide application is intended to provide pesticidal benefits, including the immediate application area plus all contiguous waters targeted for treatment.

“*Water company*” means water company as defined by section 25-32a of the General Statutes.

“*Watercourse*” means watercourse as defined in section 22a-38 of the General Statutes.

Section 3. Authorization Under This General Permit

(a) Eligible Activities

Provided the requirements of Section 3(b) of this general permit are satisfied, this general permit authorizes discharges resulting from the following activities:

- (1) Application of a pesticide or chemical to state waters authorized in accordance with section 22a-66z of the General Statutes.
- (2) Application of pesticides by aircraft authorized in accordance with section 22a-54(e) of the General Statutes.
- (3) Application of biopesticides for the control of aquatic pests not otherwise required to be authorized under section 22a-66z of the General Statutes.
- (4) Application of pesticides to state waters by water companies not required to be permitted under section 22a-66z of the General Statutes.
- (5) Application of a pesticide for the control of invasive or nuisance weeds or animals at or near the shoreline of perennial or seasonal watercourses, within stormwater conveyances, or other areas that should be expected to result in the incidental deposition of the pesticide to state waters.

(6) Application of pesticides to state waters by or under the direction of any state or federal agency.

(7) **Exceptions and Exclusions**

(A) Any discharge of water, substance or material into the waters of the state other than the ones specified in this section is not authorized by this general permit, and any person who or municipality which initiates, creates, originates or maintains such a discharge must apply for and obtain authorization under section 22a-430 of the General Statutes prior to the occurrence of such discharge.

(B) Activities exempt from NPDES permitting requirements, including non-point source runoff of pesticides from cropland(s) and other terrestrial applications not specifically identified as requiring coverage under this general permit, are not subject to this general permit.

(b) Requirements for Authorization

All activities eligible to be authorized under this general permit must be conducted in accordance with the following requirements, if applicable

(1) Registration

If required under Section 4 of this general permit, a completed registration with respect to such activity has been filed with the commissioner and, if necessary, the commissioner has issued an approval of registration with respect to such activity.

(2) Applications to Public Water Supply Reservoirs

Applications of pesticides by water company(s) to Public Water Supply Reservoirs meet the requirements of section 19-13-B80 of the Regulations of Connecticut State Agencies.

(3) Pesticide applications are conducted in accordance the pesticide's registration and labeling.

(4) Coastal Area Management

Such activity is consistent with all applicable goals and policies in section 22a-92 of the General Statutes, and will not cause adverse impacts to coastal resources as defined in section 22a-93 of the General Statutes.

(5) Endangered and Threatened Species

Such activity does not threaten the continued existence of any species listed pursuant to section 26-306 of the General Statutes as endangered or threatened and will not result in the destruction or adverse modification of habitat designated as essential to such species

(6) Aquifer Protection

Such activity, if it is located within an Aquifer Protection Area as mapped under section 22a-354b of the General Statutes complies with regulations adopted pursuant to section 22a-354i of the General Statutes.

(7) **Conservation and Preservation Restrictions**

If such activities are located on, or may affect property subject to a conservation or preservation restriction, pursuant to section 47-42d of the Connecticut General Statutes, proof of written notice to the holder of such restriction of the proposed activity's registration pursuant to this general permit or a letter from the holder of such restriction verifying that the proposed activity is in compliance with the terms of the restriction has been provided to the commissioner.

(8) **Flood Management**

Such activities are consistent with all applicable standards and criteria established in sections 25-68d(b) of the General Statutes and sections 25-68h-1 through 25-68h-3, inclusive, of the Regulations of Connecticut State Agencies.

(9) If registration is required under Section 4 of this general permit, the pesticide application is conducted in accordance with a written Pesticide Discharge Management Plan that, at a minimum, meets the requirements detailed in Appendix A of this general permit.

(10) The application of pesticide(s) is not being conducted to control aquatic pests in any waterbody designated as an Outstanding National Resource Water in accordance with the Connecticut Water Quality Standards, effective February 25, 2011.

(11) The application of pesticide(s) is not directed to any waterbody that has been listed as impaired in accordance with section 303(d) of the Clean Water Act for such pesticide(s).

(c) Geographic Area

This general permit applies throughout the State of Connecticut.

(d) Effective Date and Expiration Date of this General Permit

This general permit is effective on the date it is issued by the commissioner and expires 5 years from such date of issuance.

(e) Effective Date of Authorization

An activity is authorized by this general permit on the date the permittee satisfies the requirements of sections 4(a), 4(b) and 4(c) of this general permit provided, if applicable, the application is being conducted in accordance with the requirements of section 22a-66z of the General Statutes, unless such pesticide application is being conducted in response to a declared pest emergency situation.

If the pesticide application is conducted in response to a declared pest emergency situation, an activity is authorized immediately upon declaration of the declared

pest emergency situation provided within 10 days of initiation of the pesticide application the permittee satisfies the requirements of sections 4(a), 4(b) and 4(c) of this general permit.

(f) *Transition to and from an Individual Permit*

No person shall operate or conduct an activity authorized by both an individual permit and this general permit. The requirements for transitioning authorization are as follows:

- (i) Transition from an Individual Permit to Authorization under this General Permit.

If an activity meets the requirements of authorization of this general permit and such operation or activity is presently authorized by an individual permit, the entity to whom any such individual permit has been issued (“the permittee”) may surrender the right to operate or conduct any activity under such individual permit. The permittee shall acknowledge its intention to surrender its permit in writing on a form prescribed by the commissioner. However, any such surrender shall not take effect, and such permittee’s individual permit shall continue to apply, until the date that the commissioner issues an authorization for such operation or activity under this general permit.

- (ii) Transition from Authorization under this General Permit to an Individual Permit.

If the commissioner approves a request for authorization under this general permit and subsequently issues an individual permit for the same activity, then on the date any such individual permit is issued by the commissioner, the authorization issued under this general permit shall automatically expire.

Section 4. Registration Requirements

(a) *Who Must File a Registration*

Any person or municipality conducting an activity regulated under this general permit who is not required to be permitted under sections 22a-66z or 22a-54(e) of the General Statutes shall, if required to obtain an Approval of Registration in accordance with Section 4(a)(1) of this general permit, file with the commissioner a notice of intent to be covered under this general permit.

Any person or municipality conducting an activity regulated under this general permit shall obtain an approval of registration if any of the following conditions apply:

- (1) For a person other than a state agency or federal agency whose use of pesticides is related to their primary function involving the use of pesticides as a land management tool:
- (A) The total area to be treated in any one waterbody exceeds 80 acres in any calendar year;

- (B) The activity is a wide area application for the control of pests to an area exceeding 6,400 acres in any calendar year; or
- (C) An area of shoreline exceeding 20 miles measured linearly is to be treated with a pesticide for the control of aquatic or terrestrial pests in any calendar year; or
- (2) For a state or federal agency whose use of pesticides is part of their primary responsibility relating to the control of pest species, any application of pesticide(s) regardless of the total area to be treated.
- (3) The State of Connecticut's Wetland Habitat and Mosquito Management Program may submit a single Notice of Intent requesting approval of registration for statewide activities.

(b) Scope of Registration

Any person or municipality shall register each activity for which the registrant permittee seeks authorization during any calendar year under this general permit on a separate registration form.

(c) Contents of Registration

(1) Fees

- (A) For any person or registrant required to register and be issued an approval per Section 4(a) of this general permit, the registration fee of \$200.00 shall be submitted with a registration form, provided that the registration fee for a municipality shall be \$100.00. A registration shall not be deemed complete and no activity shall be authorized by this general permit unless the registration fee has been paid in full.
- (B) If the person or municipality seeking authorization under this general permit has been issued a permit for the "Use of Pesticides in State Waters", issued in accordance with section 22a-66z of the General Statutes, or a permit for "Pesticide and/or Fertilizer Application by Aircraft", issued in accordance with section 22a-54(e) of the General Statutes, no registration fee is required.
- (C) The registration fee shall be paid by check or money order made payable to the **Department of Energy and Environmental Protection**.
- (D) The registration fee is non-refundable.

(2) Approval of Registration Form

- (A) Any person or municipality who is required to register for an Approval of Registration per Section 4 (b) of this general permit, shall file on forms prescribed and provided by the commissioner information including but not be limited to the items in (i) through (xii) of this subdivision.

- (B) If the pesticide application is subject to the permitting requirements of either section 22a-66z or 22a-54(e) of the General Statutes, an Approval of Registration form shall be submitted together with the permit application(s) required for such permits.
- (C) If the pesticide application is not subject to the permitting requirements of either section 22a-66z or 22a-54(e) of the General Statutes, a Notice of Intent to be Covered under the General Permit for Point Source Discharges to Waters of the State from the Application of Pesticides shall be submitted.
- (D) A registration shall include the following:
- (i) Legal name, address, and telephone number of the registrant. If the registrant is an entity transacting business in Connecticut and is required to register with the Connecticut Secretary of the State, provide the exact name as registered with the Connecticut Secretary of the State.
 - (ii) Legal name, address, and telephone number of the primary contact for departmental correspondence or inquiries, if different from registrant.
 - (iii) Legal name, address, and telephone number of the registrant's attorney or other representative involved with this activity, if applicable.
 - (iv) Legal name, address, and telephone number(s) of all owner(s) of the site(s) to be treated.
 - (v) Legal name, address and telephone number of the person, municipality or company applying the pesticide(s), including primary contact person, and if applicable Certification Number issued by the Pesticides Division of DEEP.
 - (vi) Name of the waterbody to be treated. If applicable, the address of the waterbody, and if known the GIS/ID No. or GPS coordinates. If multiple waterbodies, all of which are managed under the authority of a single water company are to be treated, and all such waterbodies are in the watershed of one of the waterbodies to be treated, the water company may submit a single registration for all applications within that watershed.
 - (vii) An 8 1/2" by 11" copy of the relevant portion or a full-sized original of a United States Geological Survey (USGS) quadrangle map, with a scale of 1:24,000, showing the exact location of, and if appropriate the specific treatment area of the waterbody to be treated, or if aerial spraying, the extent of the area to be sprayed. Identify the quadrangle name and number on such copy.
 - (viii) Pesticide Discharge Management Plan (PDMP)
The registrant shall submit a certification that they have developed and will implement the elements of a PDMP that is consistent with the PDMP Minimum Requirements specified in Appendix A of this general permit.

(ix) **Integrated Pesticide Management Plan**

The certified PDMP shall include provision(s) to insure that pesticide applications are conducted as a component of an Integrated Pest Management (IPM) Plan that meets the minimum requirements of Section III of Appendix A of this general permit.

(x) A list of prior applications of pesticides to the waterbody that have been conducted during the previous three years.

(xi) The following certification signed by the registrant and the person, municipal, or company representative conducting the pesticide application:

“I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of the individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I also certify that the pesticide application is being conducted in accordance with a Pesticide Discharge Management Plan, and is being conducted in accordance with the principles of Integrated Pest Management. I understand that a false statement in the submitted information may be punishable as a criminal offense, in accordance with section 22a-6 of the General Statutes, pursuant to section 53a-157b of the General Statutes, and in accordance with any other applicable statute. I certify that this application is on complete and accurate forms as prescribed by the commissioner without alteration of the text. I also certify that I have sent one copy of this completed application to the appropriate local inland wetland agency.

(xii) Any information required by the commissioner to determine that the proposed pesticide application is conducted in accordance with state and federal law.

(d) Where to File a Registration

A registration shall be filed with the commissioner at the following address:

CENTRAL PERMIT PROCESSING UNIT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
79 ELM STREET
HARTFORD, CT 06106-5127

(e) Additional Information

The commissioner may require a registrant to submit additional information, which the commissioner reasonably deems necessary to evaluate the consistency of the subject activity with the requirements for authorization under this general permit.

(f) Action by Commissioner

- (1) The commissioner may reject without prejudice a registration if it is determined that it does not satisfy the requirements of Section 4(c) of this general permit or more than thirty (30) days have elapsed since the commissioner requested that the registrant submit additional information or the required fee and the registrant has not submitted such information or fee. Any registration re-filed after such a rejection shall be accompanied by the fee specified in Section 4(c)(1) of this general permit.
- (2) The commissioner may disapprove a registration if it is found that the subject activity is inconsistent with the requirements for authorization under Section 3 of this general permit, or for any other reason provided by law.
- (3) Disapproval of a registration under this subsection shall constitute notice to the registrant that the subject activity may not lawfully be conducted or maintained without the issuance of an individual discharge permit.
- (4) The commissioner may approve a registration with reasonable conditions. If the commissioner approves a registration with conditions, the permittee shall be bound by such conditions as if they were a part of this general permit.
- (5) Rejection, disapproval, or approval of a registration shall be in writing.

Section 5. Specific Conditions of This General Permit

The permittee shall at all times continue to meet the requirements for authorization set forth in Section 3 of this general permit.

(a) Conditions Applicable to All Discharges

- (1) The permittee shall use the appropriate amount of pesticide per application and optimum frequency of application to insure both control of the target pest(s) and to minimize the probability that pest(s) will develop resistance to the pesticide or chemically similar pesticide(s).
- (2) All equipment used to measure, apply, and monitor the application of pesticides shall be calibrated and maintained in accordance with the manufacturer's specifications and industry practice to insure that application rates are controlled, spillage minimized and unintended discharges prevented.
- (3) The permittee shall visually inspect the area at and around the area where pesticides are applied. Any adverse incident, including the exposure of any person not in the employ of the person or municipality applying the pesticide or the unanticipated death or stress of non-target species, shall be reported not later than two (2) hours after the permittee becomes aware of the incident, by phone to the Pesticide Program and to the Water Permitting and Enforcement Division of the Department of Energy and Environmental Protection at (860) 424-3369 and (860) 424-3018, respectively. If the adverse incident occurs outside of normal working hours, this notification shall be reported to The Department of Energy and Environmental Protection, Emergency Response Unit, at 860-424-3338 or toll free

1-866- 337-7745. Not later than five (5) days after such telephone notification, a written report of such incident shall be submitted to both:

Pesticide Program and
Water Permitting and Enforcement Division
Department of Energy and Environmental Protection:
79 Elm Street
Hartford, CT 06106

- (4) Pesticide applications shall be conducted as a component of an Integrated Pest Management Plan that meets the minimum requirements in Part III of Appendix A of this general permit.
- (5) If requested by the commissioner the permittee shall provide for the commissioner's review a pesticide discharge management plan and an integrated pesticide management plan as described in Sections 4(c) (2)(D)(viii and ix) of this general permit. Submittals shall be directed to both:

Pesticide Program and
Water Permitting and Enforcement Division
Department of Energy and Environmental Protection:
79 Elm Street
Hartford, CT 06106.

Such plans shall be available to Department staff upon request.

- (6) Applications of pesticides needed to maintain public infrastructure shall be conducted by a person with a valid commercial supervisory certificate or commercial operator's certificate and be under the direction of a supervisor with a valid commercial supervisory certificate.
- (7) On an annual basis, prior to December 31st of each year, water companies that have conducted any application of pesticide(s) to waterbodies used for water supply, or waterbodies tributary to waterbodies used for water supply shall submit a report detailing the application(s) of pesticides conducted during the previous 12 months. The report shall at a minimum include; waterbody name, waterbody size (in acres), pesticide used, date(s) applied, area treated (in acres) and amount of pesticide used (in pounds active ingredient). The report shall be submitted to both DEEP and the Connecticut Department of Public Health at the following addresses:

Pesticide Program
Department of Energy and Environmental Protection:
79 Elm Street
Hartford, CT 06106

Source Water Protection Unit
Drinking Water Section
Department of Public Health
410 Capitol Avenue MS #51WAT
PO Box 340308

Section 6. General Conditions

(a) Reliance on Registration

When evaluating a registration, the commissioner relies on information provided by the permittee. If such information proves to be false or incomplete, the authorization issued under this general permit may be suspended or revoked in accordance with law, and the commissioner may take any other legal action provided by law.

(b) Duty to Correct and Report Violations

Upon learning of a violation of a condition of this general permit, a permittee shall immediately take all reasonable action to determine the cause of such violation, correct such violation and mitigate its results, prevent further such violation, and report in writing such violation and such corrective action to the commissioner not later than five (5) days after the permittee becomes aware of such violation. Such report shall be certified in accordance with Section 6(d) of this general permit.

(c) Duty to Provide Information

If the commissioner requests any information pertinent to the authorized activity or to determine compliance with this general permit, or with the permittee's approval of registration, the permittee shall provide such information in writing not later than thirty (30) days after such request. Such information shall be certified in accordance with Section 6(d) of this general permit.

(d) Certification of Documents

Any document, including but not limited to any notice, which is submitted to the commissioner under this general permit shall be signed by, as applicable, the registrant or the permittee in accordance with section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that a false statement made in the submitted information may be punishable as a criminal offense, in accordance with section 22a-6 of the General Statutes, pursuant to section 53a-157b of the General Statutes, and in accordance with any other applicable statute."

(e) Date of Filing

For purposes of this general permit, the date of filing with the commissioner of any document is the date such document is received by the commissioner. The word "day" as used in this general permit means the calendar day; if any date specified in the general permit falls on a Saturday, Sunday, or legal holiday, such deadline shall be the

next business day thereafter.

(f) *False Statements*

Any false statement in any information submitted pursuant to this general permit may be punishable as a criminal offense, in accordance with section 22a-6 of the General Statutes, pursuant to section 53a-157b of the General Statutes, and in accordance with any other applicable statute.

(g) *Correction of Inaccuracies*

Not later than fifteen (15) days after the date a permittee becomes aware of a change in any of the information submitted pursuant to this general permit, becomes aware that any such information is inaccurate or misleading, or that any relevant information has been omitted, such permittee shall correct the inaccurate or misleading information or supply the omitted information in writing to the commissioner. Such information shall be certified in accordance with Section 6(d) of this general permit. The provisions of this subsection shall apply both while a request for approval of registration is pending and after the commissioner has approved such request.

(h) *Transfer of Authorization*

Any authorization under this general permit is non-transferable.

(i) *Other Applicable Law*

Nothing in this general permit shall relieve the permittee of the obligation to comply with any other applicable federal, state and local law, including but not limited to the obligation to obtain any other authorizations required by such law.

(j) *Other Rights*

This general permit is subject to and does not derogate any present or future rights or powers of the State of Connecticut and conveys no rights in real or personal property nor any exclusive privileges, and is subject to all public and private rights and to any federal, state, and local laws pertinent to the property or activity affected by such general permit. In conducting any activity authorized hereunder, the permittee may not cause pollution, impairment, or destruction of the air, water, or other natural resources of this state. The issuance of this general permit shall not create any presumption that this general permit should or will be renewed.

Section 7. Commissioner's Powers

(a) *Abatement of Violations*

The commissioner may take any action provided by law to abate a violation of this general permit, including the commencement of proceedings to collect penalties for such violation. The commissioner may, by summary proceedings or otherwise and for any reason provided by law, including violation of this general permit, revoke a permittee's authorization hereunder in accordance with sections 22a-3a-2 through 22a-3a-6, inclusive, of the Regulations of Connecticut State Agencies. Nothing herein shall be construed to affect any remedy available to the commissioner by law.

(b) General Permit Revocation, Suspension, or Modification

The commissioner may, for any reason provided by law, by summary proceedings or otherwise, revoke or suspend this general permit or modify it to establish any appropriate conditions, schedules of compliance, or other provisions which may be necessary to protect human health or the environment.

(c) Filing of an Individual Discharge Permit Application

If the commissioner notifies a permittee in writing that such permittee must obtain an individual discharge permit to continue lawfully conducting the activity authorized by this general permit, the permittee may continue conducting such activity only if the permittee files an application for an individual discharge permit within sixty (60) days of receiving the commissioner's notice. While such application is pending before the commissioner, the permittee shall comply with the terms and conditions of this general permit and the subject approval of registration. Nothing herein shall affect the commissioner's power to revoke a permittee's authorization under this general permit at any time.

Issued: [DATE]

Macky McCleary
Deputy Commissioner

APPENDIX A: PESTICIDE DISCHARGE MANAGEMENT PLAN (PDMP) MINIMUM REQUIREMENTS

If a Pesticide Discharge Management Plan is required per Section 4(c)(2)(D)(viii) of this general permit, at a minimum, the PDMP shall be in writing or maintained in electronic form, and shall include the information specified below. In addition, the PDMP shall be updated to include actual dates of pesticide applications, and the total amounts and rates of pesticides applied.

These are the minimum requirements and site specific plans may need to be more elaborate depending on the nature of the waterbody, application type and timing.

I. APPLICATOR INFORMATION:

- A. Name and address of Applicator
- B. Applicator's mailing address
- C. Applicator telephone number
- D. Applicator's email address
- E. Name and Title of Authorized Person signing the PDMP
- F. Emergency contact information
- G. Name of Pesticide Business/Agency performing application
- H. Address, city, state, and zip code
- I. Name of certified Applicator(s) performing the application
- J. Certified Applicator Identification number
- K. Certified Applicator telephone
- L. If applicable, the names and addresses of any other person(s) involved with the application of pesticides.

II. PEST MANAGEMENT AREA DESCRIPTION:

For each Pest Management Area, the following information shall be included

- A. Target Pest(s)
- B. Waterbody Type
- C. Waterbody name (where known)
- D. County
- E. Town
- F. USGS Quad* indicating the location of the waterbody to be treated and area to be treated
- G. Total waterbody size (acres or linear miles)
- H. Location and total size of treatment area(s)

* If the scale of the USGS Quad is not adequate to accurately depict the area(s) to be treated, then the permittee shall develop a map of appropriate scale to identify the treatment area(s).

III. INTEGRATED PEST MANAGEMENT AND CONTROL MEASURES TO MINIMIZE DISCHARGES

Permittees required to submit a Notice of Intent shall also prepare an Integrated Pest Management Plan (IPM) that includes at a minimum the following elements:

- A. Identification of the problem or impacts that the pest is causing.
- B. Identification of the level of pest population that can be tolerated before a pesticide application is warranted.
- C. A description of alternative methods for pest control, including an evaluation of alternative pest control measures that have been attempted, implemented, or rejected. These may include one or more of the following:
 - 1. Resource management efforts such as water level drawdown, nutrient management, septic system improvements and stormwater management that have been evaluated and/or implemented by the permittee or any other entity (such as the state, water utility, agricultural extension, or water management association).
 - 2. Biological controls, such as grass carp, milfoil beetles, etc. that have been attempted to control the target pest.
 - 3. Any other conventional or unconventional effort undertaken to control the target pest without the use of pesticides.
- D. A description of pest prevention measures that may be employed to minimize the effects of future pest problems and reduce the need to apply pesticides.
- E. Other practices determined by the permittee to be appropriate after review of the "Guidance for Preparing and Implementing Integrated Pest Management Plans", published in 2004 by the U.S. Department of Interior, U.S. Fish and Wildlife Service, or subsequent revisions to this guidance. The current version is available at: <http://www.fws.gov/contaminants/Documents/GuidanceIPMPlan.pdf>.

IV. CONTROL MEASURES - PESTICIDE/TREATMENT INFORMATION

For each application of a pesticide, the following shall be included:

- A. The Product name, with a copy of the product label(s),
- B. The date of pesticide application,
- C. The total amount of each pesticide applied, and
- D. The rate/dose of pesticide(s) applied.

V. SCHEDULES, MONITORING AND EQUIPMENT MAINTENANCE

- A. For each piece of equipment used, list dates of routine maintenance, servicing and calibration. Include procedures followed for each step.
- B. Describe the schedule and procedures followed to assess the treatment area for adverse incidents as well as efficacy of the pesticide application.

VI. CERTIFICATION

A. The person who prepared the PDMP shall sign the following certification:

“I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of the individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I also certify that the pesticide application is being conducted in accordance with a Pesticide Discharge Management Plan, and is being conducted in accordance with the principles of Integrated Pest Management. I understand that a false statement in the submitted information may be punishable as a criminal offense, in accordance with section 22a-6 of the General Statutes, pursuant to section 53a-157b of the General Statutes, and in accordance with any other applicable statute. I certify that this application is on complete and accurate forms as prescribed by the commissioner without alteration of the text. I also certify that I have sent one copy of this completed application to the appropriate local inland wetland agency.”