PERMIT NO. MIG030000

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Mosquito and Other Flying Insect Pest Control

In compliance with the provisions of the Federal Clean Water Act (Federal Water Pollution Control Act, 33 U.S.C., Section 1251 *et seq*., as amended); Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA) and Michigan Executive Order 2019-06, point source discharges of biological pesticides and pesticide residues resulting from the application of chemical pesticides (hereinafter collectively referred to as "pesticides") are authorized to be discharged in accordance with the effluent limitations, monitoring requirements, and other conditions set forth in this general National Pollutant Discharge Elimination System (NPDES) permit (permit).

The applicability of this permit shall be limited to discharges of pesticides which 1) are applied to, over, or near surface waters of the state for the control of mosquitoes and other flying insect pests; and 2) have not been determined by the Michigan Department of Environment, Great Lakes, and Energy (Department) to need an individual NPDES permit. Discharges which may cause or contribute to a violation of a water quality standard are not authorized by this permit.

In order to constitute a valid authorization to discharge for entities identified in Table 1-1 of Part I.A.1., this permit must be complemented by a Certificate of Coverage (COC) issued by the Department.

Unless specified otherwise, all contact with the Department required by this permit shall be to the position(s) indicated in the COC.

This permit takes effect on February 1, 2022. The provisions of this permit are severable. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term in accordance with applicable laws and rules.

This permit shall expire at midnight on **February 1, 2027**.

Issued: August 20, 2021.

Original signed by Christine Alexander
Christine Alexander, Manager
Permits Section
Water Resources Division

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PERMIT FEE REQUIREMENTS

In accordance with Section 324.3120 of the NREPA, the permittee shall make payment of an annual permit fee to the Department for each October 1 the permit is in effect regardless of occurrence of discharge. The permittee shall submit the fee in response to the Department's annual notice. Payment may be made electronically via the Department's MiEnviro system. The MiEnviro website is located at https://www.michigan.gov/egle/maps-data/mienviroportal. Payment shall be submitted or postmarked by January 15 for notices mailed by December 1. Payment shall be submitted or postmarked no later than 45 days after receiving the notice for notices mailed after December 1.

CONTESTED CASE INFORMATION

Any person who is aggrieved by this permit may file a sworn petition with the Michigan Administrative Hearing System within the Michigan Department of Licensing and Regulatory Affairs, c/o the Michigan Department of Environment, Great Lakes, and Energy, setting forth the conditions of the permit which are being challenged and specifying the grounds for the challenge. The Department of Licensing and Regulatory Affairs may reject any petition filed more than 60 days after issuance as being untimely.

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1. Coverage Under This Permit

This permit covers any operator who, in the process of controlling public health/nuisance and other flying insect pests, discharges to the surface waters of the state as a result of the application of pesticides.

For the purpose of this permit, "Operator" is defined in Part II.A., to mean any entity associated with the application of pesticides that results in a discharge to waters of the state that meets either of the following two (2) criteria:

a. 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

b. any entity with control over the decision to perform pesticide application, including the ability to modify those decisions.

As so defined, more than one (1) operator may be responsible for complying with this permit for any single discharge from the application of pesticides.

Only the operators identified in Table 1-1 below are required to apply for and obtain an individual COC issued under this permit, and then only IF they are also proposing to engage in the pesticide application activities associated with them in Table 1-1.

TABLE 1-1:

Operators	Pesticide Application Activities
Any state or federal agency for which pest management for land stewardship is an integral part of the agency's operations	All mosquito and flying insect pest control activities resulting in a discharge to waters of the state
Mosquito control districts or similar pest control districts	All mosquito and flying insect pest control activities resulting in a discharge to waters of the state
Local governments or other entities that exceed the *annual treatment area threshold* calculated as specified below	Adulticide treatment of more than **6,400** acres during a calendar year

For calculating annual treatment areas for this pesticide use pattern, count each pesticide application activity to a treatment area (i.e., that area where pesticide application is intended to provide pesticidal benefits within the pest management area) as a separate area treated. For example, applying pesticides three (3) times a year to the same 3,000-acre site should be counted as 9,000 acres of treatment area for purposes of determining if an application for a COC is required to be submitted. The treatment area for this pesticide use pattern is additive over the calendar year.

2. Authorized Treatment Areas

For operators required to apply for and obtain an individual COC issued under this permit, the treatment area(s) authorized under this permit shall be limited to treatment area(s) located within the jurisdictional boundaries of the responsible government entity or, for all other entities, the treatment area(s) described in the permittee's application for coverage under this permit. To receive authorization to treat areas not originally described in the application for coverage, the permittee shall request a modified COC by submitting a permit modification request to the Department via MiEnviro at https://www.michigan.gov/egle/maps-data/mienviroportal.

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3. Discharges Currently or Previously Covered by Another Permit

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

a. The discharge is covered by another NPDES permit; or

b. The discharge was included in a permit that in the past five (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 reissuance of permits every five (5) years).

4. Technology-Based Discharge Limitations

During the period beginning on the effective date of this permit and the effective date of an individual COC (if required) and lasting until the expiration of this permit or termination or revocation of the individual COC, the operator(s) is/are authorized to discharge pesticides to the surface waters of the state as a result of the application of pesticides to control mosquitoes and other flying insect pests. Such discharges shall be limited and monitored by the operator(s) as specified below.

All operators shall minimize pesticide discharges to surface waters of the state through the use of control measures to the extent technologically available and economically achievable and practicable.

Failure to comply with any of the requirements of this Part may result in corrective action as described in Part II.D.10.

a. Pesticide Application Requirements:

1) All operators shall comply with the requirements in this permit, the requirements of any Part 33 authorization, if required, and shall follow the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) label requirements. Permit requirements do not replace the requirements on the FIFRA label.

2) Only pesticide products registered in Michigan by the Michigan Department of Agriculture and Rural Development may be applied. Information regarding the registration of pesticides in Michigan may be found at https://www.michigan.gov/mdard. The application of biological pesticides (i.e., bacterial strains) shall be given preference over the use of chemical (i.e., non-biological) pesticides.

3) Each application shall utilize 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.

4) Regular maintenance activities to reduce leaks, spills, or other unintended discharges of pesticides shall be performed.

5) Pesticide application equipment shall be maintained in proper operating condition by adhering to any manufacturer's conditions and industry practices and by calibrating, cleaning, and repairing such equipment on a regular basis. Pesticide application equipment shall be calibrated by appropriately trained personnel to deliver the precise quantity of pesticide needed to achieve greatest efficacy against the target pest.

6) Pesticide detoxification reagents, pheromones, and markers shall be used as stated in the application and shall be included in the Pest Management Measures in Part I.A.5. of this permit.

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b. Larvicides Authorized to be Discharged
Only the following Larvicides are authorized to be discharged to surface waters of the state and only under the conditions specified below:

1) *Bacillus sphaericus* (B.s.);

2) *Bacillus thuringiensis israeliensis* (B.t.i.);

3) Spinosad (a mixture of spinosyn A and spinosyn D);

4) Methoprene;

5) Monomolecular surface films (MSFs), with the following additional restrictions:

a) The application of MSFs to flowing water is NOT authorized.

b) The application of MSFs to lakes, ponds, and wetlands shall be restricted to the edges of the water bodies, and to those with no inlet or outlet.

c) Care should be taken when applying MSFs to catch basins that discharge to surface waters of the state. The presence of MSFs in flowing surface waters of the state is NOT authorized. It is advisable that the operator(s) utilize MSFs in catch basins only when weather conditions indicate that it is unlikely that catch basins will overflow.

6) Larviciding oils, with the following additional restrictions:

a) The application of larviciding oils to flowing water is NOT authorized.

b) The application of larviciding oils to marshes and swamps shall be restricted to the edges of the water bodies.

c) Care should be taken when applying larviciding oils to catch basins that discharge to surface waters of the state. The presence of larviciding oils in flowing surface waters of the state is NOT authorized. It is advisable that the operator(s) utilize larviciding oils in catch basins only when weather conditions indicate that it is unlikely that catch basins will overflow.

c. Treatment Area Observation
Visual assessments of the treatment area shall occur each time the treatment area is visited. The area in and around the area to which pesticides are applied shall be examined for adverse incidents, if any, as defined in Part II.A., caused by the pesticide application. Adverse incidents include, but are not limited to, the death or distress of non-target organisms, and disruption of aquatic and wildlife habitat and recreational or municipal water use.

d. Narrative Standard
The receiving water shall contain no turbidity, color, oil films, floating solids, foams, settleable solids, suspended solids, or deposits as a result of this discharge in unnatural quantities which are or may become injurious to any designated use. The discharge shall be controlled as necessary to meet applicable numeric and narrative state water quality standards. If at any time the operator becomes aware, or the Department determines, that the discharge causes or contributes to an excursion of applicable water quality standards, the operator shall take corrective action as required in Part II.D.10.

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5. Pest Management Measures

To meet the discharge limitations in Part I.A.4. of this permit, prior to any pesticide application, any permittee that is or will be required to submit an application for coverage under this permit as identified in Part I.A.1. shall minimize the discharge of pesticides to the surface waters of the state from the application of pesticides through implementation of the following Pest Management Measures.

Prior to the first pesticide application covered under this permit, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, the permittee shall do all of the following for each pest management area as defined in Part II.A.:

a. Establish densities for larval and adult mosquito, or other flying insect pest populations, or identify environmental conditions(s), either current or based on historical data, to serve as (an) action threshold(s) for implementing pest management measures.

b. Identify target pest(s) to develop pest management measures based on developmental and behavioral considerations for each pest.

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

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

e. Select and implement efficient and effective means of pest management that minimize discharges to surface waters of the state resulting from the application of pesticides to control mosquitoes or other flying insect pests by evaluating the following management options, considering their impact to water quality and non-target organisms, and their feasibility and cost effectiveness:

    1) no action;

    2) prevention;

    3) mechanical or physical methods;

    4) cultural methods;

    5) biological control agents; and

    6) pesticides.

f. Conduct larval and/or adult surveillance in an area that is representative of the pest problem or evaluate existing surveillance data, environmental conditions, or data from adjacent areas prior to each pesticide application to assess the treatment area and determine when the action threshold is met.

g. Apply pesticides only when the action threshold(s) has/have been met to reduce the impact of pesticides on the environment and non-target organisms.

h. Where practicable and feasible for efficacious control, use larvicides as a preferred pesticide for mosquito or flying insect pest control when the larval action threshold(s) has/have been met.

i. Where larvicide use is not practicable or feasible for efficacious control, use adulticides for mosquito or flying insect pest control when the adult action threshold(s) has/have been met.

j. Apply larvicides to water bodies only when the aquatic life community is dominated by mosquito larvae and pupae to minimize the impact on non-target organisms.

***NOTE**: If other documents/practices, such as a pre-existing pest management measures, are relied upon to describe how compliance with the discharge limitations in this permit will be achieved, the appropriate portions*

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of such documents shall be attached to the Pesticide Discharge Management Plan (for large entities) (Part I.A.6.) or retained according to Part I.A.7. to document the implementation of the discharge limitations.

6. Pesticide Discharge Management Plan (PDMP)

Any permittee that is or will be required to submit an application, as required in Part I.A.1., and is a **Large Entity**, as defined in Part II.A., shall prepare a properly signed and dated PDMP for each pest management area.

The plan shall be kept up-to-date for the duration of coverage under this permit, even if the treatment area falls below the annual treatment area threshold. The deadlines for development of the PDMP are as follows:

CATEGORY	PDMP DEADLINE
Permittees who are required to submit an application for coverage under this permit and are large entities	Prior to the first pesticide application covered under this permit
Permittees who will be required to submit an application when it is determined they will exceed the applicable annual treatment area threshold and are large entities	Prior to exceeding the annual treatment area threshold

The PDMP does not contain discharge limitations. The PDMP documents how the permittee will implement the discharge limitations in Part I.A.4. This includes the evaluation and selection of pest management measures to meet those discharge limitations and minimize discharges in accordance with Part I.A.5. Procedures or plans in other documents that meet any of the requirements of this permit may be incorporated by reference into the PDMP. A copy of any portions of other documents used shall be attached to the PDMP. The pest management measures apply to the permittee and any employees, contractors, subcontractors, or other agents of the permittee. Implementation of the control measures must be documented, and the documentation kept up-to-date.

The PDMP shall include all of the following:

a. A description of the pesticide discharge management team, including name, certifications or registrations (if applicable), and contact information for the person(s) with the following responsibilities:

   1) managing pests in relation to the pest management area;

   2) developing and revising the PDMP;

   3) developing, revising, and implementing corrective actions and other discharge limitation requirements; and

   4) applying pesticides: If the pesticide applicator is unknown at the time of PDMP development, indicate whether or not a commercial applicator will be used and when it is anticipated that the applicator will be identified.

   ***NOTE**: Identification of team members shall include any written agreement(s) between the permittee and any other person(s), such as a commercial applicator, that specify the division of responsibilities between the parties that is necessary to comply with the provisions of this permit.*

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b. A description of the pest management area, including:

1) the target pest(s), source of the pest problem, and source of the data used to identify the problem in Part I.A.5. above, if available;

2) action thresholds, including how they were determined;

3) a general location map identifying the boundaries of the area to which the plan applies and the location of the surface waters of the state; and

4) documentation of any Outstanding State Resource Waters and any waters identified as impaired by a substance which either is a pesticide active ingredient or a degradate of such an active ingredient.

c. A description of the pest management measures that documents the evaluation of pest management measures and states the pest management measures that will be implemented to comply with the discharge limitations required in Part I.A.4. above. In the evaluation, permittees shall consider the impact to water quality, non-target organisms, feasibility, cost effectiveness, and any relevant previous Pest Management Measures. The active ingredient(s) of any pesticide(s) used shall also be identified.

d. Schedules and procedures that detail all of the following:

1) pre-application pest surveillance;

2) assessment of environmental conditions in the treatment area;

3) determination of the lowest effective amount of pesticide product per application and the optimum frequency of pesticide applications necessary to control the target pest;

4) maintenance activities for preventing spills and leaks;

5) maintenance activities to ensure that the pesticide application equipment is in proper operating condition, including calibrating, cleaning, and repairing the equipment;

6) spill response procedures, including the plan for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. Employees who may cause, detect, or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. Procedures for notification of the Department, appropriate personnel, and emergency response agencies shall also be included;

7) adverse incident response procedures, including notification of the incident. Contact information for the Department, the nearest emergency medical facility, and the nearest hazardous chemical responder shall be in locations that are readily accessible and available; and

8) monitoring, including the process for determining the location of any monitoring, the monitoring schedule, the person responsible for conducting monitoring, and the procedures for documenting any impacts to non-target organisms resulting from the pesticide discharge.

The PDMP shall be modified whenever necessary to address any issues that trigger corrective action, if appropriate, or when a change in the identified treatment pest control activities significantly changes the type or quantity of pollutants discharged. Updates to the PDMP shall be made before the next pesticide application that results in a discharge, if practicable, or if not, no later than 30 days after the change in pesticide activities.

A copy of the current PDMP, along with all supporting maps and documents, shall be retained by the permittee. The PDMP and all supporting documents shall be readily available upon request by the Department, and the Department may provide copies of any of these documents, upon request, provided the request complies with

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the provisions of Title 40 of the Code of Federal Regulations (CFR), Part 2, Confidential Business Information, and the claim of confidentiality is properly asserted and documented as required by said regulation.

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7. Record Keeping

All operators shall keep written or electronic records as required in this permit. These records shall be accurate, complete, and sufficient to demonstrate compliance with the conditions of this permit. Operators can rely upon 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.

No later than 14 days following completion of the noted activity, the records listed below shall be documented and retained by the appropriate operator. Records shall be kept for a minimum of three (3) years from the date of the noted activity made under this permit and shall be immediately available to the Department upon request.

a. **All** operators shall keep the following records:

1) a copy of any Adverse Incident Reports;

2) the rationale for any determination that reporting an identified adverse incident is not required; consistent with the allowances identified in Part II.C.7., below;

3) a copy of any corrective action documentation; and

4) a copy of any spill, leak, or other unpermitted discharge documentation

b. Any operator that is a **For-Hire Applicator**, as defined in Part II.A., shall retain the following records in addition to the records identified in Part I.A.7.a. above:

1) documentation of any equipment cleaning, calibration, and repair; and

2) information on each treatment area to which pesticides are discharged, including:

a) a description of the treatment area, including location and size (in acres or linear miles), and identification of any surface waters of the state, either by name or location, to which any pesticide(s) is/are discharged;

b) the target pest(s);

c) the name of each pesticide product used, including the USEPA registration number;

d) the quantity of pesticide applied, specifying if quantities are for the pesticide product as packaged or as formulated and applied;

e) pesticide application date(s); and

f) whether or not visual monitoring was conducted during the pesticide application and/or post-application and if not, why not, and whether monitoring identified any possible or observable adverse incidents were caused by the application of pesticides.

c. Any operator that is a permittee required to submit an application for coverage under this permit, and who is a **Small Entity**, shall also retain the following records, in addition to the records identified in Part I.A.7.a. and b. above.

1) a copy of the application for coverage under this permit, any correspondence exchanged between the operator and the Department specific to coverage under this permit, and a copy of the issued COC; and

2) information on each treatment area to which pesticides are discharged, including:

a) a description of pest management measure(s) implemented prior to the first pesticide application; and

b) the company name and contact information for the pesticide applicator.

***NOTE**: A Pesticide Discharge Evaluation Worksheet (PDEW) for documenting this information on each treatment area is available for Small Entities (available on the Pesticide Control Web site at: https://www.michigan.gov/egle/about/organization/Water-Resources/npdes/pesticide-control).*

d. Any operator that is a permittee required to submit an application for coverage under this permit, and who is a **Large Entity**, shall also retain the following records, in addition to the records identified in Part I.A.7.a. through c. above:

1) a copy of the PDMP, including any modification made to the PDMP during the term of this permit;

2) a copy of annual reports submitted to the Department; and

3) Information on each treatment area to which pesticides are discharged, including:

a) action thresholds;

b) the method and/or data used to determine that the action threshold(s) has been met; and

c) pesticide application date(s).

8. Annual Report

Any permittee required to submit an application for coverage under this permit and is defined as a **Large Entity** in Part II.A., shall submit an annual report to the Department. The annual report is due on or before November 30 of each year the COC is in effect, regardless of the occurrence of a discharge from the application of pesticides. The permittee shall submit the annual report via the MiEnviro website at https://www.michigan.gov/egle/maps-data/mienviroportal using the required electronic forms. The annual report shall include:

a. The COC number.

b. Permittee name and contact information.

c. The following information for each pest treatment area:

1) a description of treatment area, including the location and size (acres or linear miles) of treatment area;

2) identification of any surface waters of the state or other treatment area, including size, either by name or by location, to which any pesticide(s) was/were discharged;

3) the company name(s) and contact information for pesticide applicator(s), if different from the permittee;

4) the total amount of each pesticide product applied during the reporting year by the USEPA registration number(s) and application method (e.g., ultra-low volume spray, aerial application, etc.);

5) whether this pest control activity was addressed in the PDMP prior to pesticide application;

6) if applicable, a report of any adverse incidents that occurred as a result of the treatment(s); and

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7) if applicable, a description of any corrective action(s), including spill responses, resulting from pesticide application activities, and the rationale for such action(s).

d. Any updates to annual permit billing contact, facility contact, or any other contacts that are applicable.

***NOTE**: If other documents are relied upon to fulfill the conditions of this reporting requirement, the appropriate portions of such documents shall be attached to the report.*

9. Permit Contact

The "Permit Contact" was specified in the application. The permittee may replace the permit contact at any time and shall notify the Department within 10 days after replacement (including the name, address, and telephone number of the new facility contact). The permittee shall utilize the information provided on the MiEnviro website at https://www.michigan.gov/egle/maps-data/mienviroportal to access and submit the electronic forms.

a. The permit contact shall be (or a duly authorized representative of this person):

- for a corporation, a principal executive officer of at least the level of vice president, or a designated representative if the representative is responsible for the overall operation from which the discharge originates, as described in the permit application or other NPDES form:
- for a partnership, a general partner;
- for a sole proprietorship, the proprietor; or
- for a municipal, state, or other public facility, either a principal executive officer, the mayor, village president, city or village manager or other duly authorized employee;
- for a private nonprofit or for-profit organization, association, or board, the executive officer, chairperson, or designated representative if that representative is responsible for the decision to perform pesticide control activities described in the permit application; or
- for private property, a property owner or designated representative, if that representative is responsible for the decision to perform pesticide control activities described in the permit application.

b. A person is a duly authorized representative only if:

- the authorization is made in writing to the Department by a person described in paragraph a. of this section; and
- the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated activity (a duly authorized representative may thus be either a named individual or any individual occupying a named position).

Nothing in this section releases the permittee from properly submitting reports and forms as required by law.

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10. Expiration and Reissuance

On or before August 1, 2026, a permittee seeking continued authorization to discharge under this permit beyond the permit's expiration date shall submit to the Department an application for reissuance via the Department's MiEnviro system. The MiEnviro website is located at https://www.michigan.gov/egle/maps-data/mienviroportal. Without a timely application for reissuance, the permittee's authorization to discharge will expire on February 1, 2027. With a timely application for reissuance, the permittee shall continue to be subject to the terms and conditions of the expired permit until the Department takes action on the application, unless this permit is terminated or revoked.

If this permit is terminated or revoked, the Department will notify the permittee in writing and all authorizations to discharge under the permit shall expire on the date of termination or revocation. If this permit is modified, the Department will notify the permittee in writing of any required action. Upon the effective date of the modified permit, the permittee shall be subject to the terms and conditions of the modified permit, unless the Department notifies the permittee otherwise.

If the discharge authorized under this permit is terminated, the permittee shall submit to the Department an NPDES Permit Notice of Termination request via MiEnviro at https://www.michigan.gov/egle/maps-data/mienviroportal.

11. Requirement to Obtain Individual Permit

The Department may require any operator who is authorized to discharge, by a COC and this permit, to apply for and obtain an individual NPDES permit if any of the following circumstances apply:

a. The discharge of pesticides to surface waters of the state identified as impaired for the pesticide or its degradates. Impaired waters are those which have failed to meet applicable water quality standards under Section 303(d) of the Federal Act, regardless of the establishment or approval of a total maximum daily load.

b. The discharge of pesticides to Outstanding State Resource Waters pursuant to R 323.1098(6) of the Water Quality Standards.

c. The discharger is a significant contributor to pollution as determined by the Department on a case-by-case basis.

d. The discharger is not complying or has not complied with the conditions of this permit.

e. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of waste applicable to the point source discharge.

f. Effluent standards and limitations are promulgated for point source discharges subject to this permit.

g. The Department determines that the criteria under which the permit was issued no longer apply.

Any person may request the Department to take action pursuant to the provisions of Rule 2191 of the Part 21 Rules, Wastewater Discharge Permits, promulgated under Part 31 of the NREPA (R 323.2191 of the Michigan Administrative Code).

PART II

Section A. Definitions

***NOTE**: Standard permit conditions in Part II generally are consistent with the permit provisions required in 40 CFR 122.41 and the NREPA but are modified to reflect the nature of discharges covered under this permit.*

This list of definitions may include terms not applicable to this permit.

Action threshold means the point at which pest populations or environmental conditions can no longer be tolerated, necessitating that pest control action be taken based on economic, human health, aesthetic, or other effects. Sighting a single pest does not always mean control is need. Action thresholds help determine both the need for control actions and the proper timing of such actions.

Active ingredient means any substance, or group of structurally similar substances if specified by the department, that will prevent, destroy, repel, or mitigate any pest, or that functions as a plant regulator, desiccant, or defoliant within the meaning of FIFRA Sec. 2(a). [40 CFR 152.3]. Active ingredient also means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance [40 CFR 174.3].

Adverse incident means an incident in which (1) a person or non-target organism may have been exposed to a pesticide residue, and (2) the person or non-target organism suffered a toxic or adverse effect. Toxic or adverse effects include effects that occur within surface waters of the state on non-target plants, fish, or wildlife that are unusual or unexpected (e.g., effects are to organisms not otherwise described on the pesticide product label or otherwise not expected to be present) as a result of exposure to a pesticide residue, and may include:

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

Toxic or adverse effects also include any impact to humans or domesticated animals that are spatially and temporally related to direct or indirect exposure to a pesticide residue discharged to surface waters of the state (e.g., skin rashes, vomiting, lethargy, etc.).

Annual Treatment Area Threshold means an area (in acres) or linear distance (in miles) in a calendar year to which a Permittee is authorizing and/or performing pesticide applications in that area for activities covered under this permit that trigger the need for an operator to apply for a COC under this permit.

For calculating annual treatment areas for Mosquitoes and Other Flying Insect Pest Control and Forest Canopy Pest for comparing with any threshold in Table 1-1, count each pesticide application activity to a treatment area (i.e., that area where pesticide application is intended to provide pesticidal benefits within the pest management area) as a separate area treated. For example, applying pesticides three (3) times a year to the same 3,000-acre site should be counted as 9,000 acres of treatment area for purposes of determining if such an application exceeds an annual treatment area threshold. The treatment area for these two (2) pesticide use patterns is additive over the calendar year.

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For calculating annual treatment areas for Nuisance Plant and Algae Control and Nuisance Animal Control for comparing with any threshold in Table 1-1, calculations should include either the linear extent of or the surface area of waters for applications made to waters of the state or at water's edge adjacent to waters of the state. For calculating the annual treatment area, count each treatment area only once, regardless of the number of pesticide application activities performed on that area in a given year. Also, for linear features (e.g., canal or ditch), use the length of the linear feature whether treating in or adjacent to the feature, regardless of the number of treatments made to that feature during the calendar year. For example, whether treating the bank on one side of a ten-mile-long ditch, banks on both sides of the ditch, and/or water in that ditch, the total treatment area is ten miles for purposes of determining if an application for a COC is required to be submitted. Additionally, if the same 10 miles is treated more than once in a calendar year, the total area treated is still 10 miles for purposes of comparing with any threshold in Table 1-1. The treatment area for these two (2) pesticide use patterns is not additive over the calendar year.

Applicator means any entity who performs the application of a pesticide or who has day-to-day control of the application (i.e., are authorized to direct workers to carry out those activities) that results in a discharge to waters of the state.

Best management practices (BMPs) means examples of control measures that may be implemented to meet discharge limitations. These include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to minimize the discharge of pollutants to surface waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control spillage or leaks, waste disposal, or drainage from raw material storage [40 CFR 122.2].

Biological Control Agents means organisms that can be introduced to your site, such as herbivores, predators, parasites, and hyperparasites.

Biological pesticides (also called biopesticides) means microbial pesticides, biochemical pesticides, and plant-incorporated protectants (PIP). Microbial pesticide means a microbial agent intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, that (1) is a eukaryotic microorganism including, but not limited to, protozoa, algae, and fungi; (2) is a prokaryotic microorganism, including, but not limited to, eubacteria and archaebacteria; or (3) is a parasitically replicating microscopic element, including but not limited to, viruses [40 CFR 158.2100(b)]. Biochemical pesticide means a pesticide that (1) is a naturally-occurring substance; (2) has a history of exposure to humans and the environment demonstrating minimal toxicity, or in the case of a synthetically-derived biochemical pesticide, is equivalent to a naturally-occurring substance that has such a history; and (3) has a non-toxic mode of action to the target pest(s) [40 CFR 158.2000(a)(1)]. PIP means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance. PIP also includes any inert ingredient contained in the plant, or produce thereof [40 CFR 174.3].

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

Commercial applicator means a person who is required to be a registered or certified applicator, or who holds himself or herself out to the public as being in the business of applying pesticides. A commercial applicator does not include a person using a pesticide for a private agricultural purpose [NREPA, Part 83, Pesticide Control, Section 8302(15)].

Concentration means the volume of pesticide formulation and the volume of carrier used to make and end use dilution. [NREPA, Part 83, Regulation 636, Rule 1(d)].

PART II

Section A. Definitions

Cultural methods means manipulation of the habitat to increase pest mortality by making the habitat less suitable to the pest.

Declared Pest Emergency Situation means an event defined by a public declaration by a federal agency, state, or local government of a pest problem determined to require control through application of a pesticide immediately after identification of the need for pest control. This public declaration may be based on:

(1) significant risk to human health;
(2) significant economic loss; or
(3) significant risk to:
    (i) endangered species;
    (ii) threatened species;
    (iii) beneficial organisms; or
    (iv) the environment. [40 CFR 166.3].

Discharge means the "discharge of a pollutant," when used without qualification [40 CFR 122.2].

For Hire Applicator means persons who make contractual pesticide applications for which they or their employer receives compensation (e.g., lawn care firms, pest control companies).

Large Entity means any entity that is not a small entity.

Marker means an agent, such as oxytetracycline (OTC), used to determine the efficacy of a pesticide application.

Mechanical or physical methods means mechanical tools or physical alterations of the environment for pest prevention or removal.

Minimize means to reduce and/or eliminate pesticide discharges to surface waters of the state through the use of "control measures" to the extent technologically available and economically practicable and achievable.

Non-target organisms means the plant and animal hosts of the target species, the natural enemies of the target species living in the community, and other plants and animals, including vertebrates, living in or near the community that are not the target of the pesticide.

Operator means, for the purpose of this permit, any entity associated with the application of pesticides which results in a discharge to waters of the state that meets either of the following two (2) criteria;

1) any entity that has day-to-day control of or performs activities that are necessary to ensure compliance with the permit (e.g., they are authorized to direct workers to carry out activities required by the permit or perform such activities themselves); or
2) any entity with control over the decision to perform pesticide applications that result in discharges, including the ability to modify those decisions.

Permittee means any entity with control over the decision to perform pesticide applications including the ability to modify those decisions that result in a discharge to waters of the state.

Permittee who is or will be required to submit an application means any Permittee covered under a Pesticide General Permit who knows or should have known that an application will be required for their discharges of pesticides to waters of the state. Excluded from this definition are those activities for which an application is required based solely on that permittee exceeding an annual treatment area threshold.

Person means an individual, partnership, corporation, association, governmental entity, or other legal entity.

PART II

Section A. Definitions

Pest means any organism under circumstances that make it deleterious to man or to the environment if it is:

1) any vertebrate animal other than man;
2) any invertebrate animal, including but not limited to, any insect, arthropod, nematode, or mollusk such as a slug and snail, but excluding any internal parasite of living man or other living animals;
3) any plant growing where not wanted, including any moss, alga, liverwort, or other plant of any higher order, and any plant part such as a root; or
4) any fungus, bacterium, virus, or other microorganism, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs [as defined in FFDCA Sec. 201(g)(1)] and cosmetics [as defined in FFDCA Sec. 201(i)].

Pest management area means the area of land, including any water, for which an operator has responsibility and is authorized to conduct pest management activities as covered by this permit (e.g., for an operator who is treating a mosquito control district, the pest management area is the total area of the district).

Pest Management Measures means any practice used to meet the discharge limitations that comply with manufacturer specifications, industry standards and recommended industry practices related to the application of pesticides, relevant legal requirements, and other provisions that a prudent operator would implement to reduce and/or eliminate pesticide discharges to waters of the state.

Pesticide means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and (3) any nitrogen stabilizer, except that the term “pesticide” shall not include any article that is a “new animal drug” within the meaning of Section 201(w) of the Federal Food, Drug, and Cosmetic Act (FFDCA) [21 United States Code (U.S.C.) 321(w)], that has been determined by the secretary of health and human services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of Section 201(x) of such act [21 U.S.C. 321(x)] bearing or containing a new animal drug. The term “pesticide” does not include liquid chemical sterilant products (including any sterilant or subordinate disinfectant claims on such products) for use on a critical or semi-critical device, as defined in Section 201 of the FFDCA (21 U.S.C. 321). For purposes of the preceding sentence, the term “critical device” includes any device that is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body, and the term “semi-critical device” includes any device that contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body [FIFRA Section 2(u)].

The term “pesticide” applies to insecticides, herbicides, fungicides, rodenticides, and various other substances used to control pests. The definition encompasses all uses of pesticides authorized under FIFRA including uses authorized under Sections 3 (registration), 5 (experimental use permits),18 (emergency exemption), 24(c) (special local needs registrations), and 25(b) (exemption from FIFRA).

Note: drugs used to control diseases of humans or animals (such as livestock and pets) are not considered pesticides; such drugs are regulated by the food and drug administration. Fertilizers, nutrients, and other substances used to promote plant survival and health are not considered plant growth regulators and thus are not pesticides. Biological control agents, except for certain microorganisms, are exempted from regulation under FIFRA. Biological control agents include beneficial predators such as birds or ladybugs that eat insect pests, parasitic wasps, fish, etc.

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

Pesticide detoxification reagent means a substance, such as potassium permanganate, that reacts to detoxify a pesticide after application.

PART II

Section A. Definitions

Pesticide product means a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.

Pheromone means a substance that triggers a social response in a species.

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

Regional Administrator is the Region 5 Administrator, U.S. EPA, located at R-19J, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

Registered Applicator means an individual who is authorized to apply general use pesticides for a private or commercial purpose as provided in the NREPA, Part 83, Pesticide Control, Section 8306(1).

Small Entity means any (1) private enterprise that does not exceed the Small Business Administration size standard as identified at 13 CFR 121.201, or (2) local government that serves a population of 10,000 or less.

Surface waters of the state means all of the following, but does not include drainage ways and ponds used solely for wastewater conveyance, treatment, or control:

1) The Great Lakes and their connecting waters;
2) All inland lakes;
3) Rivers;
4) Streams;
5) Impoundments;
6) Open drains;
7) Wetlands; or
8) Other surface bodies of water within the confines of the state.

Surveillance means the act of using a dip sampler to scoop up a small amount of water and examine it for the presence/absence of mosquito larvae and/or pupae in a water body.

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

Total Maximum Daily Loads (TMDLs) are required by the Federal Act for waterbodies that do not meet Water Quality Standards. TMDLs represent the maximum daily load of a pollutant that a waterbody can assimilate and meet Water Quality Standards and an allocation of that load among point sources, nonpoint sources, and a margin of safety.

Treatment area means the entire area, whether over land or water, where the pesticide application is intended to provide pesticidal benefits within the pest management area. In some instances, the treatment area will be larger than the area where pesticides are actually applied. For example, the treatment area for a stationary drip treatment into a canal includes the entire width and length of the canal over which the pesticide is intended to control weeds. Similarly, the treatment area for a lake or marina area is the water surface area where the application is intended to provide pesticidal benefits. Multiple treatment areas may be located within a single “pest management area.”

Water Quality Standards means the Part 4 Water Quality Standards promulgated pursuant to Part 31 of Act No. 451 of the Public Acts of 1994, as amended, being Rules 323.1041 through 323.1117 of the Michigan Administrative Code.

PART II

Section B. Monitoring Procedures

1. Representative Samples

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

2. Test Procedures

Test procedures for the analysis of pollutants shall conform to regulations promulgated pursuant to Section 304(h) of the Clean Water Act (40 CFR Part 136 – Guidelines Establishing Test Procedures for the Analysis of Pollutants), unless specified otherwise in this permit. **Test procedures used shall be sufficiently sensitive to determine compliance with applicable effluent limitations**. For lists of approved test methods, go to https://www.epa.gov/cwa-methods. Requests to use test procedures not promulgated under 40 CFR Part 136 for pollutant monitoring required by this permit shall be made in accordance with the Alternate Test Procedures regulations specified in 40 CFR 136.4. These requests shall be submitted to the Manager of the Permits Section, Water Resources Division, Michigan Department of Environment, Great Lakes, and Energy, P.O. Box 30458, Lansing, Michigan, 48909-7958. The permittee may use such procedures upon approval.

The permittee shall periodically calibrate and perform maintenance procedures on all analytical instrumentation at intervals to ensure accuracy of measurements. The calibration and maintenance shall be performed as part of the permittee's laboratory Quality Assurance/Quality Control program.

3. Instrumentation

The permittee shall periodically calibrate and perform maintenance procedures on all monitoring instrumentation at intervals to ensure accuracy of measurements.

4. Recording Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information: 1) the exact place, date, and time of measurement or sampling; 2) the person(s) who performed the measurement or sample collection; 3) the dates the analyses were performed; 4) the person(s) who performed the analyses; 5) the analytical techniques or methods used; 6) the date of and person responsible for equipment calibration; and 7) the results of all required analyses.

5. Records Retention

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed, calibration and maintenance of instrumentation, and recordings from continuous monitoring instrumentation, shall be retained for a minimum of three (3) years, or longer if requested by the Regional Administrator or the Department.

PART II

Section C. Reporting Requirements

1. Start-Up Notification

The permittee shall notify the Department of start-up if one (1) of the following conditions applies and in accordance with the applicable condition:

a. Non-CAFOs

1) **If this is an individual permit** and the permittee will not discharge during the first 60 days following the effective date of this permit, the permittee shall notify the Department via MiEnviro within 14 days following the effective date of this permit, and then again 60 days prior to commencement of the discharge.

2) **If this is a general permit** and the permittee will not discharge during the first 60 days following the effective date of the COC issued under this general permit, the permittee shall notify the Department via MiEnviro within 14 days following the effective date of the COC, and then again 60 days prior to commencement of the discharge.

b. CAFOs

1) **If this is an individual permit** and the permittee will not populate with animals during the first 60 days following the effective date of this permit, the permittee shall notify the Department via MiEnviro within 14 days following the effective date of this permit, and then again 60 days prior to populating with animals.

2) **If this is a general permit** and the permittee will not populate with animals during 60 days following the effective date of the COC issued under this general permit, the permittee shall notify the Department via MiEnviro within 14 days following the effective date of the COC, and then again 60 days prior to populating with animals.

c. Submittal Requirements for Self-Monitoring Data

Part 31 of the NREPA [specifically Section 324.3110(7)]; and R 323.2155(2) of Part 21, Wastewater Discharge Permits, promulgated under Part 31 of the NREPA, allow the Department to specify the forms to be utilized for reporting the required self-monitoring data. Unless instructed on the effluent limitations page to conduct "Retained Self-Monitoring," the permittee shall submit self-monitoring data via the Department's MiEnviro system.

The permittee shall utilize the information provided on the MiEnviro website, located at https://www.michigan.gov/egle/maps-data/mienviroportal, to access and submit the electronic forms. Both monthly summary and daily data shall be submitted to the Department no later than the 20th day of the month following each month of the authorized discharge period(s). The permittee may be allowed to submit the electronic forms after this date if the Department has granted an extension to the submittal date.

PART II

Section C. Reporting Requirements

3. Retained Self-Monitoring Requirements

If instructed on the effluent limits page (or otherwise authorized by the Department in accordance with the provisions of this permit) to conduct retained self-monitoring, the permittee shall maintain a year-to-date log of retained self-monitoring results and, upon request, provide such log for inspection to the staff of the Department. Retained self-monitoring results are public information and shall be promptly provided to the public upon request.

The permittee shall certify, in writing, to the Department, on or before January 10th (April 1st for animal feeding operation facilities) of each year, that: 1) all retained self-monitoring requirements have been complied with and a year-to-date log has been maintained; and 2) the application on which this permit is based still accurately describes the discharge. With this annual certification, the permittee shall submit a summary of the previous year's monitoring data. The summary shall include maximum values for samples to be reported as daily maximums and/or monthly maximums and minimum values for any daily minimum samples.

Retained self-monitoring may be denied to a permittee by notification in writing from the Department. In such cases, the permittee shall submit self-monitoring data in accordance with Part II.C.2., above. Such a denial may be rescinded by the Department upon written notification to the permittee. Reissuance or modification of this permit or reissuance or modification of an individual permittee's authorization to discharge shall not affect previous approval or denial for retained self-monitoring unless the Department provides notification in writing to the permittee.

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report. Such increased frequency shall also be indicated.

Monitoring required pursuant to Part 41, Sewerage Systems, of the NREPA or Rule 35 of the Mobile Home Park Commission Act, 1987 PA 96, as amended, for assurance of proper facility operation, shall be submitted as required by the Department.

5. Compliance Dates Notification

Within 14 days of every compliance date specified in this permit, the permittee shall submit a written notification to the Department via MiEnviro (https://www.michigan.gov/egle/maps-data/mienviroportal) indicating whether or not the particular requirement was accomplished. If the requirement was not accomplished, the notification shall include an explanation of the failure to accomplish the requirement, actions taken or planned by the permittee to correct the situation, and an estimate of when the requirement will be accomplished. If a written report is required to be submitted by a specified date and the permittee accomplishes this, a separate written notification is not required.

PART II

Section C. Reporting Requirements

6. Noncompliance Notification

Compliance with all applicable requirements set forth in the Clean Water Act, Parts 31 and 41 of the NREPA, and related regulations and rules is required. All instances of noncompliance shall be reported as follows:

a. 24-Hour Reporting
Any noncompliance which may endanger health or the environment (including maximum and/or minimum daily concentration discharge limitation exceedances) shall be reported, verbally, within 24 hours from the time the permittee becomes aware of the noncompliance by calling the Department at the number indicated on the second page of this permit (or, if this is a general permit, on the COC). A written submission shall also be provided via MiEnviro (https://www.michigan.gov/egle/maps-data/mienviroportal) within five (5) days.

b. Other Reporting
The permittee shall report, in writing via MiEnviro (https://www.michigan.gov/egle/maps-data/mienviroportal), all other instances of noncompliance not described in a. above at the time monitoring reports are submitted; or, in the case of retained self-monitoring, within five (5) days from the time the permittee becomes aware of the noncompliance.

Reporting shall include: 1) a description of the discharge and cause of noncompliance; 2) the period of noncompliance, including exact dates and times, or, if not yet corrected, the anticipated time the noncompliance is expected to continue; and 3) the steps taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

7. Adverse Incident Documentation and Reporting

Compliance with all applicable requirements set forth in the Federal Act, Part 31 of the NREPA, and related regulations and rules is required. All instances of noncompliance shall be reported as follows:

a. 24-hour Adverse Incident Notification - Any noncompliance which may endanger health or the environment (including unauthorized release or discharge; failure to meet water quality standards due to inadequate/insufficient control measures; failure to minimize discharge; unusual or unexpected effects to non-target organisms; or unnatural turbidity, color, oil film, floating solids, foams, settleable solids, suspended solids, or deposits in or around the area of pesticide application, etc.) shall be reported, verbally, within 24 hours from the time the operator becomes aware of the noncompliance, and the cause(s) of the noncompliance shall be investigated. The notification shall be performed by calling the appropriate Water Resources Division District Office (see Attachment A for contact information), or if the notice is provided after regular working hours call the Department's 24-hour Pollution Emergency Alerting System telephone number, 1-800-292-4706.

b. Thirty (30) day Adverse Incident Written Report - A written submission shall also be provided via MiWaters (https://www.michigan.gov/egle/maps-data/mienviroportal) detailing the findings of the investigation and the steps taken to correct the condition(s) that led to the noncompliance.

c. Other reporting - The permittee shall report, in writing, all other instances of noncompliance not described in a. above within 30 days from the time the operator becomes aware of the noncompliance.

d. Adverse incident to endangered or threatened species or critical habitat – the U.S. Fish and Wildlife Service shall be immediately notified by telephone at 517-351-2555 of any adverse incident involving a protected species and/or habitat that may have resulted from the discharge from the operator's pesticide application.

PART II

Section C. Reporting Requirements

Written reporting shall include: 1) a description of the discharge and cause of the noncompliance; and 2) the period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and 3) the steps taken, including updates to the PDMP or PDEW, to reduce, eliminate and prevent recurrence of the non-complying discharge.

8. Spill Notification

The permittee shall immediately report any release of any polluting material which occurs to the surface waters or groundwaters of the state, unless the permittee has determined that the release is not in excess of the threshold reporting quantities specified in the Part 5 Rules (R 324.2001 through R 324.2009 of the Michigan Administrative Code), by calling the Department at the number indicated on the second page of this permit (or, if this is a general permit, on the COC); or, if the notice is provided after regular working hours, by calling the Department's 24-hour Pollution Emergency Alerting System telephone number, 1-800-292-4706.

Within 10 days of the release, the permittee shall submit to the Department via MiEnviro (https://www.michigan.gov/egle/maps-data/mienviroportal) a full written explanation as to the cause of the release, the discovery of the release, response measures (clean-up and/or recovery) taken, and preventive measures taken or a schedule for completion of measures to be taken to prevent reoccurrence of similar releases.

9. Upset Noncompliance Notification

If a process "upset" (defined as an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee) has occurred, the permittee who wishes to establish the affirmative defense of upset shall notify the Department by telephone within 24 hours of becoming aware of such conditions; and within five (5) days, provide in writing, the following information:

a. that an upset occurred and that the permittee can identify the specific cause(s) of the upset;

b. that the permitted wastewater treatment facility was, at the time, being properly operated and maintained (note that an upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation); and

c. that the permittee has specified and taken action on all responsible steps to minimize or correct any adverse impact in the environment resulting from noncompliance with this permit.

No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

In any enforcement proceedings, the permittee, seeking to establish the occurrence of an upset, has the burden of proof.

10. Bypass Prohibition and Notification

a. Bypass Prohibition
Bypass is prohibited, and the Department may take an enforcement action, unless:

1) bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2) there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass; and

3) the permittee submitted notices as required under b. or c. below.

PART II

Section C. Reporting Requirements

b. Notice of Anticipated Bypass
If the permittee knows in advance of the need for a bypass, the permittee shall submit written notification to the Department before the anticipated date of the bypass. This notification shall be submitted at least 10 days before the date of the bypass; however, the Department will accept fewer than 10 days advance notice if adequate explanation for this is provided. The notification shall provide information about the anticipated bypass as required by the Department. The Department may approve an anticipated bypass, after considering its adverse effects, if it will meet the three (3) conditions specified in a. above.

c. Notice of Unanticipated Bypass
As soon as possible but no later than 24 hours from the time the permittee becomes aware of the unanticipated bypass, the permittee shall notify the Department by calling the number indicated on the second page of this permit (or, if this is a general permit, on the COC); or, if notification is provided after regular working hours, call the Department's 24-hour Pollution Emergency Alerting System telephone number, 1-800-292-4706.

d. Written Report of Bypass
A written submission shall be provided within five (5) working days of commencing any bypass to the Department, and at additional times as directed by the Department. The written submission shall contain a description of the bypass and its cause; the period of bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass; and other information as required by the Department.

e. Bypass Not Exceeding Limitations
The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of a., b., c., and d., above. This provision does not relieve the permittee of any notification responsibilities under Part II.C.11. of this permit.

f. Definitions

1) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

PART II

Section C. Reporting Requirements

11. Bioaccumulative Chemicals of Concern (BCC)

Consistent with the requirements of R 323.1098 and R 323.1215 of the Michigan Administrative Code, the permittee is prohibited from undertaking any action that would result in a lowering of water quality from an increased loading of a BCC unless an increased use request and antidegradation demonstration have been submitted and approved by the Department.

12. Notification of Changes in Discharge

The permittee shall notify the Department, via MiEnviro (https://www.michigan.gov/egle/maps-data/mienviroportal), as soon as possible but within no more than 10 days of knowing, or having reason to believe, that any activity or change has occurred or will occur which would result in the discharge of: 1) detectable levels of chemicals on the current Michigan Critical Materials Register, priority pollutants or hazardous substances set forth in 40 CFR 122.21, Appendix D, or the Pollutants of Initial Focus in the Great Lakes Water Quality Initiative specified in 40 CFR 132.6, Table 6, which were not acknowledged in the application or listed in the application at less than detectable levels; 2) detectable levels of any other chemical not listed in the application or listed at less than detection, for which the application specifically requested information; or 3) any chemical at levels greater than five (5) times the average level reported in the complete application (see the first page of this permit, for the date(s) the complete application was submitted). Any other monitoring results obtained as a requirement of this permit shall be reported in accordance with the compliance schedules.

13. Changes in Facility Operations

Any anticipated action or activity, including but not limited to facility expansion, production increases, or process modification, which will result in new or increased loadings of pollutants to the receiving waters must be reported to the Department by a) submission of an increased use request (application) and all information required under R 323.1098 (Antidegradation) of the Water Quality Standards or b) by written notice if the following conditions are met: 1) the action or activity will not result in a change in the types of wastewater discharged or result in a greater quantity of wastewater than currently authorized by this permit; 2) the action or activity will not result in violations of the effluent limitations specified in this permit; 3) the action or activity is not prohibited by the requirements of Part II.C.10.; and 4) the action or activity will not require notification pursuant to Part II.C.11. Following such written notice, the permit or, if applicable, the facility's COC, may be modified according to applicable laws and rules to specify and limit any pollutant not previously limited.

14. Transfer of Ownership or Control

In the event of any change in ownership or control of facilities from which the authorized discharge emanates, the following requirements apply: Not less than 30 days prior to the actual transfer of ownership or control – for non-CAFOs, or within 30 days of the actual transfer of ownership or control – for CAFOs, the permittee shall submit to the Department via MiEnviro (https://www.michigan.gov/egle/maps-data/mienviroportal) a written agreement between the current permittee and the new permittee containing: 1) the legal name and address of the new owner; 2) a specific date for the effective transfer of permit responsibility, coverage and liability; and 3) a certification of the continuity of or any changes in operations, wastewater discharge, or wastewater treatment.

If the new permittee is proposing changes in operations, wastewater discharge, or wastewater treatment, the Department may propose modification of this permit in accordance with applicable laws and rules.

PART II

Section C. Reporting Requirements

15. Operations and Maintenance Manual

For wastewater treatment facilities that serve the public (and are thus subject to Part 41 of the NREPA), Section 4104 of Part 41 and associated Rule 2957 of the Michigan Administrative Code allow the Department to require an Operations and Maintenance (O&M) Manual from the facility. An up-to-date copy of the O&M Manual shall be kept at the facility and shall be provided to the Department upon request. The Department may review the O&M Manual in whole or in part at its discretion and require modifications to it if portions are determined to be inadequate.

At a minimum, the O&M Manual shall include the following information: permit standards; descriptions and operation information for all equipment; staffing information; laboratory requirements; record keeping requirements; a maintenance plan for equipment; an emergency operating plan; safety program information; and copies of all pertinent forms, as-built plans, and manufacturer's manuals.

Certification of the existence and accuracy of the O&M Manual shall be submitted to the Department at least 60 days prior to start-up of a new wastewater treatment facility. Recertification shall be submitted 60 days prior to start-up of any substantial improvements or modifications made to an existing wastewater treatment facility.

16. Signatory Requirements

All applications, reports, or information submitted to the Department in accordance with the conditions of this permit and that require a signature shall be signed and certified as described in the Clean Water Act and the NREPA.

The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

The NREPA [Section 3115(2)] provides that a person who at the time of the violation knew or should have known that he or she discharged a substance contrary to this part, or contrary to a permit, COC, or order issued or rule promulgated under this part, or who intentionally makes a false statement, representation, or certification in an application for or form pertaining to a permit or COC or in a notice or report required by the terms and conditions of an issued permit or COC, or who intentionally renders inaccurate a monitoring device or record required to be maintained by the Department, is guilty of a felony and shall be fined not less than $2,500.00 or more than $25,000.00 for each violation. The court may impose an additional fine of not more than $25,000.00 for each day during which the unlawful discharge occurred. If the conviction is for a violation committed after a first conviction of the person under this subsection, the court shall impose a fine of not less than $25,000.00 per day and not more than $50,000.00 per day of violation. Upon conviction, in addition to a fine, the court in its discretion may sentence the defendant to imprisonment for not more than two (2) years or impose probation upon a person for a violation of this part. With the exception of the issuance of criminal complaints, issuance of warrants, and the holding of an arraignment, the circuit court for the county in which the violation occurred has exclusive jurisdiction. However, the person shall not be subject to the penalties of this subsection if the discharge of the effluent is in conformance with and obedient to a rule, order, permit, or COC of the Department. In addition to a fine, the attorney general may file a civil suit in a court of competent jurisdiction to recover the full value of the injuries done to the natural resources of the state and the costs of surveillance and enforcement by the state resulting from the violation.

17. Electronic Reporting

Upon notice by the Department that electronic reporting tools are available for specific reports or notifications, the permittee shall submit electronically via MiEnviro (https://www.michigan.gov/egle/maps-data/mienviroportal) all such reports or notifications as required by this permit, on forms provided by the Department.

PART II

Section D. Management Responsibilities

1. Duty to Comply

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit, more frequently than, or at a level in excess of, that authorized, shall constitute a violation of the permit.

It is the duty of the permittee to comply with all the terms and conditions of this permit. Any noncompliance with the Effluent Limitations, Special Conditions, or terms of this permit constitutes a violation of the NREPA and/or the Clean Water Act and constitutes grounds for enforcement action; for permit or COC termination, revocation and reissuance, or modification; or denial of an application for permit or COC renewal.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. Operator Certification

The permittee shall have the waste treatment facilities under direct supervision of an operator certified at the appropriate level for the facility certification by the Department, as required by Sections 3110 and 4104 of the NREPA. Permittees authorized to discharge storm water shall have the storm water treatment and/or control measures under direct supervision of a storm water operator certified by the Department, as required by Section 3110 of the NREPA.

3. Facilities Operation

The permittee shall, at all times, properly operate and maintain all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures.

4. Power Failures

In order to maintain compliance with the effluent limitations of this permit and prevent unauthorized discharges, the permittee shall either:

a. provide an alternative power source sufficient to operate facilities utilized by the permittee to maintain compliance with the effluent limitations and conditions of this permit; or

b. upon the reduction, loss, or failure of one (1) or more of the primary sources of power to facilities utilized by the permittee to maintain compliance with the effluent limitations and conditions of this permit, the permittee shall halt, reduce or otherwise control production and/or all discharge in order to maintain compliance with the effluent limitations and conditions of this permit.

5. Adverse Impact

The permittee shall take all reasonable steps to minimize or prevent any adverse impact to the surface waters or groundwaters of the state resulting from noncompliance with any effluent limitation specified in this permit including, but not limited to, such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge in noncompliance.

PART II

Section D. Management Responsibilities

6. Containment Facilities

The permittee shall provide facilities for containment of any accidental losses of polluting materials in accordance with the requirements of the Part 5 Rules (R 324.2001 through R 324.2009 of the Michigan Administrative Code). For a POTW, these facilities shall be approved under Part 41 of the NREPA.

7. Waste Treatment Residues

Residuals (i.e., solids, sludges, biosolids, filter backwash, scrubber water, ash, grit, or other pollutants or wastes) removed from or resulting from treatment or control of wastewaters, including those that are generated during treatment or left over after treatment or control has ceased, shall be disposed of in an environmentally compatible manner and according to applicable laws and rules. These laws may include, but are not limited to, the NREPA, Part 31 for protection of water resources, Part 55 for air pollution control, Part 111 for hazardous waste management, Part 115 for solid waste management, Part 121 for liquid industrial wastes, Part 301 for protection of inland lakes and streams, and Part 303 for wetlands protection. Such disposal shall not result in any unlawful pollution of the air, surface waters or groundwaters of the state.

8. Right of Entry

The permittee shall allow the Department, any agent appointed by the Department, or the Regional Administrator, upon the presentation of credentials and, for animal feeding operation facilities, following appropriate biosecurity protocols:

a. to enter upon the permittee's premises where an effluent source is located or any place in which records are required to be kept under the terms and conditions of this permit; and

b. at reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect process facilities, treatment works, monitoring methods and equipment regulated or required under this permit; and to sample any discharge of pollutants.

9. Availability of Reports

Except for data determined to be confidential under Section 308 of the Clean Water Act and Rule 2128 (R 323.2128 of the Michigan Administrative Code), all reports prepared in accordance with the terms of this permit and required to be submitted to the Department shall be available for public inspection via MiEnviro (https://www.michigan.gov/egle/maps-data/mienviroportal). As required by the Clean Water Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Clean Water Act and Sections 3112, 3115, 4106 and 4110 of the NREPA.

PART II

Section D. Management Responsibilities

10. Corrective Action

If any operator fails to comply with any of the requirements of Part I.A.4. of this permit, then the permittee shall review and revise the evaluation and selection of pest management measure(s) so that the conditions that allowed noncompliance to occur are eliminated. Any modification(s) to the pest management measure(s) shall be completed prior to the next pesticide application which results in a discharge. The permittee shall document, within 30 days of the noncompliant activity, the situation that triggered corrective action and a description of the planned corrective action. This documentation shall include the following information:

a. Identification of the condition triggering the need for corrective action, including any ambient water quality monitoring that assisted in determining that discharges did not meet water quality standards;

b. A brief description of the situation, including how and when the problem was identified, and how and when the operator learned of the problem;

c. A summary of the corrective action taken or to be taken, including the date initiated and date completed or expected to be completed;

d. Any measures to prevent reoccurrence of such an incident, including notice of whether modifications to the PDMP are required as a result of the incident; and

e. Date the problem was identified.

11. Endangered, Threatened, and Special Concern Species

The permittee is encouraged to fill out and submit the Michigan Natural Features Inventory Special Species Form when endangered, threatened, or special concern species are observed. The form is available at: https://mnfi.anr.msu.edu/species/report.

12. Duty to Provide Information

The permittee shall furnish to the Department via MiEnviro (https://www.michigan.gov/egle/maps-data/mienviroportal), 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 the facility's COC, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

PART II

Section E. Activities Not Authorized by This Permit

1. Discharge to the Groundwaters

This permit does not authorize any discharge to the groundwaters. Such discharge may be authorized by a groundwater discharge permit issued pursuant to the NREPA.

2. POTW Construction

This permit does not authorize or approve the construction or modification of any physical structures or facilities at a POTW. Approval for the construction or modification of any physical structures or facilities at a POTW shall be by permit issued under Part 41 of the NREPA.

3. Civil and Criminal Liability

Except as provided in permit conditions on "Bypass" [Part II.C.9. pursuant to 40 CFR 122.41(m)], nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond the permittee's control, such as accidents, equipment breakdowns, or labor disputes.

4. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee may be subject under Section 311 of the Clean Water Act except as are exempted by federal regulations.

5. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Clean Water Act.

6. Property Rights

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 violation of any federal, state or local laws or regulations, nor does it obviate the necessity of obtaining such permits, including any other Department of Environment, Great Lakes, and Energy permits, or approvals from other units of government as may be required by law.

7. Endangered and Threatened Species Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve any operator from any responsibilities, liabilities, or penalties to which the operator may be subject under the Endangered Species Act of 1973 (16 U.S.C. § 1531 et seq.) or Endangered Species Protection, Part 365 of the NREPA. Information on endangered and threatened species is available on the Internet at https://www.michigan.gov/dnr.