



The Georgia Environmental Protection Division proposes to reissue the General NPDES Permit GAG820000, which authorizes the discharges from pesticide application. The draft permit places conditions on the discharge of pollutants into, over, or near waters of the State.

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Draft permit:

- ☐ First issuance
- ☐ Reissuance with no or minor modifications from previous permit
- ☒ Reissuance with substantial modifications from previous permit
- ☐ Modification of existing permit
- ☒ Requires EPA review

1. GENERAL PERMIT & ELIGIBILITY FOR COVERAGE INFORMATION

1.1 NPDES Permit No.: GAG820000

1.2 Eligibility for Coverage

This permit may cover all new and existing point source discharges from the application of biological and chemical aquatic pesticides which leave a residue (hereinafter collectively called “pesticides”) into, over or near waters of the State of Georgia. For this permit the term “pesticide” also means herbicides, rodenticides, insecticides, fungicides, plant growth regulators, nematicides, and defoliants.

This permit does not apply to the application of pesticides to areas which do not require an NPDES permit, including:

- (i) Any introduction of pollutants from non-point source agricultural and silvicultural activities including storm runoff from orchards, cultivated crops, pastures, and forest lands; and
- (ii) Return flows from irrigated agriculture.

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

- (i) The water is identified as impaired by for a substance which is either an active ingredient in that pesticide or is a degradate of such an active ingredient. Impaired waters are those which have been identified by the State or EPA pursuant to Section 303(d) of the Clean Water Act as not meeting applicable State water quality standards;
- (ii) The water is classified as Tier 3 (i.e. outstanding national resource waters) except for applications made to restore or maintain water quality or to protect public health or the environment that either do not degrade water quality or only degrade water quality on a short-term or temporary basis. Included in these applications, EPD will need additional information regarding the name of the Tier 3 water body and a discussion of the environmental problem and demonstration that the pesticide discharge is necessary to protect water quality, the environment, and/or public health;
- (iii) Discharges currently covered under another NPDES permit; or
- (iv) Discharges from activities where any NPDES permit has been or is in the process of being denied, terminated, or revoked by EPD (this does not apply to the routine reissuance of permits every five years).

1.3 Notice of Intent Requirements

Coverage under this permit will be initiated by submitting a Notice of Intent (NOI) for some operators, while some operators will not be required to submit an NOI. The NOI includes basic information about the operator and the specific waters of the State where discharges will occur. NOI forms can be submitted to Georgia EPD.

The following operators are required to submit an NOI to obtain coverage under this general permit for discharges to waters of the State resulting from the application of pesticides:

- (i) If you are in control of the financing for, or the decision to perform pest control activities that will result in a discharge, and those activities will exceed one or more of the pesticide application annual (i.e. calendar year) treatment area thresholds listed in Section 4.1 of the Fact Sheet; or
- (ii) If you apply pesticides that result in a discharge and know that those activities will exceed one or more of the pesticide application annual (i.e. calendar year) treatment area thresholds listed in Section 4.1 of the Fact Sheet. To determine whether an entity's activities will exceed one or more of the annual treatment thresholds, the entity should exclude from its calculation any pesticide application activities conducted under another entity's NOI required under (a) above.

Georgia Rules and Regulations for Water Quality Control, Chapter 391-3-6-.15(3)(b)(2)(i), allows that at the discretion of the Director, certain discharges may be authorized to discharge under a general permit without submitting a NOI or individual application. This is consistent

with 40 CFR 122.28(b)(2)(v and vi) and Title 12 Article 2, O.C.G.A. 12-5-30(f). In reviewing this option, EPD considered the following criteria: the type of discharge, the expected nature of the discharge, the potential for toxic and conventional pollutants in the discharges, the expected volume of the discharge(s), other means of identifying discharges covered by the permit, and the estimated number of discharges to be covered by the permit. Based on these criteria, EPD elected to not require NOIs if the operator meets the eligibility requirements to be covered under this general permit and does not exceed a pesticide application annual treatment area threshold for one or more pest management areas, applies pesticides for the sole purpose of research and development (R&D), or applies pesticides in response to a declared emergency situation.

All discharges authorized by this general permit involve applications made directly to, over, or near waters of the State in order to control pests or in which pesticides will make unavoidable contact with the water. The general permit structure is based on pesticide use patterns. These use patterns were developed to include discharges that are similar in type and nature and therefore represent the type of discharges and expected nature of the discharges covered under this permit.

The Division may deny coverage under this permit based on incomplete or incorrect Notice of Intent submittal. The Director may at any time revoke coverage under this permit in accordance with the State Rules, Section 391-3-6-.19(3)(b)(3).

1.4 Notice of Termination (NOT)

Operators that are not required to submit a NOI, including those who apply pesticides for the sole purpose of R&D or in response to a declared emergency situation, are terminated from permit coverage when they no longer have a discharge from the application of pesticides or their discharges are covered under another permit.

Any owner or operator authorized under this general permit that is required to submit an NOI, may request that coverage be terminated by submitting a written NOT to EPD to terminate coverage. NOT forms are available on the EPD website at the following address: www.epd.georgia.gov

1.5 SIC Code and Description

SIC Code 37-3012 – Pesticide Handlers, Sprayers, and Applicators, Vegetation: Mix or apply pesticides, herbicides, fungicides, or insecticides through sprays, dusts, vapors, soil incorporation, or chemical application on trees, shrubs, lawns, or crops. Usually requires specific training and state or federal certification.

1.6 Activities Covered

The permit is available to permittees when the pesticide application is for one of the following pesticide use patterns:

Mosquito and Other Nuisance Insect Pest Control

This use pattern includes the application, by any means, of chemical and biological insecticides and larvicides into or over water to control insects that breed or live in, over, or near waters of the State. Applications of this nature usually involve the use of ultra-low volume sprays or granular larvicides discharged over large swaths of mosquito breeding habitat and often are performed several times per year. Public health/nuisance and other flying insect pests in this use category include but are not limited to mosquitoes and black flies.

Aquatic Weed and Algae Control

This use pattern includes the application, by any means, of contact or systemic herbicides to control vegetation and algae in water and at water's edge, including irrigation ditches and/or irrigation canals. Applications of this nature may be single spot treatments of infestations or staged large scale treatments intended to clear several acres of waterway. Treatments may be singular or occur several times per year.

Aquatic Nuisance Animal Control

This use pattern includes the application, by any means, of chemicals into waters to control a range of animals for purposes such as fisheries management, invasive species eradication, or equipment maintenance. Applications of this nature are usually made over an entire waterbody as the target pests are mobile. Treatments are generally made several years apart.

Forest Canopy and Area-Wide Pest Control

This use pattern includes aerial pest control projects, in and over forest canopies where there are waters of the State below the canopy. Applications of this nature usually occur over large tracts of land and are typically made in response to specific outbreaks. EPD understands that for this use pattern pesticides will be unavoidably discharged into waters in the course of controlling pests that are present near or over waters as a result of the aerial spraying (i.e., a point source discharge from a nozzle) over a forest canopy. These pests are not necessarily aquatic (e.g., airborne non-aquatic insects) but are detrimental to industry, the environment, and public health. Note: EPD recognizes that mosquito adulticides may be applied to forest canopies, in which case the application would be covered under the "Mosquito and Other Nuisance Insect Pest Control" use pattern.

1.7 Type of Wastewater Discharge

- ☐ Process wastewater ☐ Stormwater
☐ Domestic wastewater ☐ Combined (Describe)
☒ Other - Residues of Biological and Chemical Aquatic Pesticides

2. APPLICABLE REGULATIONS

2.1 State Regulations

Chapter 391-3-6 of the Georgia Rules and Regulations for Water Quality Control

2.2 Federal Regulations

Source	Activity	Applicable Regulation
Non-POTW	Non-Process Water Discharges	40 CFR 122
		40 CFR 124
		40 CFR 125
		40 CFR 127

3. EFFLUENT LIMITS AND PERMIT CONDITIONS

3.1 Applicable Water Quality-Based Effluent Limitations

When drafting a National Pollutant Discharge Elimination System (NPDES) permit, a permit writer must consider the impact of the proposed discharge on the quality of the receiving water. Water quality goals for a waterbody are defined by state water quality standards. By analyzing the effect of a discharge on the receiving water, a permit writer could find that technology-based effluent limitations (TBELs) alone will not achieve the applicable water quality standards. In such cases, the Clean Water Act (CWA) and its implementing regulations require development of water quality-based effluent limitations (WQBELs). WQBELs help meet the CWA objective of restoring and maintaining the chemical, physical, and biological integrity of the nation's waters and the goal of water quality that provides for the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water (*fishable/swimmable*).

WQBELs are designed to protect water quality by ensuring that water quality standards are met in the receiving water and downstream uses are protected. On the basis of the requirements of Title 40 of the *Code of Federal Regulations* (CFR) 125.3(a), additional or more stringent effluent limitations and conditions, such as WQBELs, are imposed when TBELs are not sufficient to protect water quality.

Below are the applicable WQBELs for this permit:

- (i) All permittees must control their discharge to meet applicable numeric and narrative State water quality standards in accordance with the State Rules, Section 391-3-6-.03; and
- (ii) If at any time the operator becomes aware, or EPD determines, that the discharge causes or contributes to an excursion of applicable water quality standards, corrective action must be taken.

Compliance with the applicable WQBELs for this permit is assessed by completing visual monitoring assessments when feasible and safe to do so. Visual monitoring is not required during the course for pesticide application when that application is performed in darkness as it would be infeasible for the inspector to note adverse effects under these circumstances. Additionally, the following scenarios often preclude visual monitoring during pesticide application:

- Applications made from an aircraft;
- Applications made from a moving road vehicle when the applicator is the driver;
- Applications made from a moving watercraft when the applicator is the driver; and
- Applications made from a moving off-road wheeled or tracked vehicle when the applicator is the driver.

3.2 Applicable Technology Based Effluent Limits (TBELS)

Technology-based effluent limitations aim to prevent pollution by requiring a minimum level of effluent quality that is attainable using demonstrated technologies for reducing discharges of pollutants or pollution into the waters of the United States. TBELs are developed independently of the potential impact of a discharge on the receiving water, which is addressed through water quality standards and water quality-based effluent limitations. The NPDES regulations at Title 40 of the Code of Federal Regulations 125.3(a) require NPDES permit writers to develop technology-based treatment requirements, consistent with CWA section 301(b), that represent the minimum level of control that must be imposed in a permit. The regulation also indicates that permit writers must include in permits additional or more stringent effluent limitations and conditions, including those necessary to protect water quality.

For pollutants not specifically regulated by Federal Effluent Limit Guidelines, the permit writer must identify any needed technology-based effluent limitations and utilizes best professional judgment to establish technology-based limits or determine other appropriate means to control its discharge.

The TBELs for this permit are non-numeric and constitute the levels of control that reduce the area and duration of impacts caused by the discharge of pesticides to waters of the State in a treatment area. In addition, these effluent limitations provide for protection of water quality standards, including protection of beneficial uses of receiving waters inside the treatment area following completion of pest management activities.

4. OTHER PERMIT REQUIREMENTS AND CONSIDERATIONS

4.1 Annual Treatment Area Thresholds

After determining applicable designated use patterns, the annual treatment area thresholds must be determined using the table below:

Pesticide Use Pattern	Annual Treatment Area ⁽¹⁾ Threshold
Mosquitoes and Other Nuisance Insect Pests	6,400 acres of treatment area ⁽²⁾
Aquatic Weed and Algae Control:	
- In Waters of the State	100 acres of treatment area ^(3,5)
- At Water's Edge	100 linear miles of treatment area at water's edge ^(4,5)
Aquatic Nuisance Animal Control:	
- In Waters of the State	100 acres of treatment area ^(3,5)
- At Water's Edge	100 linear miles of treatment area at water's edge ^(4,5)
Forest Canopy Pest Control Area-Wide Pest Control	6,400 acres of treatment area ⁽²⁾

- (1) Treatment area is defined as the area of land including any waters or linear distance along water's edge to which pesticides are being applied. Multiple treatment areas may be located within a single "pest management area."
- (2) For the threshold calculation for mosquitos and other insect pests, forest canopy pest control, and other area-wide pest control, count each pesticide application activity as a separate activity or area. For example, treating a 3,000 acre site three times a year is equal to 9,000 acres of treatment area.
- (3) Calculations should include the area of the applications made to waters of the State.
- (4) Calculations should include the linear extent of the application made at water's edge to waters of the State.
- (5) For the threshold calculation for weed, algae and aquatic nuisance animal control in water and at water's edge, count each pesticide application activity as a single activity or area. Treating both sides of a ten-mile stream is equal to twenty miles of water treatment area. The number of pesticide applications to the same treatment area is not a cumulative total. For example, treating both sides of a ten-mile stream, five times per year is equal to twenty miles of treatment area. Therefore, if you treat both sides of a ten-mile stream, five times per year and you also treat both sides of a twenty-mile river, five times per year, the total treatment area is 60 miles of treatment area. Also, if you treat different sections of a ten-mile stream bank at different intervals throughout the year, it is still considered 10-miles of treatment area.

4.2 Coverage under the Permit

Coverage under this general permit is determined as follows:

- (i) Operators must meet the eligibility requirements;
- (ii) Operators that meet all the eligibility requirements to be covered under this general permit and that do not meet or exceed an annual treatment area threshold in Section 4.1 above, or applies pesticides for the sole purpose of R&D or in response to a declared emergency situation as defined in Part VI of the permit are automatically covered under this general permit.
- (iii) Operators that meet all the eligibility requirements to be covered under this general permit and that meet or exceed an annual treatment area threshold, and do not apply pesticides for the sole purpose of R&D or in response to a declared emergency situation, must submit a complete and accurate Notice of Intent (NOI) for discharges to waters of the State resulting from the application of pesticides. The NOI and supporting documents must be submitted to EPD within thirty days of exceeding the applicable threshold. Coverage under this permit is provided if the applicant does not receive a written response from EPD within 10 days of receipt of the NOI. EPD may deny coverage based on an incomplete or incorrect NOI submittal, past noncompliance by the applicant at similar facilities, or other factors.

4.3 Compliance Schedules

Effluent limitations are applicable immediately upon the effective date of the permit.

4.4 Anti-Backsliding

The limits in this permit are in compliance with the 40 C.F.R. 122.44(l), which requires a reissued permit to be as stringent as the previous permit.

5. REPORTING

5.1 Compliance office

The compliance office will be identified in the Notice of Coverage letter.

5.2 E-Reporting

The permittee is required to electronically submit documents in accordance with 40 CFR Part 127.

6. REQUESTED VARIANCES OR ALTERNATIVES TO REQUIRED STANDARDS

Not applicable.

7. PERMIT EXPIRATION

The permit will expire five years from the effective date. Operators that are covered under the permit and that meet or exceed an annual treatment area threshold must submit a new Notice of Intent (NOI) no later than 180 days prior to the expiration date of the permit for continued coverage under the reissued permit. Operators that are covered under the permit and do not meet or exceed an annual treatment area threshold will be automatically covered once the permit is reissued.

8. PROCEDURES FOR THE FORMULATION OF FINAL DETERMINATIONS

8.1 Public Comment Period

For the purposes of a draft permit, the determinations, including effluent limitations and special conditions, are tentative. Within 30 days of the initiation of the public comment period, persons wishing to comment upon or object to the proposed determinations may submit those in writing to the EPD at 2 Martin Luther King Jr. Drive, Suite 1470A East, Atlanta, Georgia 30334, or via e-mail at EPDcomments@dnr.ga.gov. All comments received prior to the end of the public comment period are considered in the formulation of final determinations regarding the application.

The outlined public notice process is for the draft General NPDES permit; applications for coverage under this general permit from existing or new facilities do not require a separate public notice process.

The permit, fact sheet, notices of intent, and other information are available for review at the address above between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. For additional information, contact Ian McDowell at 470-604-9483, or ian.mcdowell@dnr.ga.gov.

8.2 Public Hearing

Any applicant, affected state or interstate agency, the Regional Administrator of the U.S. Environmental Protection Agency (EPA) or any other interested agency, person or group of persons may request a public hearing with respect to an NPDES permit application if such request is filed within thirty (30) days following the date of the public notice for such application. Such request must indicate the interest of the party filing the request, the reasons why a hearing is requested, and those specific portions of the application or other NPDES form or information to be considered at the public hearing.

The Director shall hold a hearing if he determines that there is sufficient public interest in holding such a hearing. If a public hearing is held, notice of same shall be provided at least thirty (30) days in advance of the hearing date.

In the event that a public hearing is held, both oral and written comments are accepted; however, for the accuracy of the record, written comments are encouraged. The Director or

a designee reserves the right to fix reasonable limits on the time allowed for oral statements and such other procedural requirements, as deemed appropriate.

Following a public hearing, the Director, unless it is decided to deny the permit, may make such modifications in the terms and conditions of the proposed permit as may be appropriate and shall issue the permit.

If no public hearing is held, and, after review of the written comments received, the Director determines that a permit should be issued and that the determinations as set forth in the proposed permit are substantially unchanged, the permit is issued and becomes final in the absence of a request for a contested hearing. Notice of issuance or denial will be made available to all interested persons and those persons that submitted written comments to the Director on the proposed permit.

If no public hearing is held, but the Director determines, after a review of the written comments received, that a permit should be issued but that substantial changes in the proposed permit are warranted, public notice of the revised determinations will be given and written comments accepted in the same manner as the initial notice of application was given and written comments accepted pursuant to EPD Rules, Water Quality Control, subparagraph 391-3-6-.06(7)(b). The Director shall provide an opportunity for public hearing on the revised determinations. Such opportunity for public hearing and the issuance or denial of a permit thereafter shall be in accordance with the procedures as are set forth above.

8.3 Final Determination

At the time that any final permit decision is made, the Director shall issue a response to comments. The issued permit and responses to comments can be found at the following address:

<http://epd.georgia.gov/watershed-protection-branch-permit-and-public-comments-clearinghouse-0>

8.4 Contested Hearings

Any person who is aggrieved or adversely affected by the issuance or denial of a permit by the Director of EPD may petition the Director for a hearing if such petition is filed in the office of the Director within thirty (30) days from the date of notice of such permit issuance or denial. Such hearing shall be held in accordance with the EPD Rules, Water Quality Control, subparagraph 391-3-6-.01.

Petitions for a contested hearing must include the following:

1. The name and address of the petitioner;
2. The grounds under which petitioner alleges to be aggrieved or adversely affected by the issuance or denial of a permit;
3. The reason or reasons why petitioner takes issue with the action of the Director;
4. All other matters asserted by petitioner which are relevant to the action in question