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Mr. Thomas Boekeloo
NYS DEC - Division of Water
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RE: Comments on Draft GP-0-16-005 Pesticide Application

The New York State Federation of Lake Associations, Inc. (NYSFOLA) is a 501(c)3 not-for-profit organization whose membership includes over 200 lake associations across the state. We are providing these comments on the draft revision to the State Pollution Discharge Elimination System (SPDES) General Permit GP-0-16-005 for Pesticide Applications on behalf of our members.

NYSFOLA has long supported the cautious use of aquatic pesticides in the management of New York State lakes particularly as a tool to manage aquatic invasive species. We have also been generally supportive of the extensive and severe limits that NYS DEC has placed on the use of these products. Pesticide limits in New York are based the label restrictions and are widely known as among the most restrictive in the nation. As such, we feel that the existing New York State restrictions are already protective of the environment, and the need for additional restrictions, to match the draft National Pollutant Discharge Elimination System, must be carefully considered. The combined impact of restrictive label conditions, increased NY aquatic pesticide permit requirements, and additional general permit reporting is making it increasingly difficult to treat large scale invasive species problems.

With the recent discovery of the Zika virus, transmitted by mosquitoes, there has been a recognition that mosquitoes control program that have been left dormant need to be reinvigorated. Quickly establishing a treatment plan for a new invasive species or mosquito treatment that will meet the goal found in Part 1 B (first paragraph) will be difficult.

The General Permit has many vague standards or goals (Part 1 B) that could be difficult to meet. For example 2,4 D is restricted to use within 200 feet of shoreline along with setbacks to water intakes, and closer restrictions. The drinking water standard is 0.1mg/l. The working dose for control of Eurasian water milfoil is 1- 4 mg/l. Thus, it appears that the use of the pesticide is not feasible since the dose

required to be effective against milfoil is greater than a water quality standard. Using the product at the effective dose rate will directly or indirectly violate a water quality standard.

The need to revise the State General Permit is driven by the draft updates to the NPDES, yet the approach is to significantly increase the regulatory burden faced by users of aquatic pesticides in NYS.

The following are the specific provisions found in the NPDES general permit that are consistent with the SPDES GP Effluent Limitation e.

Part III. Requirements for Operators A. Minimize Discharges 1-5 are substantially similar to the NPDES 2.0 Technology-Based Effluent Limitations

Part B. Pesticide Discharge Management Plan is substantially similar to the NPDES Section 2.2.2. Weed and Algae Control. These sections require the identification of the target species, factors contributing to plant or algae growth, plan goals, and plan objectives. Many of these topics are required by NYS in the pesticide treatment plan that has long been a foundational document for use of pesticides in NYS water ways.

The requirements of NPDES 3.0 Water Quality-Based Effluent Limitations is found in the draft SPDES GP

Part IV D. 2. Thirty Day Incident Written Report

A provision in this section needs to be added that will readily authorize the submittal of a final report after the thirty day period. A complete report may require final lab results, subject to quality control, or need data from a non-automated gaging station that may not be available on a daily or weekly basis. Also, many aquatic pesticides dissolve from the carrier pellets at different rates over a period of many days. This will influence the timing and extent of the incident. Many aquatic herbicides are slow acting which will delay obtaining a comprehensive understanding of an incident. A draft report at 30 days could include a description of incident, and measures taken to date on the remediation of the incident along with a plan to collect and submit final data. The important issue is that the adverse incident is being investigated and remediated. A 30 day window, however, may be impractical.

In this section of the General Permit it describes the need to report an incident, yet the definitions describe an adverse incident. What is the definition of an adverse incident? Is an incident finding a pesticide downstream at concentrations that are detectable yet the pesticide is too low to cause damage to target or non-target species?

Appendix A Definitions

Adverse Incident needs to be revised because the threshold of an adverse incident is not defined. The definition describes the types of environmental damages that could be observed. This may occur anywhere outside of a treatment zone, depending on the pesticide used and the sensitivity of the individual non target species. The definition needs to include that there is wide spread non-target species damage that results in loss of aquatic plant coverage.

NYSFOLA would also like to take this opportunity to reiterate our concern with the Department's policy on the use of alum. We understand the issues that come with the fact that it is not a registered pesticide in NY. However, alum is one of the few "tools" in the lake management "toolbox" to address internal nutrient loading issues. As TMDL's are being developed for lakes across the state, internal loading is frequently cited as a source of nutrients leading to harmful algal blooms. There needs to be a solution to the problem, and NY is the only state in the nation that has taken this drastic approach to alum.

Thank you for your consideration of these comments.

Nancy J. Mueller, Manager