GENERIC NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT (NPDES) PERMIT FOR DISCHARGES OF POLLUTANTS TO SURFACE WATERS OF THE STATE GENERATED BY EXPERIMENTAL TECHNOLOGIES FOR CONTROL OF HARMFUL ALGAL BLOOMS

DEP Form 62-621.300(9)(a)

Effective Month, Day, Year

Part I. Authorization to Discharge

This generic NPDES permit is issued under Section 403.0885, Florida Statutes, (F.S.), and the applicable rules of the Florida Administrative Code (F.A.C.). Coverage under this generic permit constitutes authorization to discharge pollutants generated by the use experimental technologies for the control of red tide *[Karenina brevis]* and blue-green algae *[cyanobacteria]* blooms to surface waters of the State pursuant to the Florida Department of Environmental Protection's federally-approved NPDES program. Until coverage under this permit is terminated, revoked or expires, a permittee using this permit is authorized to discharge pollutants generated by innovative algae control technologies in accordance with the terms and conditions of this generic permit.

Part II. Applicability and Coverage

A. This generic permit is available to permittees using experimental technologies to control harmful algal blooms, defined in Appendix A, in surface waters of the state.

B. Coverage under this generic permit is limited to discharges of pollutants generated by experimental technologies for control of harmful algal blooms provided all criteria specified in this generic permit are met.

C. The use of experimental technologies to control harmful algal blooms that do not discharge pollutants to surface waters of the State are not required to obtain coverage under this generic permit.

D. The following activities are not authorized under this generic permit:

(1) The removal of threatened or endangered species [subsection 62-621.300(9)(c), F.A.C.];

(2) An activity in, on, or over wetlands (as defined in section 373.019(27), F.S.) or surface waters designated as an Outstanding Florida Water in Rule 62-302.700, F.A.C., or Aquatic Preserves established by Part II of Chapter 258, F.S.;

(3) An activity that reduces the viability of the seagrass community; or

(4) An activity that alters the benthic topography and requires authorization under Chapter 253 and Part IV of Chapter 373, F.S.

E. This generic permit does not relieve the permittee of the responsibility of obtaining any other federal, state, or local government permit.

F. No activity authorized under this permit shall be likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. Direct effects are the immediate effects on listed species and critical habitat caused by the permitted activity. Indirect effects are those effects on listed species and critical habitat that are caused by the permitted activity and are later in time, but still are reasonably certain to occur.

G. Authorization of an activity by this permit does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), the ESA prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act

which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

H. This permit does not authorize the permittee to cause any adverse impact to, or "take," any state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the "take" of fish and wildlife is the responsibility of the owner or permittee associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of "take," and a list of fish and wildlife species. If state listed species are observed onsite, Florida Fish and Wildlife Conservation Commission (FWC) staff are available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected, and a "take" permit cannot be issued. Requests for further information or review can be sent to ConservationPlanningServices@MyFWC.com.

I. Applicants seeking coverage under this permit shall submit DEP Form 62-621.300(9)(b), Notice of Intent to Use the Generic NPDES Permit for Discharges to Surface Waters of the State Generated by Experimental Technologies for Algae Control (NOI), (adopted and incorporated by reference in Rule 62-621.300(9)(b), F.A.C., effective [date]) along with the $500 application and surveillance fee at least 30 days prior to the commencement of discharge.

J. Permittees commencing a discharge in response to a declared harmful algal bloom emergency situation (as defined in Appendix A) shall submit a NOI no later than 30 days after commencement of such discharge. Until such date, the entity is covered by this permit pursuant to Title 40 of the Code of Federal Regulations (CFR) Part 122.28(b)(2), Authorization to Discharge, or Authorization to Engage in Sludge Use and Disposal Practices, revised as of July 1, 2021 (adopted and incorporated by reference effective [date], http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX).

K. The permittee shall meet the effluent limitations and requirements specified in this generic permit.

L. Permittees shall comply with all other applicable federal and state laws and regulations that pertain to the application of pesticides. This permit does not negate the requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and its implementing regulations to use registered pesticides consistent with the product's labeling.

M. Permittees shall submit an application to renew coverage under this permit by submitting a complete DEP Form 62-621.300(9)(b), Notice of Intent to Use the Generic NPDES Permit for Discharges to Surface Waters of the State Generated by Experimental Technologies for Algae Control (adopted and incorporated in Rule 62-621.300(9)(b), F.A.C., effective [date]), along with the $500 application and surveillance fee at least 30 days prior to expiration of the permit. An application filed in accordance with this section shall be considered timely and sufficient. When an application for renewal of a permit is timely and sufficient, the existing permit shall not expire until the Department has taken final action on the application for renewal or until the last day for seeking judicial review of the agency order or a later date fixed by order of the reviewing court. The late submittal of a renewal application shall be considered timely and sufficient for the purpose of extending the effectiveness of the expiring permit only if it is submitted and made complete before the expiration date.

N. To terminate permit coverage the permittee shall submit a complete DEP Form 62-621.300(9)(e), Notice of Termination Generic NPDES Permit for Discharges to Surface Waters of the State Generated by Experimental Technologies for Algae Control (NOT) (adopted and incorporated in Rule 62-621.300(9)(e), F.A.C., effective [date]), within 30 days after any of the following conditions have been met:

(1) The experimental technologies for algae control covered under this permit have ceased and no additional discharge is expected during the remainder of the permit term; or

(2) The experimental technologies for algae control covered under this permit has now been authorized under an individual permit or an alternative generic permit.

Part III. Monitoring Requirements

A. Permittees shall implement site-specific control measures to minimize or eliminate pollutant discharges resulting from the experimental technologies to surface waters of the State. If the experimental technology includes application of pesticide products or other chemical products, all permittees shall use the amount of

product and frequency of product application necessary to control the target algae using equipment and application procedures appropriate for the task.

B. Pollutant discharges shall be controlled as necessary to meet applicable numeric and narrative water quality standards (WQS) in Chapter 62-302, F.A.C.

C. Pursuant to Rule 62-302.500(1), F.A.C., the discharge shall not contain components that, alone or in combination with other substances or in combination with other components of the discharge:

(1) Settle to form putrescent deposits or otherwise create a nuisance, or

(2) Float as debris, scum, oil, or other matter in such amounts as to form nuisances, or

(3) Produce color, odor, taste, turbidity, or other conditions in such degree as to create a nuisance, or

(4) Are acutely toxic, or

(5) Are present in concentrations which are carcinogenic, mutagenic, or teratogenic to human beings or to significant, locally occurring, wildlife or aquatic species, unless specific standards are established for such components in subsection 62-302.500(2) or Rule 62-302.530, F.A.C.; or

(6) Pose a serious danger to the public health, safety, or welfare.

D. The sample collection, analytical test methods, and method detection limits (MDLs) applicable to this permit shall be conducted using a sufficiently sensitive method to ensure compliance with applicable water quality standards and effluent limitations and shall be in accordance with Rule 62-4.246, F.A.C., Chapters 62-160 and 62-600, F.A.C., and 40 CFR 136 (adopted and incorporated by reference in Rule 62-620.100(3)(j), F.A.C.), as appropriate.

E. During the period beginning on the effective date of coverage and lasting through the coverage expiration date of this permit, the discharge shall be limited and monitored at each identified site by the permittee as specified below and reported in accordance with Part III.E.8.

			Effluent Limitations		Monitoring Requirements	
Parameter	Units	Max/ Min	Limit	Statistical Basis	Frequency of Analysis	Sample Type
Flow	MGD	Max	Report	Daily Maximum	Continuous	Meter
Temperature	percent	Min	Rule 62-302.520, F.A.C.	Single Sample	Weekly	Grab
BOD, 5-day	percent	Max	Rule 62-302.530, F.A.C.	Single Sample	Weekly	Grab
Solids, Total Suspended	mg/L	Max	Report	Single Sample	Weekly	Grab
Turbidity	NTU	Max	$\leq$ 29 above natural background conditions	Single Sample	Daily	In-situ
pH	s.u.	Min Max	See III.E(1)(a)	Single Sample	Daily	Meter
Dissolved Oxygen Percent Saturation	percent	Min	Rule 62-302.533, F.A.C.	Single Sample	Daily	Meter
Ammonia (Total Ammonia Nitrogen)	mg/L	Max	Rule 62-302.530, F.A.C.	Monthly Maximum	Weekly	Grab
Total Nitrogen	mg/L	Max	Chapter 62-302, F.A.C.	Monthly Maximum	Weekly	Grab

			Effluent Limitations		Monitoring Requirements	
Parameter	Units	Max/ Min	Limit	Statistical Basis	Frequency of Analysis	Sample Type
Total Phosphorous	mg/L	Max	Chapter 62-302, F.A.C.	Monthly Maximum	Weekly	Grab
Total Zinc	mg/L	Max	Rule 62-302.530, F.A.C.	Monthly Maximum	Weekly	Grab
Total Copper	mg/L	Max	Rule 62-302.530, F.A.C.	Monthly Maximum	Weekly	Grab
Hardness, Total (as $CACO_3$)	mg/L	Report	Rule 62-302.530, F.A.C.[1]		Weekly	Grab
Acute Whole Effluent Toxicity, 96-Hour LC50	percent	Min	100 (Rule 62-621.303, F.A.C. and subsection 62-620.620(3), F.A.C.)[2]	Single Sample	Monthly	Grab
Chronic Whole Effluent Toxicity, 7-Day IC25	percent	Min	100 (Rule 62-621.303, F.A.C. and subsection 62-620.620(3), F.A.C.)[3]	Single Sample	Quarterly	8-hr Flow Proportional Composite

[1]Monitoring for this parameter is required only when monitoring Total Zinc or Total Copper and the effluent is discharged to predominantly fresh waters.
[2]Monitoring for this parameter is required when the activity occurs for 90 days or less (short-term discharges) shall monitor the effluent as specified in Part III.E.(3).
[3]Monitoring for this parameter is required when the activity occurs for more than 90 days (long-term discharges) shall monitor the effluent as specified in Part III.E.(4).

(1) The pH of the effluent shall not vary more than one unit above or below natural background of predominantly fresh waters and coastal waters as defined in paragraph 62-302.520(3)(b), F.A.C., or more than two-tenths unit above or below natural background of open waters as defined in paragraph 62-302.520(3)(f), F.A.C., provided that the pH is not lowered to less than 6 units in predominantly fresh waters, or less than 6.5 units in predominantly marine waters, or raised above 8.5 units. If natural background is less than 6 units, in predominantly fresh waters or 6.5 units in predominantly marine waters, the pH shall not vary below natural background or vary more than one unit above natural background of predominantly fresh waters and coastal waters, or more than two-tenths unit above natural background of open waters. If natural background is higher than 8.5 units, the pH shall not vary above natural background or vary more than one unit below natural background of predominantly fresh waters and coastal waters, or more than two-tenths unit below natural background of open waters.

(2) Except for turbidity and dissolved oxygen, samples for monitoring requirements specified above shall be taken at the nearest accessible point after final treatment but prior to actual discharge or mixing with the receiving waters.

(3) Short-term discharges. Within thirty (30) days after commencement of discharge, the Permittee, shall test for acute toxicity as provided in Rule 62-621.303, F.A.C., to evaluate whole effluent toxicity of the discharge from the outfall. If more than one (1) outfall exists, separate tests shall be performed on each outfall.

(a) A 96-hour LC50 of less than 100% effluent shall constitute a violation of Rule 62-4.241(1)(a), F.A.C., and the terms of this permit. The testing for this requirement must conform with Rule 62-621.303, and subsections 62-620.620(3)(h)(i) and (j), F.A.C.

(b) The toxicity tests shall be conducted once every month. These tests are referred to as “routine” tests. Routine tests shall be conducted on four separate grab samples collected at evenly-spaced (6-hr) intervals over a 24-hour period. The four grab samples shall be used in eight bioassays (four bioassays for each species) and shall represent one test. If the duration of the discharge is less than 24-hours, the duration of discharge shall be documented on the chain of custody.

(c) All test species, procedures and quality assurance criteria used shall be in accordance with *Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms*, 5th ed., October 2002, EPA-821-R-02-012, (adopted and incorporated by reference in sub-subparagraph 62-620.620(3)(h)2.b., F.A.C.).

(d) Permittees whose discharge is to freshwater with a salinity of less than 1.0 part per thousand (ppt) or whose discharge is to predominantly freshwaters, shall conduct 96-hour acute static-renewal multi-concentration toxicity tests using the daphnid (*Ceriodaphnia dubia)* and the bannerfin shiner (*Cyprinella leedsi*). All tests shall be conducted on one (1) grab sample of 100% final effluent. Tests shall consist of a control (0% effluent) and the following dilution concentrations: **100.0%**, **75.0%**, **50.0%**, **25.0%** and **12.5%**. The dilution/control water used will be moderately hard water as described in EPA-821-R-02-012, Table 7 (adopted and incorporated by reference in Rule 62-620(3)(h)2.b., F.A.C.).

(e) Permittees whose discharge has a salinity ≥ 1.0 part per thousand (ppt) and whose discharge is to predominantly marine waters shall conduct 96-hour acute static-renewal multi-concentration toxicity tests using the mysid shrimp (*Americamysis (Mysidopsis)bahia*) and the inland silverside (*Menidia beryllina*). All tests shall be conducted on one (1) grab sample of 100% final effluent. Tests shall be conducted on a control (0%) and the following dilution concentrations at a minimum: **100.0%**, **75.0%**, **50.0%**, **25.0%** and **12.5%**. The control water and dilution water used shall be artificial seawater and diluted to the test salinity as described in EPA-821-R-02-012, Section 7.2.4 (adopted and incorporated in Rule 62-620(3)(h)2.b.,F.A.C.). The test salinity shall be determined as follows:

1. When the salinity of the effluent is between 1 and 7 parts per thousand (ppt), the following salinity adjustment shall be used. For the *Americamysis bahia* bioassays, the effluent and the control (0% effluent) shall be adjusted to a salinity of 7 ppt for the 100% effluent test using artificial sea salts. No salinity adjustment shall be done for the *Menidia beryllina* bioassay test. The salinity of the control/dilution water (0% effluent) shall match the test salinity of the effluent. A salinity adjustment control should be prepared and included with the *Americamysis bahia* bioassay. The salinity adjustment control is intended to identify toxicity resulting from adjusting the salinity of the effluent with artificial sea salts. To prepare the salinity adjustment control, dilute the control/dilution water to the salinity of the effluent and adjust the salinity of the salinity adjustment control to 7 ppt at the same time that the salinity of the effluent is adjusted to 7 ppt, using the same artificial sea salts.
2. When the salinity of the effluent is greater than 7 ppt, no salinity adjustment shall be made to the effluent and the test shall be run at the effluent salinity. The salinity of the control/dilution water (0% effluent) shall match the test salinity of the effluent.

(f) If control mortality exceeds 10% for either species in any test, the test(s) for that species (including the control) shall be repeated. A test will be considered valid only if control mortality does not exceed 10% for either species.

(g) A standard reference toxicant (SRT) quality assurance (QA) acute toxicity test shall be conducted with each species used in the required toxicity tests either concurrently or initiated no more than 30 days before the date of each routine or additional follow-up test conducted. The SRT data must be included with the report. Additionally, the SRT test must be conducted concurrently if the test organisms are obtained from outside the test laboratory unless the test organism supplier provides control chart data from at least the last five monthly acute toxicity tests using the same reference toxicant and test conditions. If the organism supplier provides the required SRT data, the organism supplier's SRT data and the test laboratory's monthly SRT-QA data shall be included in the reports for each companion routine or additional follow-up test required.

(h) Reporting requirements:

1. Results from all required tests shall be reported on the Discharge Monitoring Report (DMR). If an LC50 >100% effluent occurs all four separate grab sample tests for the test species, ">100%" shall be entered on the DMR for that test species. If in any of the four separate grab sample tests for the test

species an LC50 <100% effluent occurs, the lowest calculated LC50 effluent concentration shall be entered on the DMR for that test species.

2. A bioassay laboratory report for the routine test shall be prepared according to EPA-821-R-02-012, Section 12, Report Preparation and Test Review (adopted and incorporated by reference in sub-subparagraph 62-620.620(3)(h)2.b., F.A.C.), and mailed to the Department at the address below within 30 days after the last day of the test.

3. For additional follow-up tests, a single bioassay laboratory report shall be prepared according to EPA-821-R-02-012, Section 12 (adopted and incorporated by reference in sub-subparagraph 62-620.620(3)(h)2.b., F.A.C.), and mailed within 30 days after the last day of the second valid additional follow-up test.

4. Data for invalid tests shall be included in the bioassay laboratory report for the repeat test.

5. The same bioassay data shall not be reported as the results of more than one test.

6. All bioassay laboratory reports shall be sent to the Department District Office that issued this generic permit.

(i) Unacceptable Toxicity.

1. If unacceptable acute toxicity (an LC_{50} of less than 100%) is found in a "routine" test, the permittee shall conduct two additional follow-up acute toxicity tests in the same manner as the "routine" test on the species indicating unacceptable acute toxicity. For each additional follow-up test, the sample collection requirements and test acceptability criteria specified above must be met for the test to be considered valid. The first test shall begin within two (2) weeks of the end of the "routine" test and shall be conducted weekly thereafter until two (2) valid additional follow-up tests are completed. The additional follow-up tests will be used to determine if the toxicity found in the "routine" test is still present.

2. Results from additional follow-up tests, required due to unacceptable acute toxicity in the "routine" test(s), must be reported on the Discharge Monitoring Report (DMR) Form for the month in which the test was begun. Such test results must be submitted within 30 days of completion of the second additional, valid test.

3. In the event of three valid test failures (whether routine or additional follow-up tests), the permittee shall notify the Department within 21 days after the last day of the third test failure.

(4) Long-term discharges. Within thirty (30) days after commencement of discharge, the Permittee, shall test for chronic whole effluent toxicity as provided in Rule 62-621.303, and subsections 62-620.620(3)(g)(i)(j) and (l), F.A.C., to evaluate whole effluent toxicity of the discharge from the outfall. If more than one (1) outfall exists, separate tests shall be performed on each outfall.

(a) Effluent Limitation

1. In any test for chronic whole effluent toxicity, the 25% inhibition concentration (IC25) for reproduction or growth shall not be less than 100% effluent. [Rules 62-302.530(61) and 62-4.241(1)(b), F.A.C.]

2. For acute whole effluent toxicity, the 96-hour LC50 shall not be less than 100% effluent in any test. [Rule 62-302.500(1)(a)4. and 62-4.241(1)(a), F.A.C.]

(b) Monitoring Frequency

1. Routine toxicity tests shall be conducted quarterly starting within 30 days after discharge commences at each outfall location.

(c) Sampling Requirements

1. A total of three flow-proportional 24-hour composite samples of final effluent shall be collected and used in accordance with the sampling protocol discussed in Section 8 of EPA-821-R-02-013 or EPA-821-R-02-014 (adopted and incorporated by reference in sub-subparagraph 62-620.620(3)(g)2.b.,

F.A.C.), as appropriate. If the duration of the discharge is less than 24-hours, the duration of discharge shall be documented on the chain of custody.

2. The first sample shall be used to initiate the test. The remaining two samples shall be collected according to the protocol and used as renewal solutions on Day 3 (48 hours) and Day 5 (96 hours) of the test.

(d) Test Requirements

1. All tests shall be conducted using a control (0% effluent) and a minimum of five test dilutions: **100%**, **50%**, **25%**, **12.5%**, and **6.25%** final effluent.

2. If the effluent salinity is < 1.0 part per thousand, measured as conductivity, or if the discharge is to predominantly fresh water, the permittee shall conduct a daphnid, *Ceriodaphnia dubia*, Survival and Reproduction Test and a fathead minnow, *Pimephales promelas*, Larval Survival and Growth Test, concurrently. If the discharge is to predominantly marine waters and the effluent salinity is ≥1.0 part per thousand, measured as conductivity, the permittee shall conduct a mysid shrimp, *Americamysis (Mysidopsis) bahia*, Survival and Growth Test and an inland silversides, *Menidia beryllina*, Survival and Growth Test.

3. All test species, procedures and quality assurance criteria used shall be in accordance with *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, 4th ed., October 2002, EPA-821-R-02-013, or *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms*, 3rd ed., October 2002, EPA-821-R-02-014, as appropriate, (adopted and incorporated by reference in sub-subparagraph 62-620.620(3)(g)2.b., F.A.C.). Any deviation of the bioassay procedures outlined herein shall be submitted in writing to the Department for review and approval prior to use. In the event the above method is revised, the permittee shall conduct chronic toxicity testing in accordance with the revised method.

4. For tests with freshwater organisms the control water and dilution water shall be moderately hard water as described in EPA-821-R-02-013, Section 7.2.3 (adopted and incorporated by reference in 62-620.620(3)(g)2.b., F.A.C.). For tests with saltwater organisms the control water and dilution water shall be artificial seawater adjusted to the test salinity as described in EPA-821-R-02-014, Section 7.2. (adopted and incorporated by reference in Rule 62-620(3)(g)2.b., F.A.C.). The test salinity shall be determined as follows:

   a. For the A. *bahia* bioassays, the effluent shall be adjusted to a salinity of 20 parts per thousand. The salinity of the control/dilution water (0% effluent) shall be 20 parts per thousand. When the salinity of the effluent is greater than 20 parts per thousand, no salinity adjustment shall be made to the effluent and the test shall be run at the effluent salinity.

   b. For the *M. beryllina* bioassays, when the salinity of the effluent is between 1 and 5 parts per thousand, the effluent shall be adjusted to a salinity of 5 parts per thousand. When the salinity of the effluent is greater than 5 parts per thousand, no salinity adjustment shall be made to the effluent and the test shall be run at the effluent salinity.

(e) Quality Assurance Requirements

1. A standard reference toxicant (SRT) quality assurance (QA) chronic toxicity test shall be conducted with each species used in the required toxicity tests either concurrently or initiated no more than 30 days before the date of each routine or additional follow-up test conducted. Additionally, the SRT test must be conducted concurrently if the test organisms are obtained from outside the test laboratory unless the test organism supplier provides control chart data from at least the last five monthly chronic toxicity tests using the same reference toxicant and test conditions. If the organism supplier provides the required SRT data, the organism supplier's SRT data and the test laboratory's monthly SRT-QA data shall be included in the reports for each companion routine or additional follow-up test required.

2. If the mortality in the control (0% effluent) exceeds 20% for either species in any test or the "test acceptability criteria" are not met, the test for that species (including the control) shall be invalidated

and the test repeated. Test acceptability criteria for each species are defined in EPA-821-R-02-013, Section 13.12 (*Ceriodaphnia dubia*) and Section 11.11 (*Pimephales promelas*) or EPA-821-R-02-013, Section 14.12 (*Americamysis bahia*) and Section 13.12 (*Menidia beryllina*) (adopted and incorporated by reference in 62-620.620(3)(g)2.b., F.A.C.). The repeat test shall begin within 21 days after the last day of the invalid test.

3. If 100% mortality occurs in all effluent concentrations for either test species prior to the end of any test and the control mortality is less than 20% at that time, the test (including the control) for that species shall be terminated with the conclusion that the test fails and constitutes non-compliance.

4. Tests shall be evaluated for acceptability based on the observed dose-response relationship as required by Section 10.2.6 in EPA-821-R-02-013 or EPA-821-R-02-014 (adopted and incorporated in Rule 62-620.620(3)(g)2.b., F.A.C.), as appropriate. The evaluation shall be included with the bioassay laboratory reports.

(f) Reporting Requirements

1. Results from all required tests shall be reported on the Discharge Monitoring Report (DMR) as follows:

   a. The calculated IC25 for reproduction or growth for each test species shall be entered on the DMR.

2. A bioassay laboratory report for each test shall be prepared according to EPA-821-R-02-013, Section 10, Report Preparation and Test Review (adopted and incorporated by reference in 62-620.620(3)(g)2.b., F.A.C.), and mailed to the Department at the address below within 30 days after the last day of the test.

3. Data for invalid tests shall be included in the bioassay laboratory report for the repeat test.

4. The same bioassay data shall not be reported as the results of more than one test.

5. All bioassay laboratory reports shall be sent to the Department District Office that issued this generic permit.

(g) Test Failures

1. A test fails when the test results do not meet the limits in E.(2)a.(1).

2. In the event of three valid test failures during the length of this permit, whether the failures occurred at one or more outfalls, the permittee shall notify the Department within 21 days after the last day of the third test failure.

   a. The permittee shall submit a plan for correction of the effluent toxicity within 60 days after the last day of the third test failure.

   b. The Department shall review and approve the plan before initiation.

   c. The plan shall be initiated within 30 days following the Department's written approval of the plan.

   d. Progress reports shall be submitted quarterly to the Department at the address above.

   e. During the implementation of the plan, the permittee shall conduct quarterly routine whole effluent toxicity tests in accordance with E.(2)d. Additional follow-up tests are not required while the plan is in progress. Following completion or termination of the plan, the frequency of monitoring for routine and additional follow-up tests shall return to the schedule established in E.(2)b. If a routine test is invalid according to the acceptance criteria in EPA-821-R-02-013 or EPA-821-R-02-014 (adopted and incorporated by reference in 62-620.620(3)(g)2.b., F.A.C.), as appropriate, a repeat test shall be initiated within 14 days after the last day of the invalid routine test.

   f. Upon completion of four consecutive quarterly valid routine tests that demonstrate compliance with the effluent limitation in E.(2)a.(1) above, the permittee may submit a written request to the Department to terminate the plan. The plan shall be terminated upon written verification by the Department that the facility has passed at least four consecutive quarterly valid routine whole

effluent toxicity tests. If a test within the sequence of the four is deemed invalid, but is replaced by a repeat valid test initiated within 14 days after the last day of the invalid test, the invalid test will not be counted against the requirement for four consecutive quarterly valid routine tests for the purpose of terminating the plan.

3. If chronic toxicity test results indicate greater than 50% mortality within 96 hours in the 100% effluent concentration, the Department may revise this permit to require acute definitive whole effluent toxicity testing in additional to chronic whole effluent toxicity testing.
4. The plan does not preclude the Department taking enforcement action for whole effluent toxicity failures.

[62-4.241, 62-620.620(3)]

(5) Except for turbidity and dissolved oxygen, samples for monitoring requirements specified above shall be taken at the nearest accessible point after final treatment but prior to actual discharge or mixing with the receiving waters.

(6) All samples must be analyzed by a laboratory registered and accredited under the provisions of Chapter 62-160, F.A.C., except as provided in subsections 62-160.300(2) through (8), F.A.C. Analytical results must include (if applicable):

(a) The date, exact place, and time of sampling.

(b) The date analyses were performed.

(c) Who performed the analyses.

(d) The analytical techniques/methods used (if any).

(e) The results of such analyses.

(7) Monitoring results obtained for each calendar month shall be summarized and reported on a Discharge Monitoring Report (DMR) form (DEP Form 62-620.910(10)), quarterly. The DMR form shall be submitted electronically in accordance with Rule 62-621.250, F.A.C., using the DEP Business Portal at http://www.fldepportal.com/go/. The DMR shall be submitted to the Department after each calendar quarter no later than the 28th day of the month following the completed calendar quarter. For example, data for January-March shall be submitted by April 28. Calendar quarters are January-March, April-June, July-September and October-December.

Part IV. Harmful Algal Bloom Management Plans

A. Contents of Harmful Algal Bloom Management Plans (HABMP)

(1) The permittee shall identify the HABMP team members, (persons and affiliations if appropriate) with primary responsibility for the following activities:

(a) Person(s) responsible for managing algae in the harmful algal bloom management area;

(b) Person(s) responsible for developing and revising the HABMP;

(c) Person(s) responsible for developing, revising, and implementing corrective actions and other effluent limitation requirements; and

(d) Person(s) responsible for overseeing the experimental technologies for algae control. If the experimental technologies applicator is unknown at the time of plan development, indicate whether or not a for-hire applicator will be used and when you anticipate identification of the applicator.

(2) Identification of team members shall include any written agreement(s) between the permittee and any other permittee(s), such as a for-hire experimental technologies for algae control applicator/operator, that specify the division of responsibilities between permittees as necessary to comply with the provisions of this permit.

(3) Harmful Algal Bloom Management Area Description.

(a) Algal problem description. Describe the harmful algal bloom problem at the harmful algal bloom management area, including identification of the target algae, source of the algal problem, and source of data used to identify the problem in accordance with this permit.

(b) General location map. In the plan, include a general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) that identifies the geographic boundaries of the area to which the plan applies and location of the surface waters of the State; and

(c) List of pollutants or any degradants for which the water bodies are impaired.

(d) List all known water supply intakes (e.g. drinking water, irrigation) within 500 feet of the proposed treatment area.

(4) Control Measure Description. The permittee shall document the evaluation of control measures for the harmful algal bloom management area covered under this permit. The documentation shall include the control measures that will be implemented to comply with the effluent limitations required in this permit. Include in the description the following;

(a) Active ingredient(s) evaluated and potential effects on the waterbody and water quality parameters dictating the need for buffering

(b) If the experimental technologies include phosphorus sequestration products (PSP), the permittee shall provide:

i. The chemistry of the PSP, including all chemical components that make up the PSP, including any adjuvants and/or buffering agents.

ii. Identification of potential effects on the aquatic organisms.

iii. A description of the objectives of this experimental use treatment and the expected results

iv. A description of the application techniques, equipment, and procedural steps that will be used for application of the experimental PSP.

v. A description of any additional control measures implemented to protect the health of water users.

(5) Schedules and Procedures. The permittee shall document the following schedules and procedures in the HABMP:

(a) Pertaining to control measures used to comply with the effluent limitations, the following shall be documented in the HABMP:

i. Application rate and frequency procedures for determining the optimum amount of pesticide or other chemical product per application and the optimum frequency of product applications necessary to control the target algae. For pesticides, application rate and frequency procedures shall be consistent with reducing the potential for development of pesticide resistance in the harmful algal bloom.

ii. Spill prevention procedures and schedule of maintenance activities for preventing spills and leaks of pollutants associated with the activities covered under this permit.

iii. Procedures for selecting the optimum method of application and maintaining equipment in proper operating condition, including maintenance schedules, calibrating, cleaning, and repairing the equipment.

iv. Harmful algal bloom surveillance procedures and methods for conducting pre-application algal bloom surveillance.

v. Methods for assessing environmental conditions in the treatment area.

(b) Pertaining to other actions necessary to minimize discharges the following shall be documented in the HABMP:

i. Spill Response Procedures.

a. Procedures for stopping, containing, and cleaning up leaks, spills, and other releases. Employees who have the potential to cause, detect, or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of your HABMP team.

b. Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies.

ii. Adverse Incident Response Procedures. The HABMP shall include:

a. Procedures for responding to any adverse incident resulting from pesticide or other chemical product applications;

b. Procedures for notification of the incident within the permittee's agency or organization.

c. Procedures for contacting outside emergency personnel using, for example, a 911 hotline and/or Center for Disease Control poison center hotline.

d. Contact information for the National Pesticide Telecommunications Network at 800-858-7358; maintain contact information with the National Spill Response Center at 800-424-8802; and the State Watch Office at 800-320-0519.

iii. Harmful Algal Bloom Monitoring Schedules and Procedures. Document procedures for post-application visual monitoring, including:

a. The process for determining the location of any monitoring;

b. A schedule for monitoring;

c. The person (or position) responsible for conducting monitoring; and

d. Procedures for documenting any observed impacts to non-target organisms resulting from your pesticide or other chemical product application.

(6) Signature Requirements. The plan and any revisions to the plan shall be signed and dated by the permittee.

B. Harmful Algal Bloom Management Plan Modifications

(1) The HABMP shall be modified whenever necessary to address any of the triggering conditions for corrective action or when a change in algae control activities significantly changes the type, method of application or quantity of pollutants discharged. Changes to the HABMP shall be made before the next use/deployment of the experimental technologies that results in a discharge of pollutants to surface waters of the State, if practicable, or if not, as soon as possible thereafter. The revised HABMP shall be signed and dated in accordance with this permit.

(2) The Permittee shall review the HABMP a minimum of once per calendar year and whenever necessary to update the harmful algal bloom problem identified and algal management strategies evaluated for the harmful algal bloom management area.

C. Harmful Algal Bloom Management Plan Availability

(1) A copy of the current HABMP, along with all supporting maps and documents, shall be kept at the address provided in the NOI.

(2) The HABMP and all supporting documents shall be readily available, upon request, and copies of any of these documents provided, upon request, to the Department, Florida Department of Agriculture and Consumer Services (FDACS), and Florida Fish and Wildlife Conservation Commission (FWC) (for aquatic weed control); In accordance with Florida's public record law, the Department shall provide copies of the HABMP or other information related to this permit that is in its possession to members of the public.

Part V. Corrective Action

A. Situations Requiring Revision of Control Measures.

If any of the following situations occur, the permittee shall review and revise control measures to ensure that the situation is eliminated and will not be repeated:

(1) An unauthorized release or discharge occurs (e.g., spill, leak, upset as defined in Appendix A, or any unauthorized discharge to surface water or not authorized by this or another Department permit);

(2) The permittee becomes aware, or the Department concludes that the control measures are not adequate or sufficient for the discharge to meet applicable water quality standards;

(3) Any monitoring activity indicating that the permittee failed to:

(a) Use the amount of pesticide and frequency of pesticide application necessary to control the target algae using equipment and application procedures appropriate for the task;

(b) Perform regular maintenance activities to ensure that the equipment is in proper operating condition to minimize the potential for leaks, spills, and unintended or accidental release of pollutants to waters of the State; or

(c) Calibrate, clean, and repair equipment on a regular basis to ensure that the equipment is in proper operating condition.

(4) The Department determines that modifications to the control measures are necessary to meet the effluent limits in this permit; or

(5) The permittee observes or is otherwise made aware of an adverse incident.

B. Corrective Action Deadlines.

If the permittee determines or the Department concludes and informs the permittee in writing that changes to the control measures are necessary to eliminate any situation, such changes shall be made before the next pesticide application that results in a discharge of pollutants to surface waters of the State if practicable, or if not, as soon as possible thereafter.

C. Adverse Incident Notification and Reporting.

(1) Twenty-Four (24) Hour Adverse Incident Notification

(a) If the permittee observes or is otherwise made aware of an adverse incident, as defined in Appendix A, resulting from a discharge of pollutants to surface waters of the State by the permittee, then the permittee shall notify the State Watch Office at 800-320-0519. This notification shall be made by telephone within 24 hours of becoming aware of the adverse incident and shall include the following information, if available:

i. The caller's name, address and telephone number;

ii. The permittee's name and mailing address and telephone number (if different from the caller);

iii. The generic permit number;

iv. The name and telephone number of a contact person, if different than the person providing the 24-hour notice;

v. The date and time of the adverse incident and status (ongoing or ceased);

vi. How and when you became aware of the adverse incident was noticed;

vii. A description of the location, or address, of the adverse incident including the name of the water body affected, if any;

viii. A description of the adverse incident identified and the U.S. Environmental Protection Agency (EPA) pesticide registration number for each product applied in the area of the adverse incident;

ix. A description of any steps taken or that will be taken to correct, repair, remedy, cleanup, or otherwise address any adverse effects; and

x. Other persons or agencies contacted.

NOTE: If any of the information above is not available at the time of initial notification, it shall be included in the "30-Day Adverse Incident Written Report"

(b) The adverse incident notification and reporting requirements are in addition to the reporting requirements under FIFRA section 6(a)(2) and its implementing regulations at 40 CFR Part 159.

(2) Thirty (30) Day Adverse Incident Written Report.

(a) If the oral report for an adverse incident has been received within 24 hours, the incident has been corrected and the incident did not adversely impact health or the environment, the Department shall waive the written report.

(b) Except as provided above, within thirty (30) days of an adverse incident the permittee shall provide a written report to the appropriate Department District Office.

(c) The adverse incident report shall include the following information:

i. Information required to be provided under the 24-hour adverse incident notification;

ii. The date and time the State Watch Office was contacted notifying the State of the adverse incident and any instructions you received from the Office;

iii. The location of incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, etc.);

iv. A description of the circumstances of the adverse incident including species affected, estimated number of individual and approximate size of dead or distressed organisms and if the adverse incident has not been corrected, the anticipated duration it is expected to continue;

v. The magnitude and scope of the affected area (e.g. aquatic acreage or total stream distance affected);

vi. Product application rate, intended use site, method of application, and name of product and active ingredients, and, if applicable, the EPA registration number;

vii. A description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data for products applied);

viii. If laboratory tests were performed, indicate what and when test(s) were performed, and provide a summary of the test results within 5 days after they become available;

ix. If applicable, explain why the adverse incident could not have been caused by exposure to the product; and

x. The steps taken or planned to reduce, eliminate and prevent recurrence of adverse incidents.

Part V. Recordkeeping and Annual Reporting

The permittee shall keep written records as required in this permit. These records shall be accurate and complete and sufficient to demonstrate compliance with the conditions of this permit. The permittee can rely on records and documents developed for other obligations, such as requirements under FIFRA, FDACS and FWC, provided all requirements of this permit are satisfied.

A. All entities conducting day-to-day pesticide or other chemical product application activities shall keep the following records:

(1) A copy of any written 30-day adverse incident reports;

(2) The rationale for any determination that a written report of an identified adverse incident is not required;

(3) A copy of any written 30-day adverse incident reports;

(4) A copy of the NOI submitted to the Department, any correspondence specific to coverage under this permit, and a copy of the Department coverage letter assigning your permit tracking number;

(5) A copy of the permit (either a hardcopy or an electronic copy);

(6) The surveillance method(s) used, date(s) of surveillance activities, and findings of surveillance;

(7) Target algae;

(8) Algae density prior to product application;

(9) The company name and contact information for product applicator (if applicable);

(10) The product application date(s);

(11) A description of the treatment area, including location and size (acres), or other appropriate unit of measure, of the treatment area and identification of any waters, either by name or by location, to which the permittee applied any pesticide(s);

(12) The name of each product used, including, if applicable, the EPA pesticide registration number;

(13) The quantity of product applied (and specify if quantities are for the product as packaged or as formulated and applied);

(14) The concentration expressed as percent (%) of active ingredient in formulation;

(15) For pesticide applications directly to waters, the effective concentration of active ingredient required for control;

(16) Any unusual or unexpected effects identified in non-target organisms;

(17) Documentation of any equipment calibration; and

(18) A copy of the HABMP, including any modifications made to the HABMP during the term of the permit.

B. All required records shall be documented as soon as possible but no later than 14 days following completion of such activity. The permittee shall make available, upon request by an authorized representative of the Department, any and all records kept under this permit upon request and provide copies of such records, upon request. The permittee shall provide copies of such records, upon request by the Department.

C. The annual report shall contain the following information:

(1) The permittee's name

(2) The generic permit coverage number (i.e. FLGxxxx)

(3) The contact person's name, if different from the permittee, title, e-mail address (if any), and phone number

(4) A summary containing the following information:

(a) Identification of any waters or adjacent treatment area, including size, either by name or by location, to which you discharged any pollutant(s);

(b) Algal control use pattern(s) and target algae;

(c) The company name(s) and contact information for pesticide applicator(s), if different from the NOI submitter;

(d) The total amount of each product expressed as pounds of active ingredient;

(e) Whether or not this algae control activity was addressed in the HABMP prior to its application;

(f) If applicable, an annual report of any adverse incidents as a result of these treatment(s), for incidents, as described in this permit; and

(g) A description of any corrective action(s), including spill responses, resulting from activities associated with the experimental technologies and the rationale for such action(s).

Part VI. Other Conditions

A. The discharge authorized by this permit shall not cause a violation of state surface water quality standards.

B. If the permittee becomes aware of relevant facts that were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be submitted, or corrections reported to the Department within 10 days of discovery.

C. Upon request by the Department, the permittee shall provide to the Department copies of records required by this permit.

D. Upon request by the Department, the permittee shall provide any information required by law which is needed to determine compliance with the permit or whether there is cause for revoking and reissuing or terminating coverage under this permit.

E. Coverage under this permit can be suspended, revoked and reissued, or terminated in accordance with Rule 62-620.345, F.A.C., if the Secretary determines that there has been a violation of any of the terms or conditions of the permit, there has been a violation of state water quality standards or the permittee has submitted false, incomplete or inaccurate data or information.

Part VII. General Conditions

A. The terms, conditions, requirements, limitations, and restrictions set forth in this permit are binding and enforceable pursuant to Chapter 403, F.S. Any permit noncompliance constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, permit termination, permit revocation and reissuance. [62-620.610(1), F.A.C.]

B. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit constitutes grounds for revocation and enforcement action by the Department. [62-620.610(2), F.A.C.]

C. As provided in Section 403.087(7), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor authorize any infringement of federal, state, or local laws or regulations. This permit is not a waiver of, or approval of any other Department permit, or authorization required for other aspects of the total project which are not addressed in this permit. [62-620.610(3), F.A.C.]

D. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund can express State opinion as to title. [62-620.610(4), F.A.C.]

E. This permit does not relieve the permittee from liability and penalties for harm or injury to human health or welfare, animal or plant life, or property caused by the construction or operation of this permitted source; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The permittee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or residuals use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. It shall not be a defense for an 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. [62-620.610(5), F.A.C.]

F. The permittee shall at all times properly operate and maintain the facility and systems of treatment and control, and related appurtenances, that are installed and used by the permittee to achieve compliance with the conditions of this permit. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to maintain or achieve compliance with the conditions of the permit. [62-620.610(7), F.A.C.]

G. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, including an authorized representative of the Department and authorized EPA personnel, when applicable, upon presentation of credentials or other documents required by law, and at reasonable times, depending upon the nature of the concern being investigated, to:

(1) Enter upon the permittee's premises where a regulated facility, system, or activity is located or conducted, or where records shall be kept under the conditions of this permit;

(2) Have access to and copy any records that shall be kept under the conditions of this permit;

(3) Inspect the facilities, equipment, practices, or operations regulated or required under this permit; and

(4) Sample or monitor any substances or parameters at any location necessary to assure compliance with this permit or Department rules.[62-620.610(9), F.A.C.]

H. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source which are submitted to the Department can be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except as such use is proscribed by Section 403.111, F.S., or Rule 62-620.302, F.A.C. Such evidence shall only be used to the extent that it is consistent with the Florida Rules of Civil Procedure and applicable evidentiary rules. [62-620.610(10), F.A.C.]

I. This permit is transferable only upon Department approval in accordance with Rule 62-620.340, F.A.C. The permittee shall be liable for any noncompliance of the permitted activity until the transfer is approved by the Department. [62-620.610(14)]

J. Upset Provisions.

(1) A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(a) An upset occurred, and that the permittee can identify the cause(s) of the upset;

(b) The permitted activity was at the time being properly conducted;

(c) The permittee submitted notice of the upset as required in Condition VII.E of this permit; and

(d) The permittee complied with any remedial measures required under Condition VII.E of this permit.

(2) In any enforcement proceeding, the burden of proof for establishing the occurrence of an upset rests with the permittee.

(3) Before an enforcement proceeding is instituted, no representation made during the Department review of a claim that noncompliance was caused by an upset is final agency action subject to judicial review. [62-620.610(23), F.A.C.]

Appendix A - Definitions

Activity – means any action which results in a discharge of pollutants to surface waters of the State from the innovative technology used to control harmful algal blooms or that is reasonably expected to be a source of water pollution.

Adverse Incident – means an incident that the permittee has observed upon inspection of the application area or of which otherwise becomes aware, in which a person or non-target organism suffered a toxic or adverse effect.

The phrase "toxic or adverse effects" includes 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, including:

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

The phrase, "toxic or adverse effects," also includes any adverse effects to humans (e.g., skin rashes) or domesticated animals that occur either directly or indirectly from a discharge of pollutants to surface waters of the State that are temporally and spatially related to exposure to a pesticide residue (e.g., vomiting, lethargy).

Control Measure – refers to any BMP or other method used to meet the effluent limitations. Control measures shall comply with manufacturer specifications, industry standards and recommended industry practices related to the experimental technology, and relevant legal requirements. Additionally, control measures could include other actions that a prudent permittee would implement to reduce and/or eliminate pollutant discharges to surface waters of the State to comply with the effluent limitations of this permit.

Declared Harmful Algal Bloom Emergency - means a situation that requires the emergency control of harmful algal blooms as declared in an order by the Governor of Florida or by an agency head in an emergency order issued pursuant to Section 120.569(2)(n), F.S.

Discharge – when used without qualification, means the "discharge of a pollutant."

Discharge of a pollutant – means any addition of any pollutant or combination of pollutants, as defined in Rule 620.200(13), F.A.C., to waters from any point source other than a vessel or other floating craft which is being used as a means of transportation. This definition includes additions of pollutants into waters from surface runoff which is collected or channeled by man, and discharges through pipes, sewers, or other conveyances which do not lead to a treatment works. This term does not include an addition of pollutants by an indirect discharger.

EPA Approved or Established Total Maximum Daily Loads (TMDLs) – "EPA Approved TMDLs" are those that are developed by the State of Florida and approved by EPA. "EPA Established TMDLs" are those that are issued by EPA.

Experimental Technologies – new or improved technologies or products that have been demonstrated to be technically feasible under certain conditions but have not been widely used under the conditions that exist at harmful algal bloom management areas.

FLG Number – the identification number for a Department NPDES generic permit.

Harmful Agal Bloom – Any colony of red tide *[Karenina brevis]* or blue-green algal *[cyanobacteria]* that lives in marine water or freshwater and grows out of control while producing toxins harmful to human health, animals or aquatic ecosystems.

Harmful Algal Bloom Management Area – The area of water, including any land, for which you are conducting harmful algal bloom management activities covered by this permit.

Impaired Water (or "Water Quality Impaired Water" or "Water Quality Limited Segment") – A water is impaired for purposes of this permit if it has been identified by the Department pursuant to Chapter 62-303, F.A.C., or EPA pursuant to Section 303(d) of the Clean Water Act as not meeting applicable state, surface water quality standards for a particular pollutant or its degradants.

Minimize - to reduce and/or eliminate pollutant 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 – includes 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 algae control activity.

Permittee - any person obtaining coverage under this generic permit

Person – the state or any agency or institution thereof, the United States or any agency or institution thereof, or any municipality, political subdivision, public or private corporation, individual, partnership, association, or other entity and includes any officer or governing or managing body of the state, the United States, any agency, any municipality, political subdivision, or public or private corporation.

Pesticide Product – 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.

Pesticide Residue – includes that portion of a pesticide application that is discharged from a point source to waters of the State and no longer provides pesticidal benefits. It also includes any degradants of the pesticide.

Phosphorus Sequestration Product (PSP) - Products used to inactivate nutrients in the sediments such as aluminum sulfate or sodium aluminate (alum) and calcium hydroxide.

Point source – any discernible, 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 can be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff. (Rule 62-620.200(37), F.A.C.)

Pollutant – dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. For purposes of this definition, a "biological pesticide" is considered a "biological material," and any "pesticide residue" resulting from use of a "chemical pesticide" is considered a "chemical waste."

Surface Waters of the State – "waters" as defined in Section 403.031(13), F.S., excluding underground waters.

Target Algae – the organism toward which control measures are being directed.

Total Maximum Daily Loads (TMDLs) – For an impaired water body or water body segment shall mean the sum of the individual wasteload allocations for point sources and the load allocations for nonpoint sources and natural background. Prior to determining individual wasteload allocations and load allocations, the maximum amount of a

pollutant that a water body or water body segment can assimilate from all sources without exceeding water quality standards shall first be calculated. A TMDL shall include either an implicit or explicit margin of safety and a consideration of seasonal variations. [Rule 62-303.200(39), F.A.C.]

Treatment Area – The "treatment area" includes the entire area where the experimental technologies are intended to provide algae control benefits. In some instances, the treatment area may be larger than the area where experimental technologies are actually applied. For example, the treatment area for a stationary drip treatment into a canal should be calculated by multiplying the width of the canal by the length over which the experimental technology is intended to control algae. The treatment area for a lake or marine area is the water surface area where the experimental technology is intended to provide algae control benefits. Note, multiple treatment areas can be located within a single "harmful algal bloom management area."

Upset – means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based effluent limitations because of factors beyond the reasonable control of the permittee.

(a) An upset does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, careless or improper operation.

(b) An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of upset provisions of Rule 62-620.610, F.A.C., are met. [Rule 62-620.200(53), F.A.C.]