State Environmental Quality Review

Amended Findings Statement (Pursuant to §§617.11[a] and 617.10[d][2])

Pursuant to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law and Title 6 of the official compilation of Codes, Rules, and Regulations (NYCRR) Part 617, the Department of Environmental Conservation (DEC) as the lead agency makes the following amended findings pursuant to §§617.11[a] and 617.10[d][2]:

I. Name of Action

Amendment of the Findings Statements for the Application of Aquatic Pesticides in New York State. All prior statement of findings and their associated Environmental Impact Statements will be posted on the DEC's website by June 30, 2014.

II. Location

Statewide

III. Description of Action

This document amends the statements of findings relating to the aquatic pesticides program as follows:

- Statement of Findings dated May 13, 1981 for the Final Programmatic Environmental Impact Statement on Aquatic Vegetation Control Program of the Department of Environmental Conservation, [1981 PEIS];
- Statement of Findings dated March, 1995 for the Final Generic Environmental Impact Statement for the use of the Registered Aquatic Herbicide Fluridone (Sonar) and the use of the Registered Aquatic Herbicide Glyphosate (Rodeo and Accord) in the State of New York, [1995 SEIS];
- Statement of Findings dated December 3, 2007 for the Supplemental Environmental Impact Statement, for the use of the Aquatic Herbicide Triclopyr (Renovate) in the State of New York, [2007 SEIS];
- Statement of Findings dated October 2, 2009 for the Final Supplemental Environmental Impact Statement, for the use of Aquatic Herbicide Imazamox (Clearcast) in the State of New York, [2009 SEIS];
- Statement of Findings dated September 12, 2013 for the Supplemental Environmental Impact Statement, for the use of Hydrogen Peroxide (GreenClean PRO Granular Algaecide/ Fungicide and GreenClean Liquid) in the State of New York, [2013 SEIS].

Set forth below are tables that show conclusions in the above referenced statements of findings that are amended or superseded by this Amended Findings Statement. All other aspects of the statements of findings are still applicable, except as noted below:

Fluridone (Sonar Statement of Findings)

Historical statements of findings	Justification	Amended Findings Statement
May 15 treatment deadline, page 12.	As a result of many years of applications the DEC has identified situations where it may be unreasonable and irrational to impose the May 15 cutoff date restriction, and instances wherein it may actually be advantageous to the ecosystem to permit application of fluridone at a time later in the season.	Follow currently accepted label directions, special local need labels, and regulations.
Eurasian watermilfoil listed as the only target species in the Statement of Findings, page 11.	Since the initial registration, additional target species have been added to the registered label and SLN labeling.	Follow currently accepted label directions, special local need labels, and regulations.
Applications prohibited within 1/4 mile of potable water intakes, pages 5 and 11.	When first registered, fluridone was prohibited from use within 1/4 mile of potable water intakes. With label language now permitting split treatments, treatments can occur within 1/4 mile of potable water intakes, provided water use does not occur for 24 hours.	Follow currently accepted label directions, special local need labels, and regulations.
Fluridone prohibited in less than two feet of water, page 12.	6 NYCRR Part 326.2(b)4ii was amended to accommodate invasive species control in certain circumstances.	Follow currently accepted label directions, special local need labels, 6 NYCRR Part 326.2(b)4ii, and other regulations.
Aqueous solutions of fluridone not to be used in moving waters, slow release pellets must be used, page 11.	Labels have been amended to allow for the use in moving waters in certain situations.	Follow currently accepted label directions, special local need labels, and regulations.

Glyphosate (Rodeo and Accord Statement of Findings)

When applying glyphosate, spray nozzles must be set to avoid a fine mist that will allow drift, page 12.	Labels may be amended with drift control language to avoid off target movement.	Follow currently accepted label directions, special local need labels, and regulations.

Glyphosate prohibited within ½ mile from potable water intakes, page 12.	Current Label Language.	Follow currently accepted label directions, special local need labels, and regulations.

Imazamox (Clearcast Statement of Findings)

Imazamox statement of findings refers to *Water Bodies Subject to Enhanced Review* (WBSER), and they are listed on the Department website at: http://www.dec.ny.gov/chemical/8530.html, page 6.	This list no longer exists.	None.

Triclopyr (Renovate Statement of Findings)

Triclopyr label directions to treat no more than one-third to one-half of the treated area and to wait at least 10 to 14 days between treatments, page 4.	Current label language.	Follow currently accepted label directions, special local need labels, and regulations.
Triclopyr statement of findings refers to *Water Bodies Subject To Enhanced Review* (WBSER), and they are listed on the Department website at: http://www.dec.ny.gov/chemical/8530.html, page 5.	This list no longer exists.	None.

IV. Background

The use of herbicides can be an important component in a comprehensive management approach to limit the spread of certain nuisance aquatic vegetation species. Removal of nuisance vegetation can enhance the safe recreational usage of water bodies, increasing local tourism and stimulating local economies. In addition, the use of herbicides can be an important component in a comprehensive management approach to limit the spread of invasive species. When introduced into a new environment, invasive species display a marked ability to colonize and exploit a particular environment at the expense of the existing ecological community, resulting in their quantitative or biomass predominance in the resulting community structure. Their replacement of the existing community members is considered to be fundamentally detrimental to the colonized ecosystem in terms of reduced biodiversity, loss of habitat structure, and reduced wildlife function.

While aquatic herbicides have proven to be effective tools in the management of aquatic vegetation, if improperly used they have the potential to injure health, property and wildlife. The Bureau of Pest Management is responsible for the regulation of aquatic pesticides through a comprehensive regulatory framework that integrates pesticide product registration, pesticide applicator certification, pesticide business registration and aquatic pesticide permitting. The combined implementation of these regulatory programs provides cohesive oversight for the management of aquatic pests while preserving and protecting the waters of the state and the health of those using the water.

a. History of DEC Review for the Use of Aquatic Pesticides

In 1981 the PEIS was issued due to a positive declaration by the DEC associated with the Article 15 aquatic pesticide use permitting process. The intent of this document along with its associated Statement of Findings was to assure that any environmental impacts associated with the use of the aquatic pesticides registered in 1981 did not have an adverse impact on the environment of NYS. Since 1981, there have been many other aquatic pesticides registered by the DEC. The DEC made a positive declaration associated with these pesticides that were not covered under the 1981 PEIS and a SEIS was developed for each new active ingredient in order to satisfy SEQR.

The 1981 PEIS addressed the uses of following pesticide active ingredients: Aqualin, Diquat, 2,4-D, Copper Sulfate, Algimycin PLL-c, Dichlobenil, Endothall, Fenac, Malachite, Silvex, and Simazine. Many of these pesticides are currently registered for aquatic use, while others are no longer registered for aquatic uses. The PEIS evaluated the labels that existed at the time. The labels on many of these pesticides have since been amended to include changes in use directions, additional target organisms, changes in the water use restrictions and other changes.

The 1995 SEIS was developed to satisfy the SEQR requirements for the uses of fluridone and glyphosate. During the development of the SEIS and its Statement of Findings, specific restrictions were placed on the use of these products due to EPA label requirements and to address environmental concerns associated with these pesticides at the time. Since the development of the 1995 SEIS there have been approved label amendments and continued research into the use of these pesticides. Many of the restrictions discussed in the 1995 SEIS and its Statement of Findings may no longer be applicable, including restrictions for Fluridone relating to the amount of time the treated water can be used for livestock consumption, use after May 15, the number of target species, split pesticide treatments, and application within ¼ mile of potable water intakes. Therefore, fluridone and glyphosate should be used in accordance with current label language and regulations. If additional conditions or restrictions are necessary, they can be handled through the permitting process.

The pesticide-specific 2007, 2009 and 2013 SEISs are still timely and the labels have not undergone many amendments since these documents were written. As is the nature of any dynamic program, it is inevitable that the labels will be amended to cover uses that may not have been addressed in the SEIS documentation.

In order to assure that the uses of all aquatic pesticides are addressed under SEQR to allow for the most up to date and environmentally responsible practices, it was necessary to amend the statements of findings for all of these pesticides. In addition, the necessity to provide a rapid response to combat invasive species also necessitates the need for this comprehensive Amended Findings Statement. As previously stated the aquatic pesticide program is a dynamic program and labels are updated constantly to reflect new information that is provided by the pesticide manufacturers and research institutions.

b. Current DEC Review for the use of Aquatic Pesticides

The DEC guidance DSHM-PES-05-05 Aquatic Pesticide Permit Program (09/05) for the issuance of aquatic permits to use aquatic herbicides requires that applications be reviewed by DEC staff, in the following Divisions: Materials Management; Water; Fish, Wildlife and Marine Resources; and Environmental Permits. Additional reviewers include local health departments or regional New York State Department of Health (NYSDOH) offices to identify and assess possible impacts to local potable water sources. If applicable, the Adirondack Park Agency, New York City Department of Environmental Protection - Bureau of Water Supply, New York State Department of State (NYSDOS) Division of Coastal Resources, and New York State Office of General Services review permit applications. Pesticide products are often labeled with precautions for potable water intakes, and precautions which may include minimum application setback distances from potable water intakes, relative to the pesticide application rate and the size of the area treated. These agencies review the permit applications to determine if additional permit conditions are needed, recommend possible mitigation measures, or recommend permit denial.

The aquatic permit application review process by DEC staff will also limit, if necessary, the scope of the proposed aquatic pesticide treatment to mitigate the overall impact to habitat and water quality based on recommendations contained in the Department's Bureau of Habitat document "Recommendations Regarding the Use of Aquatic Herbicides in Fish-Bearing Waters of the State" (12/3/12). The purpose of this document is to provide the necessary information to the Department's Fish, Wildlife and Marine Resources staff to assist them in making ecological decisions regarding aquatic vegetation management permits.

As authorized by Title 7 of Article 33 of the Environmental Conservation Law, the Bureau of Pest Management, Pesticide Product Registration Section reviews all applications of pesticides to be sold or used in New York State (NYS) and requires that these pesticides conform to all applicable regulatory standards. The NYS Pesticide Product Registration Procedures, which were revised in April 2009, and the Programmatic Environmental Impact Statement for the Pesticide Registration and Classification Program detail the procedures, evaluation and mitigation necessary for registering pesticides in New York. DEC staff reviews all information submitted in support of a pesticide product application and must determine that a pesticide product when used as labeled will not result in adverse effects on the health of workers or the general public, the fish and wildlife resources, or the groundwater and surface water resources of New York State.

V. Facts and Conclusions Supporting the Amended Findings

The Pesticide Product Registration Program provides the basis for environmental protections associated with the use of aquatic pesticides that includes detailed reviews by the DEC's Division of Materials Management (DMM) and the Division of Fish, Wildlife, and Marine Resources. In addition, the NYSDOH completes an extensive review of the heath impacts associated with each proposed aquatic pesticide use. A more detailed description of the pesticide product registration process performed by staff in the Bureau of Pest Management, Division of Fish, Wildlife and Marine Resources, and the NYSDOH is provided below:

a. Summary of the pesticide registration review process

The DEC's Pesticide Product Registration Program was established as a result of the 1992 Pesticide Fee Bill. This legislative initiative allocated money from increased pesticide product application fees to support program staff and outlined requirements to establish specific regulations for pesticide product application data requirements and comprehensive product reviews. The Fee Bill monies also fund three additional staff in the NYSDOH and one staff in the Department's Division of Fish, Wildlife & Marine Resources' Bureau of Habitat (BOH), which are a vital part of the pesticide product registration process to ensure that public health and ecological resources are not impacted from products that are approved for sale, distribution and use in New York State.

Prior to a pesticide being eligible for registration in New York State, it must first be registered with the USEPA. The USEPA reviews and approves pesticides for use on a national basis, using many of the same parameters as New York State, but does not take into account State-specific concerns. In New York State every pesticide product must be registered before it can be distributed, sold or used in order to assure that State-specific resources are being protected. All product applications are technically reviewed to ensure compliance with USEPA and New York State requirements. Additionally, all new active ingredients (NAI) and any ingredient which is submitted for a major change in labeled (MCL) use undergo extensive scientific review for impacts to human health, fish and wildlife, and groundwater. Applications for NAIs and MCLs are submitted with data packages which are distributed to various reviewers. The NYSDOH conducts extensive human health reviews; the Department's BOH conducts reviews pertaining to fish, wildlife and other non-target resources; and the DMM's groundwater staff conducts reviews pertaining to potential impacts to the groundwater and surface water resources of New York State. In addition, validated analytical methods are received and reviewed in order to ensure that they are adequate for the measurement of active ingredients and their metabolites in soil and water for outdoor products, air and surfaces for indoor products, as well as any other media if specifically requested. Pesticide products are only registered if it has been determined that they do not pose an unreasonable risk to humans or the environment. When a concern about a potentially significant risk is identified during the review process, the registrant is notified. If the concern can be mitigated through revisions of the product labeling, the registrant has the option of pursuing those changes with the USEPA. Companies voluntarily add New York State-specific language to their federally approved labels. Some examples of mitigative label language include requirements for personal protective equipment, vegetated buffer strips, deletion of aerial application, lower application rates and geographic use restrictions. If the risks and concerns

cannot be mitigated to an acceptable level, the registration is denied. If a registration is denied, the product may not be sold, offered for sale, distributed or used in New York State.

b. Summary of the Pesticide Registration Review Process and Ecological Risk Assessment by the Division of Fish, Wildlife and Marine Resources

Through the DEC's comprehensive pesticide product registration process, all applications for registration of pesticide NAIs are extensively reviewed for possible ecological risks, including risks to non-target organisms. Furthermore, if an MCL is proposed for a pesticide active ingredient that has already been reviewed and registered, the compound is reviewed again to determine if the change alters the assessment of ecological risk that was completed when the compound was initially reviewed.

The ecological risk assessment process examines the potential for acute and chronic risks to non-target birds, mammals, freshwater fish and invertebrates, marine/estuarine fish and invertebrates, freshwater macrophytes (rooted plants), and freshwater and marine algae.

The process begins when a registration application and the accompanying data support package are received. All of the human health, ecotoxicology, environmental fate, product chemistry, and residue studies that were submitted to the USEPA must be submitted to the DEC as part of the registration application, as well as all correspondence between the registrant and the USEPA regarding the registration. To be complete, the data support package must contain both summaries of the original studies completed as well as the USEPA Data Evaluation Reports (DERs) for each study. In addition to the DERs, the summary reviews of the USEPA Health Effects Division and Environmental Fate and Effects Division are considered under the DEC's registration process. In the past several years, USEPA has worked in partnership with Canadian, European, and Australian Environmental Agencies, and sometimes the DERs and Health and Effects Summaries originated from other countries. The USEPA documents that the material from other countries has been reviewed and is consistent with USEPA standards.

Risk is the product of the inherent toxicity of a chemical compound and the potential for non-target organisms to be exposed. Inherent toxicity is quantified by the toxicology data provided. Exposure is assessed with a series of computer exposure assessment models; AVTOX for avian (bird) toxicity, MAMTOX for mammalian (wildlife) toxicity, and PONDTOX for aquatic and marine organisms. For AVTOX and MAMTOX, the models evaluate whether or not the amount of pesticide deposited on vegetation that herbivorous birds and mammals feed upon would exceed acute and chronic toxicity thresholds. The toxicity thresholds evaluated include the LD_{50}, Lowest Observed Adverse Effects Level and the No Observed Adverse Effects Level. If acute thresholds are exceeded, then the reviewer would recommend that the registration be denied. However, if chronic (i.e., long term) thresholds were exceeded, then the fate of the compound would be evaluated to determine if it is likely to persist long enough to pose a chronic risk. The models also consider compounds that are applied more than once and have the potential to build up in the water or soil, or on vegetation from multiple applications.

The PONDTOX model has two different modules. The first module is the direct application module. This model simulates what would happen if the compound was applied at the maximum

single application rate directly to the surface of a pond one acre in area with a depth of one foot. It calculates the resulting water concentration and compares it to the acute and chronic toxicity thresholds for aquatic and marine/estuarine fish, invertebrates, and plants. The toxicity thresholds evaluated include the LC_{50}/EC_{50}, Lowest Observed Effects Concentration, and the No Observed Effects Concentration. If no toxicity thresholds are exceeded, then the level of risk associated with the compound is considered to be low. If any toxicity thresholds are exceeded in the direct application module, the second PONDTOX module is used. The second module evaluates runoff. It evaluates three different runoff rates going into three 1 acre ponds of different depths, so a comprehensive assessment of risks can be made. Like AVTOX and MAMTOX, if acute toxicity thresholds are exceeded, a recommendation of denial is made. If chronic thresholds are exceeded, then further evaluation of the potential for the compound to persist in water or sediment is made.

Pesticides labeled solely for aquatic uses are reviewed in the same way. The direct application module of PONDTOX can be used to make a preliminary assessment of the risks to non-target aquatic life, primarily: fish, invertebrates, and algae, as most aquatic pesticides are herbicides used for the control of nuisance aquatic vegetation. In addition to comparing water column concentrations to toxicity thresholds, the ecological risk assessment also evaluates the fate and persistence of the compound both in water and sediment, and risks from major degradates produced as the compound is broken down.

c. Summary of NYSDOH Review Process for Potential Impacts to Human Health

The NYSDOH conducts technical reviews of pesticide products that contain NAIs or represent an MCL use for potential registration in New York State. The intent of NYSDOH's review is to reduce risks to public health from the use of pesticides by assessing risks during the registration review process and recommending ways to reduce those risks. To accomplish this, NYSDOH evaluates available toxicity data and risk assessments (e.g., dietary, occupational and residential exposures), primarily from the studies the product registrant conducts as part of the federal registration process. A summary of this information, along with any identified concerns, is provided to DEC in a technical review letter.

When NYSDOH receives a request from DEC to review a pesticide product labeled for aquatic uses, the reviewer focuses on four main areas of concern: domestic uses of treated water (e.g., drinking, cooking, bathing); dermal and ocular exposure from recreational use of treated water (e.g., swimming or fishing); ingestion of fish from treated water; and agricultural uses of treated water (e.g., irrigating crops, watering animals) that may result in exposure through ingestion of exposed agricultural products. Information on the evaluation of these four aspects is provided below in the following paragraphs.

i. Domestic Water Use

NYSDOH sets drinking water standards for organic chemicals and some inorganic chemicals, including pesticides. If the water concentration resulting from the labeled application rate of the subject aquatic use pesticide suggests that it could exceed the established drinking water standard for the active ingredient or other compounds associated with the product, the NYSDOH technical review letter would reflect a concern for use of the product in water bodies with drinking water intakes. In these cases, the technical review letter would typically recommend that product label changes be made or that site-specific considerations be addressed as part of the DEC aquatic herbicide application permitting process. These considerations may include prohibiting application within a certain distance of and/or monitoring the water near drinking water intakes. Provision of alternate drinking water supplies to affected water consumers may also be recommended. This reduces risks for people utilizing the water body for drinking or other domestic uses.

ii. Recreational Water Use

If the dermal and/or ocular toxicity data indicate that the aquatic use pesticide product or the active ingredient itself are irritating to skin or eyes, the NYSDOH technical review letter may advise that recreational use of the treated water (e.g., swimming or fishing) be prohibited for some period of time to allow for the product to dissipate. This prohibition may be accomplished by the registrant adding a statement to the label or through the DEC aquatic pesticide application permitting process. In either instance, site-appropriate public notification should be used to ensure that people will not be contacting the water within a certain period of time after application.

iii. Fish Consumption

NYSDOH reviews available fish bioaccumulation studies submitted during the registration review process for an aquatic use pesticide. Based on these study data, NYSDOH calculates dietary risk estimates using the measured fish tissue concentrations and estimates human fish consumption rates. These calculations aid in understanding the risk of consuming fish from a treated water body. If a concern for potential health impacts arises from these calculations, this will be reflected in the NYSDOH technical review letter. Possible mitigation measures could include product label changes or aquatic pesticide application permit conditions that prohibit the keeping of fish within a specified period of time after treatment.

iv. Agricultural Water Use

If an aquatic use pesticide is labeled to treat waters that could be used for agricultural purposes (e.g., irrigating crops, watering animals), NYSDOH may have concerns for human exposure to residues in agricultural commodities. Using actual commodity residue data or USEPA estimates of exposure to residues in agricultural commodities, NYSDOH evaluates human dietary risks for different age groups. If there is a potential for significant dietary risks, it is reflected in the NYSDOH technical review letter. Possible mitigation measures could include product label or aquatic pesticide application permit conditions that prohibit agricultural water uses within a specified period of time after treatment.

d. Rationale for Specific Changes to Previous Findings

i. Fluridone Findings

May 15 treatment deadline:

The May 15 cut-off date for application of floridone was never intended as a strict requirement. There are in fact technical problems with using May 15 as a rigid, annual cut-off date to initiate fluridone treatments and May 15, or any other particular date, cannot be scientifically justified. The goal is to initiate treatments during the period of time that Eurasian watermilfoil is actively growing, but other aquatic plant species are not. It is impossible to accurately select a strict cut-off date because the climate varies so much across New York State, and from year to year. A long, cool spring can delay the onset of growth by aquatic plants including Eurasian watermilfoil, thus wasting at least the earliest portion of the treatment, if initiated arbitrarily. Conversely, a short, warm spring could trigger growth across most of the aquatic plant community. If all of the plants were actively growing, then the "selectivity" of fluridone for Eurasian watermilfoil on the basis of earlier onset of growth is lost. The climatic conditions present during any year, or in different regions of the state, might dictate the need for an earlier or later date as the "best" date to initiate fluridone treatments.

Eurasian watermilfoil listed as the only target species in the SEIS:

Since the initial registration of fluridone products, additional target species have been added to the registered label and SLN labeling. Many of these added species do not become pests until later in the season, and as such, cannot be treated earlier because fluridone is not a preventative product. An example of this is the aquatic species common duckweed (*Lemna minor*), which typically does not become a noxious vegetation problem until mid-summer. In addition, invasive plants have been introduced into New York waters and fluridone may be one of the only treatment options available.

Applications within 1/4 mile of potable water intakes:

When first registered, fluridone was prohibited from use within 1/4 mile of potable water intakes. The amended label language allowing for use near water intakes was subsequently reviewed by the NYSDOH to determine if there were any potential health impacts. There is a limit on the concentration allowed near potable water intakes, but the label now allows treatments to occur within 1/4 mile of potable water intakes, provided water use does not occur for 24 hours. These newer directions were not discussed in the 1995 Statement of Findings, but currently exist on the product labeling.

Pellet formulations of fluridone in waters less than two feet deep:

At the time the SEIS was written, section 326.2(b)4ii of 6 NYCRR did not allow for the use of pellet formulation of fluridione in waters less than two feet. This use has been reevaluated by the NYSDOH and the regulation has been amended to allow this use

under certain conditions. The use of pelleted formulations was necessary to combat a newly introduced invasive species in New York. To allow this use the DEC amended section 326.2(b)4ii of 6 NYCRR to permit the use in certain circumstances.

Aqueous solutions of fluridone used in flowing waters:

The initial registration of the aqueous solution of fluridone was not allowed in moving waters. The original Statement of Findings prohibited this action. The labels now allow for the application of the aqueous solution of fluridone in moving waters. This change was necessary to allow its use to control invasive species, especially hydrilla. This use has been evaluated during the pesticide re-registration process.

ii. Glyphosate (Rodeo and Accord Statement of Findings)

Spray nozzle settings:

The Statement of Findings requires that spray nozzles be set to avoid fine mists. This is an issue for all pesticide applications and drift must be avoided. Many pesticide labels will have label requirements to avoid drift. New technology provides many options for drift reduction beyond nozzle settings. Although nozzle settings can reduce drift, the current label should be followed and new technologies should be used for spray drift reduction.

Glyphosate ½ mile from potable water intakes:

The current label language on glyphosate requires setbacks from potable water supplies. This requirement has not changed since the Statement of Findings. If the label changed based on pesticide registration procedures, the Department will at that time compare the change to the record supporting these findings and then determine the environmental significance of the change and whether it requires further action under SEQR in accordance with 6 NYCRR 617.10 (d).

ii. Imazamox (Clearcast Statement of Findings):

List of Water Bodies Subject to Enhanced Review:

The Imazamox Statement of Findings referred to a list of *Water Bodies Subject To Enhanced Review* that was on the DEC's website. The process that the DEC followed associated with this list is no longer applicable and the list has been removed from the DEC's website.

iii. Triclopyr (Renovate Statement of Findings)

Treat no more than one-third to one-half of the treated area at a time and wait at least 10 to 14 days between treatments:

The Triclopyr Statement of Findings refers to label directions to treat no more than one-third to one-half of the treated area at a time and to wait at least 10 to 14 days between treatments. This is current label language that is still applicable. If the label changed based on pesticide registration procedures, the Department will at that time compare the change to the record supporting these findings and then determine the environmental significance of the change and whether it requires further action under SEQR in accordance with 6 NYCRR 617.10 (d).

List of Water Bodies Subject To Enhanced Review:

The Triclopyr Statement of Findings referred to a list of *Water Bodies Subject To Enhanced Review* that is on the DEC's website. The process that the DEC followed associated with this list is no longer applicable and the list has been removed from the DEC's website.

VI. CONCLUSION

This Amended Findings Statement is intended to supersede the particular findings identified in the chart above, while all other aspects of the findings for the 1981 PEIS and the 1995, 2007, 2009, and 2013 SEISs are still applicable. The statutory and regulatory requirement that all pesticides must be used in accordance with their labels and labeling is fundamental to this Amended Findings Statement. This Statement is intended to provide potential users with a general understanding of the mitigation of potential significant environmental impacts associated with the use of aquatic herbicides in waters of the state associated with the Article 15 Aquatic Pesticide Permit Program. The Article 15 Aquatic Pesticide Permit process provides for additional notifications, restrictions, and site-specific conditions associated with the use of aquatic herbicides. There is also an opportunity for riparian owners and users to comment on the permit application and proposed pesticide treatment. In addition, there is a need to obtain coverage under the State Pollution Discharge Elimination System (SPDES) Pesticide General Permit in order to use pesticides in waters of the state. SEQR has been satisfied for the SPDES Pesticide General Permit through the development of an Environmental Impact Statement for that program.

Based upon the current pesticide product registration review and acceptance process, the aquatic use pesticides that have undergone the above referenced comprehensive pesticide registration process, including those that have been registered since the development of the PEIS or SEISs and have not had a product specific SEIS written are determined to have met the requirements of 6 NYCRR Part 617. These requirements have been met through the registration process, which has satisfied the SEQR requirements by the issuance of the Final Programmatic Environmental Impact Statement on Pesticide Registration and Classification Program on December 12, 1982. These pesticides shall be used in accordance with their label directions, which the registration process has determined to be adequate to protect the environment. Any restrictions in the PEIS or SEISs that go beyond the scope of labeled use requirements shall no longer be applicable unless the same restrictions occur in the Environmental Conservation Law, the associated regulations, or Department policy. However, this is not intended to preclude the need for a site-specific supplement to the PEIS or SEISs if it is determined by DEC staff that it is warranted for a specific water body or permit application. In addition, this Amended Findings Statement will

allow DEC staff to place additional pesticide use restrictions on aquatic pesticide use when determined to be necessary through the Article 15 permitting process.

VII. CERTIFICATION OF AMENDED FINDINGS

Having considered fully the 1981 PEIS and the 1995, 2007, 2009, and 2013 SEISs, and having considered the preceding facts and conclusions relied upon to meet the requirements of 6 NYCRR 617.9, the DEC certifies that:

1. The requirements of Article 8 of the ECL and 6 NYCRR Part 617 have been met;
2. DEC has considered the relevant environmental impacts, facts and conclusions disclosed in the aforesaid prior environmental impact statements;
3. It has weighed and balanced the relevant environmental impacts with social, economic and other considerations;
4. Consistent with the social, economic and other essential considerations from among the reasonable alternatives thereto, the action approved is one which minimizes or avoids adverse environmental effects to the maximum extent practicable, including the effects disclosed in the PEIS and SEISs; and
5. Adverse environmental effects revealed in the PEIS and SEIS process will be minimized or avoided by incorporating as conditions to the permit decisions those mitigative measures which are more fully described in the 1981 PEIS, 1995, 2007, 2009, and 2013 SEISs and were identified as practicable.

This Statement of Findings is approved.

Deputy Commissioner

Dated: June 9, 2014