



**Pesticide General Permit (PGP) Factsheet:  
Mosquito Control Activities  
February 2012**

**Background**

The Clean Water Act (CWA) controls the discharge of pollutants into America's waters through the National Pollutant Discharge Elimination System (NPDES) permitting program. Anyone wanting to discharge pollutants from point sources to waters of the United States must comply with NPDES requirements. NPDES permits establish conditions under which discharges may legally occur, and are generally obtained from the permitting authority within the state where the discharge occurs. The EPA only administers NPDES permits in states that are not authorized to administer NPDES permits (see below). Although the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) authorizes the EPA to register pesticides, in 2009, the U.S. 6<sup>th</sup> Circuit Court of Appeals found in *National Cotton Council, et al. v. EPA* that any point source discharge of biological pesticides, or chemical pesticides that leave a residue, into waters of the U.S. are pollutants under the CWA. As a result of that court decision, certain discharges from the application of pesticides must now comply with NPDES requirements.

**Do I need an NPDES permit for discharges of pesticides if I am already licensed or certified under FIFRA?**

Yes. Operators of pesticide applications that result in point source discharges to waters of the U.S. now need to obtain coverage under an NPDES permit to meet CWA requirements. The NPDES permitting requirements under the CWA do not override or conflict with existing FIFRA requirements for pesticides, but are in addition to those FIFRA requirements for certain pesticide applications that result in discharges to waters of the U.S. As such, an NPDES permit does not negate the requirements under FIFRA to use registered pesticides consistent with product labeling. Provided that an operator meets the conditions of their permit, the permit provides a defense against CWA-related citizen suits.

**What types of mosquito control activities now require NPDES permits?**

Any mosquito control activity that results in a point source discharge of pesticides to waters of the U.S. must meet NPDES requirements (i.e., be covered under an NPDES permit). This includes both larviciding and adulticiding activities. Mosquito control activities that do not result in discharges to waters of the U.S. do not require coverage under an NPDES permit. Additionally, discharges from emergency pest applications are not exempt from permitting under the CWA and as such are also required to be covered under an NPDES permit.

**Where can I find information about NPDES permit requirements for my pest control activities?**

The permitting authority that issues the NPDES permits for your pesticide applications depends on the location of those applications. The EPA is the permitting authority in:

- Alaska
- Idaho
- Massachusetts
- New Hampshire
- New Mexico
- Oklahoma
- Washington, DC
- All U.S. territories except the Virgin Islands
- Most Indian Country lands
- Texas, but only for activities associated with oil, gas, or geothermal resources
- Federal facilities in:
  - Colorado
  - Delaware
  - Vermont
  - Washington

The remaining 44 states and the Virgin Islands are authorized to issue their own NPDES permits and requirements. Any operator discharging pesticide pollutants in areas not covered by the EPA's PGP must comply with applicable state NPDES permitting requirements. State NPDES permits must be as stringent as federal

regulations require; however, a state may issue more stringent permits than federal regulations require, consistent with that state's laws.

In general, operators obtain coverage for their discharges under either a general permit (like the EPA's Pesticide General Permit) or an individual permit. The EPA and the authorized states develop and issue both general permits and individual permits; however, an individual permit generally takes longer to obtain and typically is more administratively burdensome than a general permit. To date, most authorized states have developed general permits that are available for the majority of pesticides discharges to waters of the U.S. within their states.

**The information that follows is only applicable for the geographic areas where the EPA is the permitting authority as described above. Pesticide applicators in other areas should contact their state NPDES agency for information on their permit requirements. A directory of state agency contact information is available at: [www.epa.gov/npdes/pesticides/statecontacts](http://www.epa.gov/npdes/pesticides/statecontacts).**

### **The EPA's Pesticide General Permit (PGP)**

On October 31, 2011, the EPA issued a final NPDES Pesticide General Permit (PGP) that provides a mechanism for certain dischargers (i.e., Operators) to comply with the new CWA requirement for pesticides for the geographic areas where the EPA is the NPDES permitting authority. Operators may seek coverage under the EPA's PGP provided they meet the permit's eligibility requirements (e.g., are within one of the states where EPA's permit applies). A copy of the EPA's PGP and supporting documentation is available at [www.epa.gov/npdes/pesticides](http://www.epa.gov/npdes/pesticides).

### **Am I eligible for the EPA's PGP?**

See Part 1.1 of the PGP for the Eligibility Requirements. The PGP is available for discharges to waters of the U.S. from four pesticide use patterns: Mosquito and Other Flying Insect Pest Control, Weed and Algae Pest Control, Animal Pest Control, and Forest Canopy Pest Control. Discharges to waters of the U.S. with the following characteristics will require further investigation to determine whether coverage is available under the EPA's PGP:

- Discharges to waters listed as impaired for pesticides by the state under section 303(d) of the CWA (see the next question below for conditions where coverage can be obtained);
- Discharges to waters designated by a state or tribe as Tier 3 or "Outstanding National Resource Water" (coverage is available for applications made to restore or maintain water quality or protect public health or the environment, that either do not degrade water quality or only degrade water quality on a short-term or temporary basis); and
- Discharges to waters containing National Marine Fisheries Service (NMFS) Listed Resources of Concern (see additional questions and answers below concerning NMFS considerations).

### **Does the EPA's PGP offer coverage for spraying mosquitocide on waters that have been listed as impaired for pesticide pollution?**

The EPA's PGP covers pesticide applications to impaired waters under the following conditions:

- If a waterbody is listed as impaired for a specific pesticide active ingredient, coverage is available only for pesticides with active ingredients other than the active ingredient causing the impairment for that waterbody.<sup>1</sup>
- If a waterbody is broadly listed as impaired for a family of active ingredients, then coverage is available for pesticides with active ingredients in other families.<sup>1</sup>
- If an Operator cannot find an alternative in accordance with the conditions above and wishes to use a specific pesticide in a waterbody that is listed as impaired for that specific pesticide, then the Operator can apply for an individual permit with the EPA.

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<sup>1</sup> Coverage is available under the PGP as long as the pesticide ingredients do not degrade into an active ingredient for which the waterbody is impaired. For example, there are organophosphate insecticides that are registered by the EPA for mosquito control when used in accordance with the label. When the spray droplets are released into open air, land on surfaces or in water, or are exposed to sunlight, some organophosphate insecticides degrade (break down) quickly and create another chemical. If a waterbody is impaired for that other chemical, use of these types of organophosphate insecticides would not be eligible for coverage under the EPA's general permit in that waterbody because they break down into a chemical for which the waterbody is impaired. In these instances, use of an organophosphate insecticide may be eligible for coverage under an individual permit, or the Applicator may identify other chemical or non-chemical control methods that would otherwise meet the eligibility provisions of the PGP.

**If there is a threat of a disease outbreak or other public health emergency, does the EPA's PGP provide for timely permit coverage?**

Yes, the PGP provides that pesticide applications are covered automatically under the permit and may be performed immediately for any declared pest emergency situations. The EPA does not expect the PGP to delay the ability of Applicators to adequately treat such pests. Some Operators will need to formally notify the EPA of their discharges within 30 days after beginning the emergency application.

**Under the EPA's PGP, are Applicators allowed to rotate the use of pesticides to help avoid pesticide resistance in mosquitoes?**

Pesticide rotation is allowed under the EPA's PGP. There are no requirements in the PGP which would restrict a permittee to using only one class of pesticides. Any rotation between pesticides, whether in the same class or between classes, is left to the best professional judgment of the permittee, so long as other applicable permit requirements are fulfilled. The EPA encourages the use of non-chemical means as well as rotation of pesticide active ingredients, including both chemical and biological pesticides, to prevent the development of insecticide-resistant populations.

**How do I get covered under the EPA's PGP?**

The EPA's PGP delineates responsibilities for Operators, Decision-makers, Applicators, and For-Hire Applicators. Under the EPA's PGP, certain Operators are required to submit a Notice of Intent (NOI) to notify the EPA of their intent to be covered under the PGP at least 10 days prior to discharge (or 30 days prior to discharge to waters of the U.S. with NMFS Listed Resources of Concern). Operators that begin discharging from applications made in response to a Declared Pest Emergency Situation are authorized immediately, and the NOIs for these activities must be submitted within 30 days after beginning to discharge (or within 15 days after beginning to discharge if discharges are to waters of the U.S. with NMFS Listed Resources of Concern).

Under the EPA's PGP, For-Hire Applicators are not required to submit NOIs to gain coverage, but rather, are automatically covered under the permit. Where a Decision-maker hires a contract Applicator to perform pesticide applications, and that Decision-maker's activities meet one of the criteria for submission of an NOI, it is the Decision-maker's responsibility to submit the NOI, although both the Decision-maker and For-Hire Applicator are responsible for complying with the terms of the permit. Operators who meet the eligibility provisions of the permit, but are not required to submit NOIs, are still responsible for following the other PGP requirements applicable to them.

For discharges from the control of mosquitoes, NOIs are required in certain situations as follows:

- Any mosquito control district or similar special purpose district;
- Any federal or state agency for which land resource stewardship is an integral part of the organization's operations;
- Any discharges to Tier 3 waters (i.e., Outstanding National Resource Waters) or waters of the U.S. containing NMFS Listed Resources of Concern; and
- Any other entity (such as a city or county government) that applies pesticides to more than 6,400 acres in a calendar year (excluding any areas solely treated using larvicides) and for which at least some of these applications result in discharges to waters of the U.S.

For more information on NOIs (including how and when to submit them), see Part 1.2 of the PGP and the EPA's brief fact sheet on Notices of Intent, which are both available at: [www.epa.gov/npdes/pesticides](http://www.epa.gov/npdes/pesticides).

**What is required under the EPA's PGP?**

The PGP requires permittees to minimize pesticide discharges through the use of pest management measures and visually monitor for and report any adverse incidents resulting from these discharges to waters of the U.S. Decision-makers that are required to submit NOIs are also required to implement integrated pest management (IPM)-like practices, including developing a plan for doing so, which should further reduce the amount of pesticides discharged to waters of the U.S.

All permittees covered under the permit are required to retain documentation of the pesticides discharged to waters of the U.S., including quantities and locations of those discharges. Decision-makers that are required to submit an NOI that are also large entities must also submit annual reports to the EPA summarizing the pesticide applications covered under the permit. The EPA expects that these reports will provide valuable information to

better target monitoring efforts by the EPA and states to assess the potential effects of these types of pesticide discharges on water quality.

The EPA expects that most Operators that will be covered under the PGP are already implementing procedures similar to those required under the PGP consistent with other regulatory programs, or as part of their standard operating procedures. Where Operators are already required to perform certain activities that are also required under the PGP, the Operator can merely cite to documentation already developed/relied upon to comply with the other requirements, rather than needing to perform duplicative activities.

As required under the Endangered Species Act (ESA), the EPA consulted with NMFS to ensure that the permit was not likely to adversely affect listed species. That consultation resulted in additional requirements for certain Operators who discharge to waters of the U.S. containing NMFS Listed Resources of Concern. The EPA's website ([www.epa.gov/npdes/pesticides/](http://www.epa.gov/npdes/pesticides/)) includes information on these resources, including their geographic locations. The EPA expects that a small percentage (approximately two percent) of pesticide discharges covered under the PGP will be made to these types of waters. Operators with discharges to these waters must determine their eligibility for coverage through additional ESA-related criteria outlined in Part 1.1.2.4 of the permit, submit an NOI and annual reports, and implement IPM-like practices. The EPA expects that, in many instances, Operators will have worked with NMFS field offices prior to seeking coverage, to ensure pesticide applications are performed in a way that adequately protects these listed resources. The EPA is continuing consultation with FWS on this permit and may propose permit modifications at some later date.

Per certification requirements of CWA Section 401, states, territories, and tribes with treatment as state status in areas where the EPA's permit applies have an opportunity to add conditions to the EPA's PGP to ensure discharges covered by the permit are consistent with any state-specific water quality requirements. The following areas provided additional conditions for the PGP: Massachusetts; Oklahoma; Alaska; Idaho; Washington; Washington, DC; American Samoa; Guam; and many tribal areas across the U.S. Part 9 of the PGP includes additional conditions that reflect requirements identified by these states, territories, and tribes to the extent determined to be necessary to protect water quality. These additional conditions only apply to activities in the specific state, territory, or Indian Country land for which the permit applies; however, Operators should be sure to read Part 9 to identify additional requirements that apply to their discharges.

#### **Where Can I Get More Information?**

More information on NPDES requirements for discharges from pesticide applications are available at: [www.epa.gov/npdes/pesticides](http://www.epa.gov/npdes/pesticides).

Contact: [pgp@epa.gov](mailto:pgp@epa.gov).