



Pesticide General Permit (PGP) Factsheet: For-Hire Applicators September 2012

For-Hire Applicators and the Clean Water Act

This fact sheet is intended for people or organizations that are hired or contracted (i.e., they or their employer receives compensation) to apply pesticides, identified here as “For-Hire Applicators”. Although pesticide use has been regulated primarily under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), due to a recent court decision, pesticide applications that discharge pollutants into waters of the U.S. now must also comply with the Clean Water Act (CWA). This fact sheet answers some common questions and provides an overview of these new requirements. More details are available on the EPA’s website:

www.epa.gov/npdes/pesticides.

Q: I am already licensed or certified under FIFRA. Do I also need a CWA permit for my applications?

A: Point source discharges of pesticides into waters of the U.S. (e.g., applications from a hose, nozzle, airplane, etc.) generally need to be covered under a CWA National Pollutant Discharge Elimination System (NPDES) permit, as well as follow existing FIFRA and state requirements. Obtaining coverage under an NPDES permit and meeting the terms of the permit is required under the CWA and provides a defense against lawsuits potentially brought under the CWA.

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

A: State agencies issue NPDES pesticide permits, except in the following areas (where the EPA issues them):

- Alaska (*note: the state will take over permitting 10/31/2012*)
- Idaho
- Massachusetts
- New Hampshire
- New Mexico
- Oklahoma
- Washington, DC
- All territories except Virgin Islands
- Indian Country lands except in Maine
- Oil, gas, or geothermal resource activities in Texas
- Federal facilities in: Colorado, Delaware, Vermont, Washington

Anyone discharging pesticides in areas not listed above must comply with the requirements of that state’s NPDES permitting agency for pesticides. A directory of these state agencies is available at: www.epa.gov/npdes/pesticides/statecontacts.

The rest of this fact sheet only applies to areas where the EPA issues pesticide permits as identified above.

The EPA’s Pesticide General Permit (PGP)

In 2011, the EPA issued a final NPDES Pesticide General Permit (PGP), which is available for areas where the EPA is the permitting authority. The permit and related materials are posted on the EPA’s PGP website:

www.epa.gov/npdes/pesticides.

Q: Who is responsible for obtaining permit coverage?

The NPDES program requires “Operators” of discharges to obtain NPDES permit coverage. The PGP assigns different responsibilities to the different types of Operators to reflect who is best suited to perform the various tasks required in the permit. For the PGP, Operators are defined to include both “Decision-makers” and “Applicators.” “For-Hire” Applicators are a type of Applicator (and thus, also a type of Operator). Therefore, people or organizations that are hired or contracted to apply pesticides are responsible for following any PGP requirements outlined for Operators, Applicators, and For-Hire Applicators. For-Hire Applicators are not responsible for PGP requirements outlined for “Decision-makers.” Anyone uncertain of their role under the PGP should contact their EPA Region office for assistance:

www.epa.gov/npdes/pesticides/regionalcontacts.

For-Hire Applicator – makes contractual pesticide applications for which they or their employer receives compensation (e.g., lawn care or pest control companies).

Q: Am I eligible for the EPA’s PGP?

A: In general, the PGP covers discharges from four pesticide use patterns (see Part 1.1 of the PGP for details):

- ❖ Mosquito and Other Flying Insect Pest Control
- ❖ Weed and Algae Pest Control
- ❖ Animal Pest Control
- ❖ Forest Canopy Pest Control

Note: Additional conditions are listed in Part 1.1.2 for waters listed as impaired for pesticides, Tier 3 waters (Outstanding National Resource Waters), and waters containing National Marine Fisheries Service (NMFS) Listed Resources of Concern. Further information on these types of waters is available on the EPA’s PGP website. Operators that are ineligible for the PGP can also submit an application for an individual permit to their EPA Regional NPDES office.

Q: How do For-Hire Applicators get covered by the PGP?

A: For-Hire Applicators do not need to submit Notices of Intent (NOIs) to get covered under the EPA’s PGP. Some pest control activities do not require NOIs, but when NOIs are required, Decision-makers are responsible for filing them. However, For-Hire Applicators need to comply with all other terms in the permit.

Q: What happens if the Decision-maker (my client) does not comply with the permit?

A: Although responsibilities for For-Hire Applicators and Decision-makers may be separate under the PGP, all Operators are liable, jointly and severally, for any violation that occurs from activities in which they were involved. It is important to work with clients to ensure they comply with the PGP. The EPA may consider written agreements between parties when determining a response to a violation, but retains

discretion to bring enforcement action against all Operators involved in a discharge.

Q: Can For-Hire Applicators assist Decision-makers (their client) with their responsibilities?

A: The PGP does not prohibit anyone from hiring an Applicator to perform their required activities. For example, a Decision-maker may hire an Applicator to maintain records and prepare a Pesticide Discharge Management Plan (PDMP). One exception to sharing responsibilities is that, while For-Hire Applicators can prepare NOIs for their client, the NOI must be signed by an authorized representative of the Decision-maker. See Appendix B of the PGP, item B-11 Signatory Requirements.

Q: What are For-Hire Applicators required to do?

A: Generally, the PGP requires For-Hire Applicators to minimize discharges, protect water quality, visually monitor for adverse effects, report incidents, and document details of pest control activities. A brief overview of the permit requirements follows, but it is strongly recommended that all Operators read the PGP to understand the requirements in their entirety.

➤ Part 2.1: Technology-Based Effluent Limitations - Minimize discharges (Note: Part 2.2 is not applicable)

The EPA expects that many For-Hire Applicators are already fulfilling Part 2.1 requirements through their compliance with FIFRA. For-hire applicators must use Pest Management Measures (practices, actions, or devices) to minimize discharges and:

- use only the amount and frequency of pesticide application necessary to control the target pest;
- maintain, calibrate, clean, and repair equipment; prevent leaks, spills, or other unintended discharges; and
- assess weather conditions to ensure the application is consistent with applicable federal requirements.

➤ Part 3: Water Quality-Based Effluent Limits

All Operators must control discharges as necessary to meet applicable numeric and narrative state or tribal water quality standards. The EPA expects that compliance with PGP conditions will generally ensure that water quality will be adequately protected. See the PGP website for a link to state, territory, and tribal water quality standards.

➤ Part 4: Visual Monitoring

Applicators must visually assess the treatment area during pesticide applications for possible and observable adverse incidents (defined in Appendix A of the PGP) caused by applications. Similarly, Applicators must visually monitor the treatment area if they return for any post-application surveillance.

➤ Part 6: Corrective Action

Operators are expected to use their best professional judgment in determining which non-target effects appear to be abnormal or indicative of an unforeseen problem from an application.

Adverse incident notification is not required if a) the incident was unrelated to the application; b) reporting was waived by the EPA; c) information regarding the incident is erroneous; or d) the incident occurs to pests similar to target pests identified on the FIFRA label. If multiple Operators are involved in an adverse incident, one Operator can notify/report on behalf of all

Operators, and must provide report copies to other Operators within 30 days. Part 6 of the PGP outlines how Operators should handle problems that may occur with the following:

Pest Management Measures: Make changes before next discharge if possible; document within 30 days.

Reportable Adverse Incidents: Notify the EPA within 24 hours (or immediately if they affect NMFS Listed Resources of Concern); submit written report within 30 days.

Reportable Spills and Leaks: Notify the National Response Center immediately; document within 30 days.

➤ Part 7: Recordkeeping

For-Hire Applicators must prepare records listed in Parts 7.1, 7.2, and 7.5 within 14 days after completing the activity, and retain them for at least 3 years after coverage expires or is terminated. Similar records prepared for other purposes may be used instead of duplicating records. In many cases, For-Hire Applicator records may be kept and compiled in a central location by the Decision-maker who may oversee the spray project or supervise the spray crew. In other cases when the For-Hire Applicator operates independently, they would need to retain and compile the records themselves.

Recordkeeping for For-Hire Applicators

- Corrective action documentation and copies of reports.
- Documentation of equipment calibration.
- For each treatment area with discharges:
 - Description of each treatment area;
 - Pesticide use patterns(s) and target pest(s);
 - Pesticide products used, EPA registration numbers;
 - Quantity of products applied to each area;
 - Pesticide application date(s); and
 - Information on visual monitoring.

Note: For-Hire Applicators are not required to submit annual reports, but may need to provide information to clients who are required to do so.

➤ Part 9: Additional conditions applicable to specific states, territories, Indian Country lands

States, territories, and tribes can add conditions to EPA-issued permits to ensure discharges meet their water quality requirements (CWA § 401). Massachusetts; Oklahoma; Alaska; Idaho; Washington; Washington, DC; American Samoa; Guam; and many tribal areas added conditions to the PGP for their areas: See Part 9 of the PGP for additional information.

➤ Appendix B: Standard Permit Conditions

All dischargers covered under NPDES permits are required to know and comply with additional standard permit conditions, which are included in Appendix B of the PGP.

More Information:

Please visit the EPA's PGP website at www.epa.gov/npdes/pesticides or contact pgp@epa.gov.