



Pesticide General Permit (PGP) Factsheet: Notices of Intent February 2012

Background

The Clean Water Act (CWA) controls the discharge of pollutants in America's waters through the National Pollutant Discharge Elimination System (NPDES) permit program. As a result of a 2009 decision by the U.S. 6th Circuit Court of Appeals, any point source discharge of biological pesticides, or chemical pesticides that leave a residue, into waters of the United States (WOUS) must comply with the NPDES requirements. On October 31, 2011, the U.S. Environmental Protection Agency (EPA) issued a final NPDES Pesticide General Permit (PGP) that provides a mechanism for certain dischargers (*i.e.* Operators) to comply with this new requirement.

The PGP is available to Operators in areas where EPA is the NPDES permitting authority, which include six states (Alaska, Idaho, Massachusetts, New Hampshire, New Mexico, and Oklahoma), Washington, D.C., all U.S. territories except the Virgin Islands, most Indian Country lands, and federal facilities in four additional states (Colorado, Delaware, Vermont, and Washington). The remaining 44 states and the Virgin Islands are authorized to develop and issue their own NPDES permits and requirements; any Operator discharging pesticide pollutants in areas not covered by EPA's PGP must obtain permit coverage from their state or territory. **The remainder of this fact sheet only addresses those areas where EPA is the permitting authority. A directory of state NPDES agencies is available at: www.epa.gov/npdes/pesticides/statecontacts.**

What is an NOI? What Does Submittal of an NOI Mean?

To obtain coverage under EPA's PGP, certain Operators must submit a Notice of Intent (NOI). The NOI contains information about regulated activities that result in point source discharges to WOUS, and serves as notice to the permitting authority of that Operator's intent for its eligible discharges to be covered under the PGP. By signing and submitting the NOI, the Operator is certifying that the discharge meets all eligibility conditions specified in the general permit, a Pesticide Discharge Management Plan has been developed (if applicable), and the Operator intends to comply with the permit requirements. An incomplete or inaccurate NOI can delay permit coverage. The vast majority of Operators to be covered under EPA's PGP will be covered automatically without needing to submit an NOI or other type of permit application/documentation. For example, for-hire applicators generally are covered automatically under the PGP without needing to submit an NOI.

Who Must Submit an NOI

Under EPA's PGP, only certain Operators (namely, certain Decision-makers) must submit NOIs. Part 1.2 of the PGP identifies the Decision-makers that are required to submit NOIs, which include:

EPA PGP definition of Decision-maker –
any entity with control over the decision to perform pesticide applications, including the ability to modify those decisions that result in a discharge to WOUS.

- Any agency (federal or state) for which pest management for land resource stewardship is an integral part of the organization's operations, regardless of size of areas treated;
- Any irrigation control district, pest control district, or similar with a specific responsibility to control pests, regardless of size of areas treated;
- Any Decision-maker discharging to a Tier 3 water (Outstanding National Resource Water), regardless of size of areas treated;
- Any Decision-maker discharging to WOUS containing National Marine Fisheries Service (NMFS) Listed Resources of Concern (defined in Appendix A of PGP), regardless of size of areas treated; and
- Any local government or other entity that applies pesticides in excess of any of the following Annual Treatment Area Thresholds (as defined in Appendix A of the permit):
 - Mosquitoes and Other Flying Insect Pest Control (adulticide only): treat > 6,400 acres/year.ⁱ
 - Forest Canopy Pest Control: treat > 6,400 acres/year.ⁱ
 - Weed and Algae Pest Control: treat > 20 linear miles or 80 acres of water/year.ⁱⁱ
 - Animal Pest Control: treat > 20 linear miles or 80 acres of water/year.ⁱⁱ

How to Submit an NOI

NOIs must be submitted using the online electronic NOI system (eNOI) at: www.epa.gov/npdes/pesticides/enoi, unless a Decision-maker justifies a waiver from the requirement to use eNOI. Any Decision-maker waived from using eNOI can mail the paper NOI to one of the addresses listed on the form. EPA will post on its eNOI website all NOIs received, including both electronic and paper submissions. The NOI includes (A) Operator Information; (B) Pesticide Application Activities; (C) Pest Management Areas; and (D) information related to Endangered Species Protection (see Appendix D of the PGP for the form). The NOI must be signed and certified by an authorized representative. There is no fee for submitting an NOI to EPA.

A Decision-maker with multiple pest management areas within a state (whether those areas are adjacent to each other or scattered) may submit a single NOI with information about all of the discharges; however, a single NOI will only cover discharges within a single state. Decision-makers with discharges in multiple states must submit NOIs specific to each state. If a Decision-maker's discharges will occur both in an EPA-permitted state and in an NPDES-authorized state, the Decision-maker will need to file an NOI with EPA for the state which is covered by EPA, as well as meet the separate requirements of the state NPDES permitting authority for the discharges in that other state.

When to Submit an NOI

Decision-makers who are required to submit NOIs for their discharges must submit their NOIs consistent with the deadlines identified in Table 1 below (and as detailed in Table 1-2 of the PGP). Table 1 summarizes when NOIs are due and when corresponding discharges will be authorized. If a Decision-maker's discharges fall into multiple categories below, they must submit their NOI by the earliest deadline indicated. NOIs only need to be submitted once during the life of the permit (the current PGP expires on October 31, 2016), unless there is an update regarding the discharges, per criteria in Part 1.2.3 of the permit.

Table 1. NOI Submission Deadlines and Discharge Authorization Dates

| | Discharge to WOUS that do not contain NMFS Listed Resources of Concern | Discharge to WOUS containing NMFS Listed Resources of Concern |
|---|--|---|
| Discharge that is not in response to a Declared Pest Emergency Situation | Decision-makers required to submit NOIs (regardless of size of treatment area) must submit NOIs at least 10 days prior to discharge . They are authorized to discharge no earlier than 10 days after EPA posts on the Internet receipt of a complete and accurate NOI. Any other Decision-maker that exceeds an annual treatment area threshold must submit an NOI at least 10 days before exceeding that threshold . Discharges are authorized no earlier than 10 days after EPA posts on the Internet receipt of a complete and accurate NOI. | Any Decision-maker must submit an NOI at least 30 days prior to discharge . Discharges are authorized no earlier than 30 days after EPA posts on the Internet a receipt of a complete and accurate NOI. <i>Exception:</i> Discharges may be authorized sooner (no earlier than 10 days after EPA posts receipt of NOI) in cases where an agreement has been previously established with NMFS for the discharge. |
| Discharge in response to a Declared Pest Emergency Situation | Decision-makers must submit NOIs within 30 days after beginning to discharge . Discharges from these activities are authorized immediately. | Decision-makers must submit NOIs within 15 days after beginning to discharge . Discharges are authorized immediately for a period of at least 60 days. |

For More Information

More information on NPDES requirements for discharges from pesticide applications is available at: www.epa.gov/npdes/pesticides. Or send your questions to: pgp@epa.gov.

ⁱ For calculating annual treatment areas for **Mosquitoes and Other Flying Insect Pest Control** and **Forest Canopy Pest Control**, count each treatment separately. For example, applying pesticides 3 times a year to the same 3,000 acre site should be counted as 9,000 acres of treatment area. **The treatment area is additive over the calendar year.**

ⁱⁱ For calculating annual treatment areas for **Weed and Algae Pest Control** and **Animal Pest Control**, calculations should include either the linear extent or surface area of waters for applications made to WOUS or at water's edge adjacent to WOUS. Count each treatment area once, regardless of the number of treatments on that area in a given year. For linear features (e.g., a canal or ditch), use the length of the linear feature (whether treating in or adjacent to the feature), regardless of the number of applications made to that feature during the year. For example, whether treating the bank on one side of a 10-mile long ditch, banks on both sides of the ditch, and/or water in that ditch, the total treatment area is 10 miles, even if the areas are treated more than once in a year. **The treatment area is not additive over the calendar year.**