

# Clean Water Act Permitting of Discharges from Pesticide Applications

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Tribal Webcast  
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# Pesticide Permitting Overview Topics

- Background
- Clean Water Act Pesticide Permitting
- Pesticide Permitting Responsibilities
- EPA's Final PGP
- Where to Go for Help



## Background

- 2006 EPA Rule clarified EPA's longstanding interpretation that discharges from pesticide applications did not require National Pollutant Discharge Elimination System (NPDES) permit coverage.
- EPA was sued on that rule and lost.
- As a result of a 2009 decision by the 6<sup>th</sup> Circuit Court of Appeals in *National Cotton Council et al. v. EPA*:
  - Point source discharges of "biological pesticides" and "chemical pesticides" that leave a residue are pollutants under the Clean Water Act (CWA).
  - These discharges need to be covered under an NPDES permit as of October 31, 2011.
- 2009-2011: EPA worked with federal agencies, states, tribes, industry, and stakeholders; completed public comment period; public noticed a draft permit.
- October 31, 2011: EPA issued its Pesticide General Permit (PGP) that provides a mechanism for certain dischargers to comply with this new requirement.



# NPDES Statutory Framework

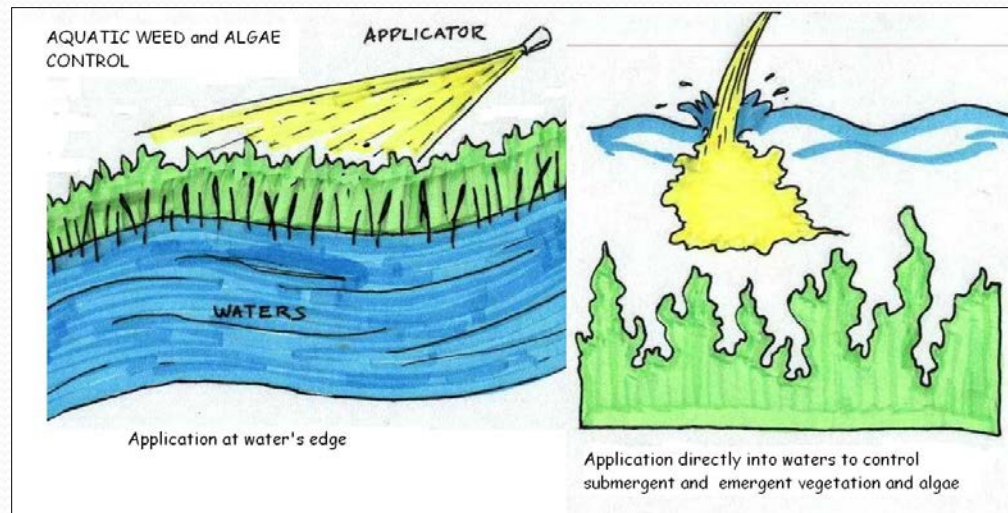
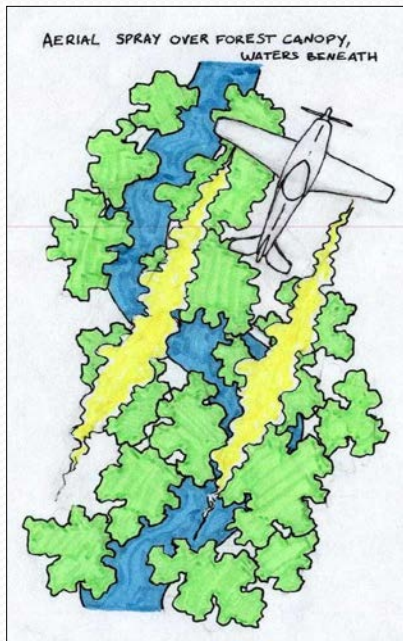
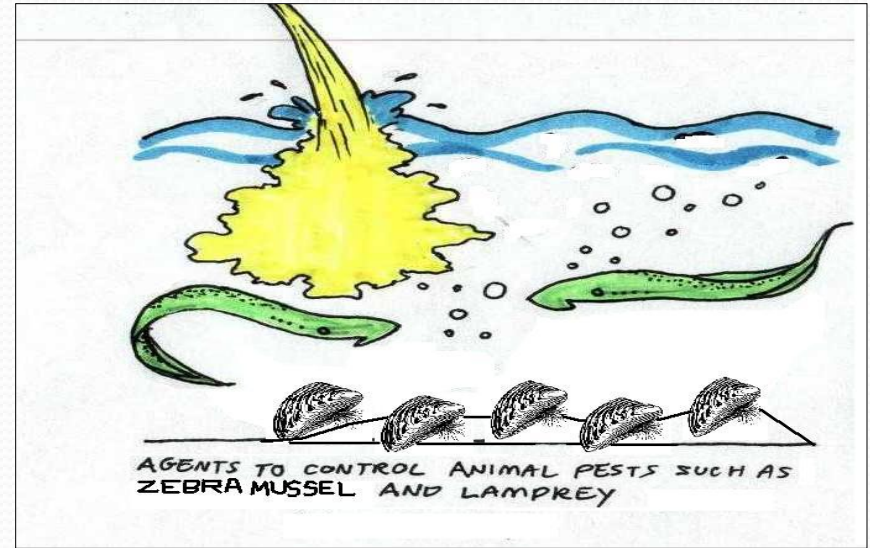
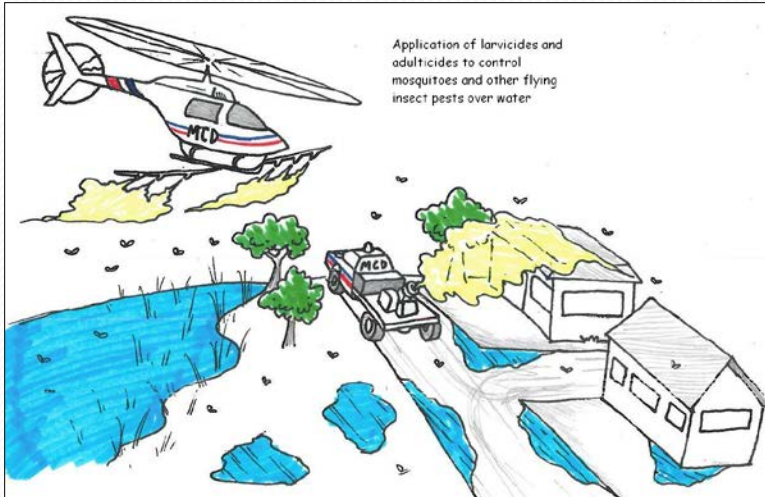
Any point source discharge of a pollutant to waters of the U.S.



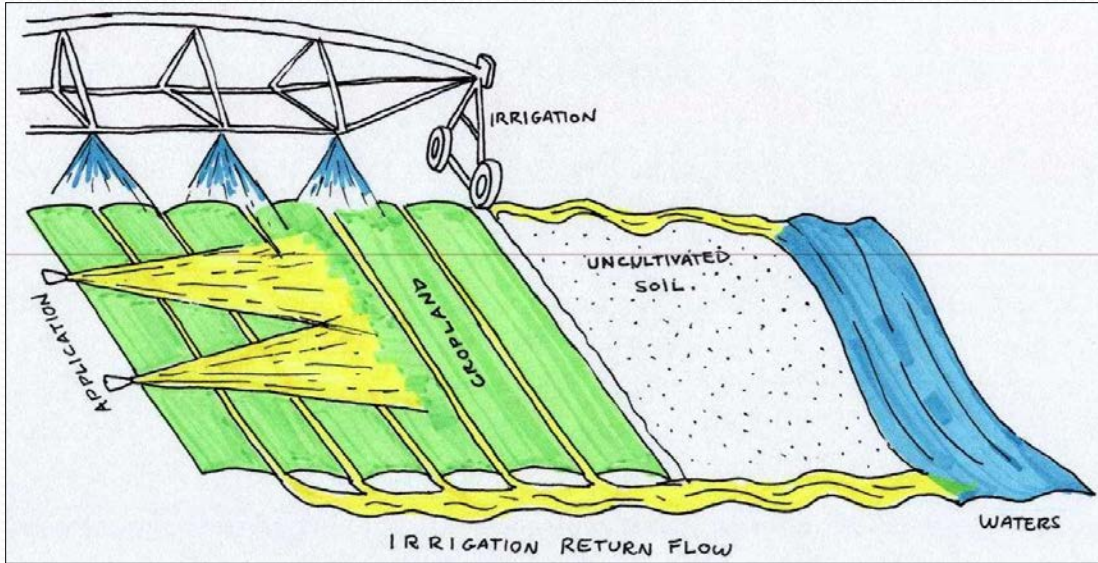
**Must obtain NPDES permit coverage**

**(provides legal authority for discharges of pollutants to waters of the U.S.)**

# Pesticide Use Patterns



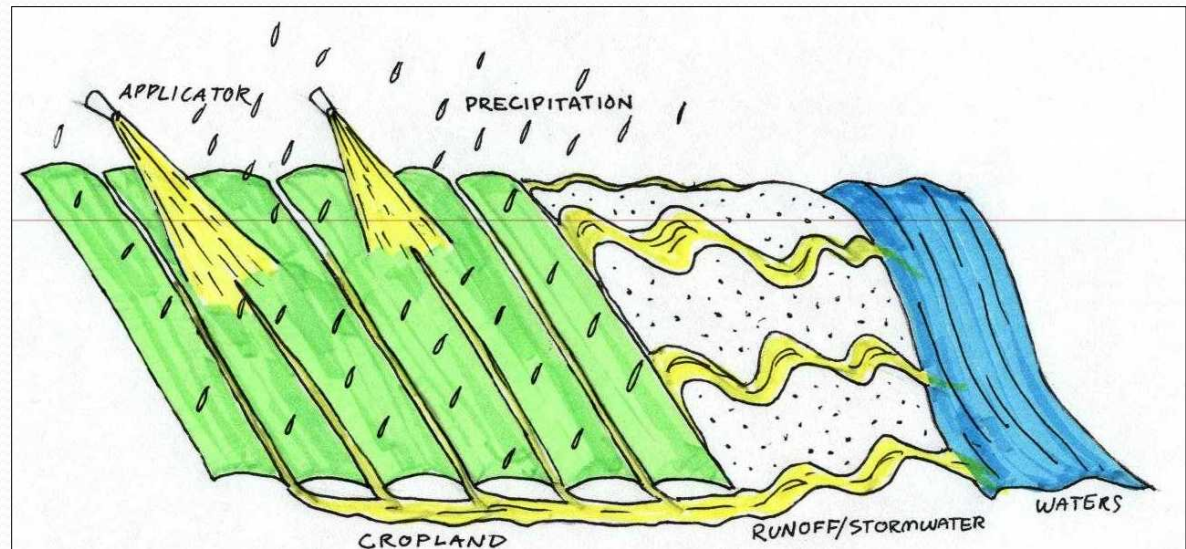
# Clean Water Act Exemptions from NPDES Permitting



Irrigation Return Flow:  
Generally Exempt by  
Statute

CWA §502(14)

Agricultural Stormwater:  
Generally Exempt by  
Statute



CWA §502(14)



# Clean Water Act Pesticide Permitting Waters of the United States

## **An NPDES permit is required for point source discharges to:**

- a) Waters susceptible to use in interstate or foreign commerce
  - includes all waters subject to ebb and flow of the tide
- b) Interstate waters and interstate “wetlands”
- c) All other waters where the use, degradation, or destruction of could affect interstate or foreign commerce:
  - intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, “wetlands,” sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds
  - All impoundments of or tributaries of waters otherwise defined as waters of the U.S.
    - a) The territorial sea
    - b) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) that are identified in this definition.



## Clean Water Act Pesticide Permitting

# Waters of the United States

- Definition of “waters of the U.S.” used in the PGP is consistent with the NPDES regulations (and the same as for all other NPDES permits for all other types of permitted discharges).
- Generally include discharges of pesticides within the ordinary high water mark of waters of the U.S., **whether those areas are wet or dry** at the time of pesticide application.
- Guidance to identify waters of the U.S. available on EPA’s PGP website (under “Additional Resources for Permittees”).





# Clean Water Act Pesticide Permitting Waters of the United States Guidance

**Source:** Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States* & *Carabell v. United States* (2008)

## Summary of Key Points

The agencies will assert jurisdiction over the following waters:

- Traditional navigable waters
- Wetlands adjacent to traditional navigable waters
- Non-navigable tributaries of traditional navigable waters that are relatively permanent where the tributaries typically flow year-round or have continuous flow at least seasonally (e.g., typically three months)
- Wetlands that directly abut such tributaries

The agencies will decide jurisdiction over the following waters based on a fact-specific analysis to determine whether they have a significant nexus with a traditional navigable water:

- Non-navigable tributaries that are not relatively permanent
- Wetlands adjacent to non-navigable tributaries that are not relatively permanent
- Wetlands adjacent to but that do not directly abut a relatively permanent non-navigable tributary

The agencies generally will not assert jurisdiction over the following features:

- Swales or erosional features (e.g., gullies, small washes characterized by low volume, infrequent, or short duration flow)
- Ditches (including roadside ditches) excavated wholly in and draining only uplands and that do not carry a relatively permanent flow of water

The agencies will apply the significant nexus standard as follows:

- A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by all wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical and biological integrity of downstream traditional navigable waters
- Significant nexus includes consideration of hydrologic and ecologic factors



## Clean Water Act Pesticide Permitting

# Types of NPDES Permits

- EPA and States use both Individual Permits and General Permits to control point source discharges of pollutants to water of the U.S.
  - Individual Permits
    - 1 application submitted by a permittee → public comment for each application → 1 permit issued to that 1 permittee
    - Application includes detailed information describing the specific discharges to be covered under the permit, including the nature and concentration of discharges. Permit coverage can take 6 months.
  - General Permits
    - 1 permit issued by Agency for many permittees → 1 public comment period → Many NOIs submitted by many permittees
    - NOIs typically include basic information on discharger, the type of discharges, and receiving water. Permit coverage may be immediate.



## Clean Water Act Pesticide Permitting

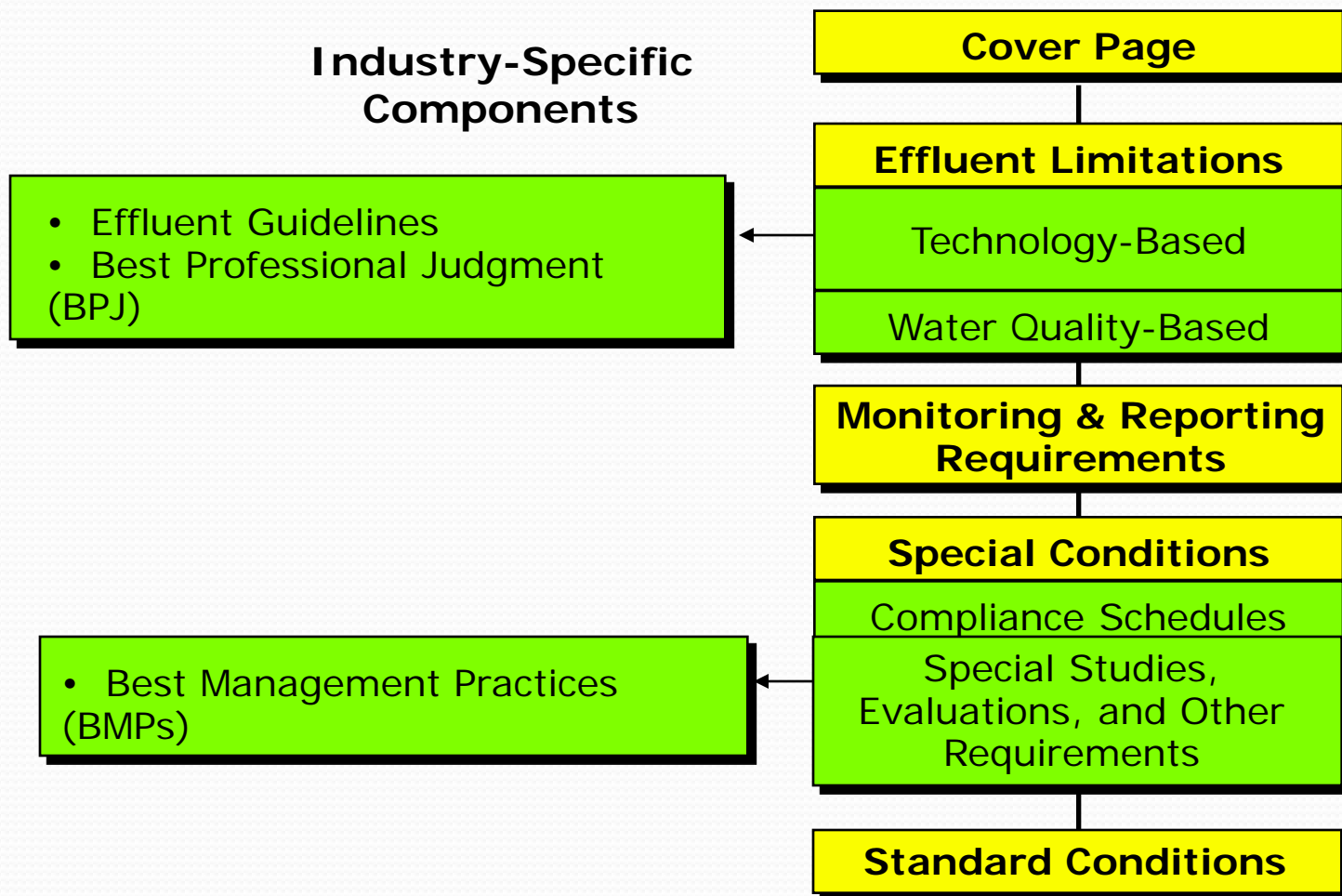
# Application for an Individual Permit

- Applicants must use approved EPA (Form 1 and Form 2C) or state application form(s)
- EPA Form 1 ([http://www.epa.gov/npdes/pubs/form\\_1.pdf](http://www.epa.gov/npdes/pubs/form_1.pdf))
  - Name, mailing address, contact, and location
  - Standard industrial classification (SIC) code and a brief description of the nature of the activity
  - Topographic map showing the location of the activities and discharges
  - Certification and signature
- EPA Form 2C (<http://www.epa.gov/npdes/pubs/3510-2C.pdf>)
  - Basic Requirements
  - Effluent Data Requirements



# Clean Water Act Pesticide Permitting

## NPDES Permit Components

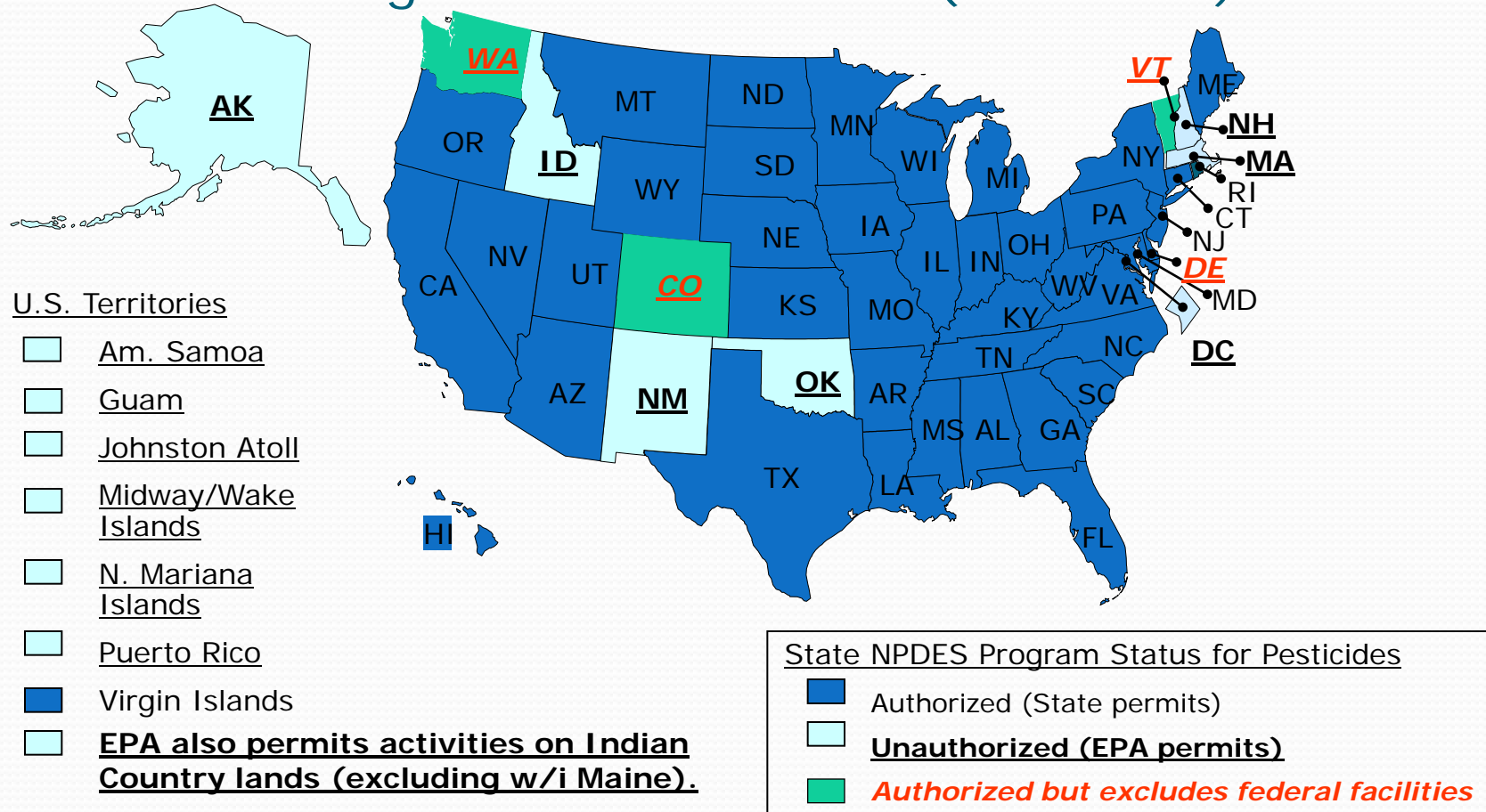


\* Clean Water Act specifies an NPDES permit may not be issued for more than five years.



## Pesticide Permitting Responsibilities

### NPDES Program Authorizations (Pesticides)



**Notes:**

- Oil, gas, and geothermal activities in Texas are permitted by EPA.



## Pesticide Permitting Responsibilities Indian Country Lands

“Indian country” means:

1. All land within limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
2. All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and
3. All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.



## Pesticide Permitting Responsibilities Indian Country Lands

- For pesticide activities occurring on Indian Country Land:
  - Permit coverage is required under either EPA's Pesticide General Permit (PGP) or under an EPA NPDES individual permit.
    - Discharges in Maine must obtain coverage under a State of Maine NPDES permit.
- For pesticide activities occurring on both Indian Country Land and State Land:
  - If the EPA is the permitting authority for the state lands, all permit coverage is under an EPA permit (for both the Indian Country and state lands).
  - If the EPA is NOT the permitting authority for the state lands, permit coverage is required from the state for treatment on state lands, and from EPA for treatment on Indian Country lands.
  - If the Indian Country Land is in Maine, permit coverage is required from the state of Maine.



## Pesticide Permitting Responsibilities

# CWA §401 Certification

- The Clean Water Act provides that certain States, Tribes, and Territories are to certify that the EPA-issued permit is adequately protective of water quality.
  - That authority is provided in Section 401 of the Clean Water Act.
  - Only Tribes with “treatment as a state” or “TAS” status can certify. (Section 518 of the Clean Water Act and 40 CFR 131.8 of the EPA regulations details TAS criteria.)
  - Through the 401 certification process, permits can be certified, denied, or further conditioned to protect water quality.
  - Part 9.0 of the PGP includes additional conditions resulting from that “401 certification” process.
- More info at: <http://www.epa.gov/tp/laws/tas.htm>





# Questions



# Part 2:

# EPA's Pesticide General Permit



EPA's Final PGP

## PGP Timeline

- January 7, 2009 – Court decision
- June 2, 2010 – EPA Proposed PGP
- April 1, 2011 – EPA Posted Draft Final PGP
- October 31, 2011 – EPA issued Final PGP  
(effective for 5 years)



## EPA's Final PGP

# Contents

- Eligibility (Part 1)
  - Scope
  - Notice of Intent (NOI)
  - Other Requirements
- Effluent Limits
  - Technology-Based (Part 2)
  - Water Quality-Based (Part 3)
- Monitoring (Part 4)
- Pesticide Discharge Management Plan (Part 5)
- Corrective Action (Part 6)
- Recordkeeping and Reporting (Part 7)
- CWA Section 401 Certifications (Part 9)
- Definitions, Abbreviations, Acronyms (App. A)
- Standard Permit Conditions (App. B)
- Forms (App. D-H)

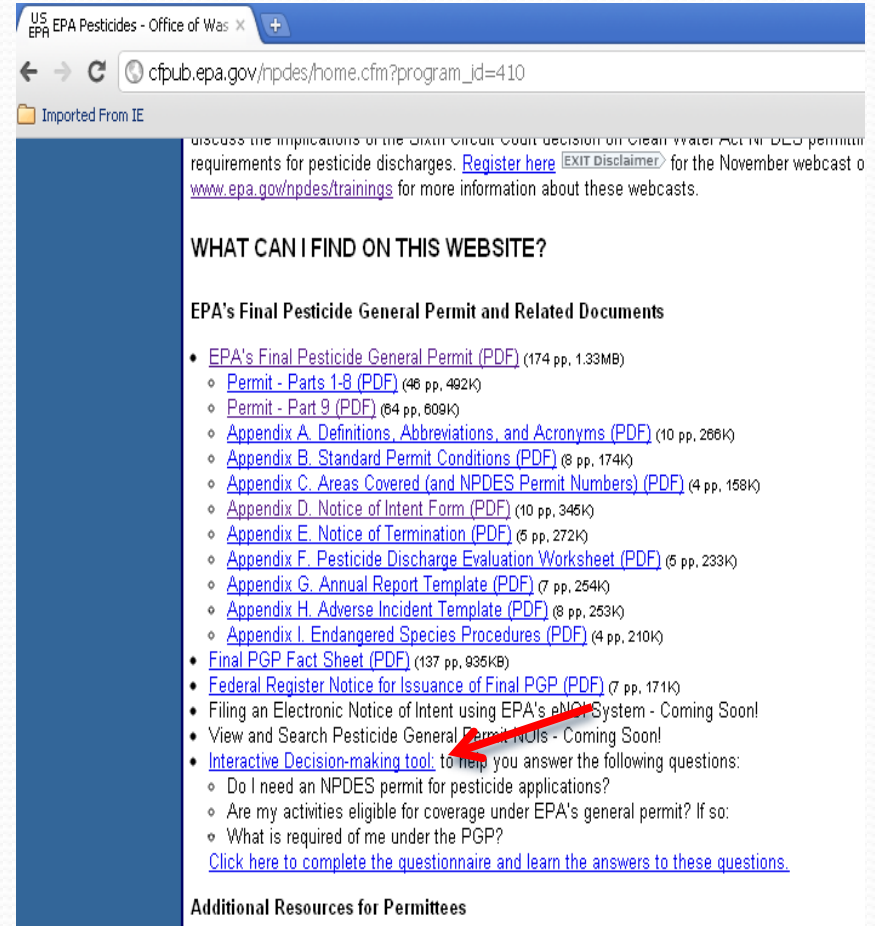


## Where to Go for Help

# Pesticides Permit Decision Tool

EPA has developed an interactive tool to help potential permittees through questions that help them:

- For those who determine they need a permit, determine if they are eligible for coverage under EPA's PGP; and
- If they are eligible for coverage under EPA's PGP, understand what their requirements will be under the PGP.



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discuss the implications of the Sixth Circuit Court decision on Clean Water Act NPDES permit requirements for pesticide discharges. [Register here](#) [EXIT Disclaimer](#) for the November webcast or [www.epa.gov/npdes/trainings](http://www.epa.gov/npdes/trainings) for more information about these webcasts.

### WHAT CAN I FIND ON THIS WEBSITE?

#### EPA's Final Pesticide General Permit and Related Documents

- [EPA's Final Pesticide General Permit \(PDF\)](#) (174 pp, 1.33MB)
  - [Permit - Parts 1-8 \(PDF\)](#) (46 pp, 492K)
  - [Permit - Part 9 \(PDF\)](#) (64 pp, 609K)
  - [Appendix A. Definitions, Abbreviations, and Acronyms \(PDF\)](#) (10 pp, 266K)
  - [Appendix B. Standard Permit Conditions \(PDF\)](#) (8 pp, 174K)
  - [Appendix C. Areas Covered \(and NPDES Permit Numbers\) \(PDF\)](#) (4 pp, 158K)
  - [Appendix D. Notice of Intent Form \(PDF\)](#) (10 pp, 346K)
  - [Appendix E. Notice of Termination \(PDF\)](#) (5 pp, 272K)
  - [Appendix F. Pesticide Discharge Evaluation Worksheet \(PDF\)](#) (5 pp, 233K)
  - [Appendix G. Annual Report Template \(PDF\)](#) (7 pp, 254K)
  - [Appendix H. Adverse Incident Template \(PDF\)](#) (8 pp, 253K)
  - [Appendix I. Endangered Species Procedures \(PDF\)](#) (4 pp, 210K)
- [Final PGP Fact Sheet \(PDF\)](#) (137 pp, 935KB)
- [Federal Register Notice for Issuance of Final PGP \(PDF\)](#) (7 pp, 171K)
- Filing an Electronic Notice of Intent using EPA's eNOC System - Coming Soon!
- View and Search Pesticide General Permit NUIS - Coming Soon!
- [Interactive Decision-making tool](#), to help you answer the following questions:
  - Do I need an NPDES permit for pesticide applications?
  - Are my activities eligible for coverage under EPA's general permit? If so:
  - What is required of me under the PGP?
- [Click here to complete the questionnaire and learn the answers to these questions.](#)

#### Additional Resources for Permittees



## Where to Go for Help

# Pesticides Permit Decision Tool

### Do I need an NPDES permit for my pesticide applications?

Will you be applying or hiring someone to apply [pesticides](#) that will result in a discharge to [waters of the U.S. \(as defined in Appendix A of the permit\)](#) on or after October 31, 2011?

Yes  No



Is the pesticide that you will apply a [biological pesticide](#), or a [chemical pesticide](#) that will leave a residue?

Yes  No



Will your discharges to [waters of the U.S.](#) be solely a result of agricultural stormwater runoff or irrigation return flow?

Yes  No



You need an NPDES permit.

[Back](#) [Start Over](#) [Continue](#)



## Where to Go for Help

# Pesticides Permit Decision Tool

**I need an NPDES permit for my pesticide application. Am I eligible for coverage under EPA's NPDES Pesticide General Permit (PGP)?**

Will you be applying [pesticides](#) in any of these locations:

1. Alaska, Idaho, Massachusetts, New Hampshire, New Mexico, Oklahoma, or Washington D.C.;
2. any U.S. territory except Virgin Islands;
3. an Indian Country land listed on [http://www.epa.gov/npdes/pubs/pgp\\_geographic\\_coverage.pdf](http://www.epa.gov/npdes/pubs/pgp_geographic_coverage.pdf); or
4. a federal facility in Colorado, Delaware, Vermont, or Washington?

Yes  No



Will your pesticide application be for one of the following pesticide use patterns? (See [Part 1.1.1](#) of the permit for further detail.)

- a. Mosquito and Other Flying Insect Pest Control
- b. Weed and Algae Control
- c. Animal Pest Control
- d. Forest Canopy Pest Control

Yes  No



Will your discharge from the application of pesticides be:

1. to waters identified as impaired by a substance which either is an active ingredient in that pesticide or is a degradate of such an active ingredient ([Part 1.1.2.1](#));
2. to a Tier 3 water, except to restore or maintain water quality or to protect public health that either does not degrade water quality or only degrades water quality on a short-term or temporary basis ([Part 1.1.2.2](#)); or
3. a discharge that is previously or currently covered by another NPDES permit ([Part 1.1.2.3](#))?

Yes  No



You may be eligible for coverage under EPA's NPDES Pesticide General Permit (PGP).

(See [Part 1.1](#) of the permit for further eligibility details).

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## Where to Go for Help

# Pesticides Permit Decision Tool

I need an NPDES permit for my pesticide application and I am eligible for coverage under EPA's NPDES Pesticide General Permit (PGP). What is required of me under the PGP?

Which Are You?

- A decision-maker  A for-hire applicator



Are you a federal or state agency with the responsibility:

1. to control mosquitoes for public health, nuisance control or animal welfare;
  2. to control weeds and algae;
  3. to control animals for public health, nuisance control or resource management;
- or
4. to control forest canopy pests?

Yes  No



Are you a

1. mosquito control district or similar pest control district; or
2. irrigation and weed control district or similar pest control district?

Yes  No



Are you a [small entity](#) as defined in Appendix A of the permit?

Yes  No



Your requirements are:

- [Submit a Notice of Intent \(NOI\), Part 1.2.2](#)
- [Technology-Based Effluent Limitations, Part 2.2: Decision-makers' Responsibilities for all Decision-makers](#)
- [Technology-Based Effluent Limitations, Part 2.2: Decision-makers' Responsibilities for Decision-makers Required to Submit NOIs](#)
- [Water Quality, Part 3](#)
- [Monitoring, Part 4](#)
- [Corrective Action, Part 6](#)
- [Recordkeeping, Parts 7.1, 7.3, and 7.5](#)
- [Permit Conditions Applicable to Specific States \(including Territories\) and Indian Country Lands, Part 9](#)
- [Standard Permit Conditions, Appendix B](#)

If you are self-applying a pesticide, your requirements also include:

- [Technology-Based Effluent Limitations, Part 2.1: Applicators' Responsibilities](#)

[Back](#) [Start Over](#)





EPA's Final PGP: Part 1 of 9

# Eligibility - Scope

- PGP covers pesticides authorized under FIFRA, generally includes pesticide applications covered by the 2006 Rule.
- PGP covers four use patterns (with discharges to waters of the U.S.):
  - Mosquitoes and Other Flying Insect Pests
  - Weed and Algae
  - Animal Pests
  - Forest Canopy Pest



# Eligibility - Scope

## What the PGP does not Cover

- Agricultural runoff and irrigation return flows continue to be exempt from permitting under the CWA.
- The PGP also does not cover, nor is permit coverage required for, pesticide applications that do not result in a point source discharge to waters of the U.S., such as terrestrial applications for controlling pests on agricultural crops, forest floors, or range lands.
- Outside the Scope of the PGP:
  - Off target spray drift
  - Discharges to waters impaired for the pesticide being discharged.



EPA's Final PGP: Part 1 of 9

## General Requirements (Part 1.5)

- Operators must comply with all other applicable federal and state laws and regulations that pertain to the application of pesticides.
- For example: 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.



# General Requirements

As an example the product "Navigate (2,4-D)" includes the following conditions in its label.

For submerged weed applications, the drinking water setback distances from functioning potable water intakes are provided in Table 2.

<b>Table 2. Drinking Water Setback Distance for Submersed Weed Applications</b>			
Application Rate and Minimum Setback Distance (feet) From Functioning Potable Water Intake			
1 ppm*	2 ppm*	3 ppm*	4 ppm*
600	1200	1800	2400
*ppm acid equivalent target water concentration			



# Poll Question #1

- Do you expect to need coverage under EPA's PGP?
  - Yes/likely
  - Unclear if eligible
  - No



# Operators of Discharges

- **“Operator”** - PGP defines as any entity associated with an application of a pesticide which results in a discharge to waters of the U.S.
- Types of Operators who can gain coverage under the PGP:
  - **Decision-makers** – have control over the decision to perform pesticide applications
    - **Large Decision-makers** – Public: serves >10,000;  
Private: exceeds Small Business Administration standard
  - **Applicators** – have day-to-day control or perform activities that are necessary to ensure compliance with the permit
    - **For-hire applicators** – subset of Applicators who make contractual pesticide applications for which they or their employer receives compensation (e.g., lawn care firms, pest control companies)



# Eligibility – Notice of Intent (NOI)

- Federal regulations: **In certain instances, discharges can be covered under a general permit without submission of NOI.**
- **No fee associated with EPA's PGP.**
- **Notice of Intent (NOI)** - document submitted by an Operator to notify a permitting authority of their intent for their eligible discharges to be covered under a General Permit.
- NOIs are not “applications” per se, but are similar to permit applications in that they notify the permitting authority of a discharge requiring permit coverage.
- NPDES regulations require NOIs to include basic information on the discharger, type of discharges, and receiving water.
- NOIs cover discharges for the life of the permit (but may be modified or terminated).



# Eligibility – Notice of Intent (NOI)

- **Who Has to File an NOI under EPA's PGP?**

- Only certain **Decision-makers** who perform more significant pesticide applications:

1. Any Agency for which pest management for land resource stewardship is an integral part of the organization's operations--regardless of size of areas treated
2. Other types of entities with a specific responsibility to control pests (e.g., mosquito and weed control districts, irrigation districts)--regardless of size of areas treated
3. Dischargers to Tier 3 waterbodies (i.e., Outstanding National Resource Waters)--regardless of size of areas treated
4. Dischargers to Waters of the U.S. containing National Marine Fisheries Service (NMFS) Listed Resources of Concern--regardless of size of areas treated
5. Other entities (e.g., tribal & local governments) that apply pesticides in excess of annual treatment area thresholds

- **Vast majority of Operators (including, generally, for-hire applicators) are covered automatically without submission of an NOI, an application, or any other type of documentation.**





## EPA's Final PGP: Part 1 of 9

NOIs: Any Agency for which pest management for land resource stewardship is an integral part of the organization's operations

- Federal agencies (i.e., BLM, FWS,)
- State agencies (i.e., State DOT, Dept. of Natural Resources)
- Most pest control activities performed by these agencies will meet the requirements to submit an NOI.
- *Examples of agency activities not required to submit an NOI include:*
  - *Federal Social Security Administration controlling mosquitoes onsite*
  - *State Department of Motor Vehicles controlling weeds*



EPA's Final PGP: Part 1 of 9

## NOIs: Special Purpose Districts with a Specific Responsibility to Control Pests

- Mosquito Control Districts
- Weed Control Districts
- Irrigation Districts
- Other special purpose districts with pest control a critical component of the district's operation.



## EPA's Final PGP: Part 1 of 9

# NOIs: Decision-makers Discharging to Tier 3 waters

- Pesticide applications made to restore or maintain water quality or to 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.
- A list of Tier 3 waters is available on EPA's website.



EPA's Final PGP: Part 1.1.2.4 and Appendix I

## ESA Consultation

- As a result of EPA's ESA consultation with NMFS, discharges to waters of the U.S. that contain NMFS Listed Resources of Concern have additional requirements:
  - NMFS Species/Habitat: Salmon, Sturgeon, Eulachon
  - Locations: ID, WA, OR, CA, MA & DC
  - Maps available at: [www.epa.gov/npdes/pesticides](http://www.epa.gov/npdes/pesticides)
- Decision-makers must meet one of the five criteria listed in Part 1.1.2.4 of the permit.
- Step-by-step guide in Appendix I of the PGP
- EPA is still in consultation with FWS for the PGP. Permit contains no additional requirements specific to FWS managed species.



## EPA's Final PGP: Part 1 of 9

# NOIs: Thresholds for Decision-makers required to submit NOI

*\*not relevant for Decision-makers that are otherwise required to submit NOIs as identified in previous slide*

### **Mosquito and Other Flying Insect Pest Control (adulticiding only)**

treat > 6,400 acres/calendar year

### **Forest Canopy Pest Control**

treat > 6,400 acres/calendar year

- Count each pesticide application to a treatment area as a **separate** area treated.  
Example: applying pesticides 3x/year to same 3,000 acres = 9,000 acres total

### **Weed and Algae Pest Control**

treat > 20 linear miles OR 80 acres

### **Animal Pest Control**

treat > 20 linear miles OR 80 acres

- Count each treatment area **only once**, regardless of the number of pesticide application activities performed in a given year.  
Example: treating same 10 miles treatment area 3x/year = 10 miles total



## Timing of NOI Submission

# NOI Submission Deadlines and Authorization Dates

	Discharge to WOUS that <u>do not contain</u> NMFS Listed Resources	Discharge to WOUS <u>containing</u> NMFS Listed Resources
<b>Discharge not in response to a Declared Pest Emergency Situation</b>	<p>Submit NOI at least <b>10 days prior to discharge.</b></p> <ul style="list-style-type: none"> <li>➤ Discharge authorized no earlier than 10 days after EPA posts online receipt of complete/accurate NOI.</li> </ul> <p>If required to submit NOI for exceeding a treatment threshold, submit at least <b>10 days before exceeding that threshold.</b></p> <ul style="list-style-type: none"> <li>➤ Discharges authorized no earlier than 10 days after EPA posts online receipt of complete/accurate NOI.</li> </ul>	<p>Submit NOI at least <b>30 days prior to discharge.</b></p> <ul style="list-style-type: none"> <li>➤ Discharges authorized no earlier than 30 days after EPA posts online receipt of complete and accurate NOI.</li> </ul> <p><i>Exception:</i> Discharges may be authorized sooner (no earlier than 10 days after EPA posts receipt of NOI) in cases where agreement was previously established with NMFS for the discharge.</p>
<b>Discharge in response to a Declared Pest Emergency Situation</b>	<p>Submit NOIs within <b>30 days after beginning to discharge.</b></p> <ul style="list-style-type: none"> <li>➤ Discharges authorized immediately.</li> </ul>	<p>Submit NOIs within <b>15 days after beginning to discharge.</b></p> <ul style="list-style-type: none"> <li>➤ Discharges authorized immediately for a period of at least 60 days.</li> </ul>



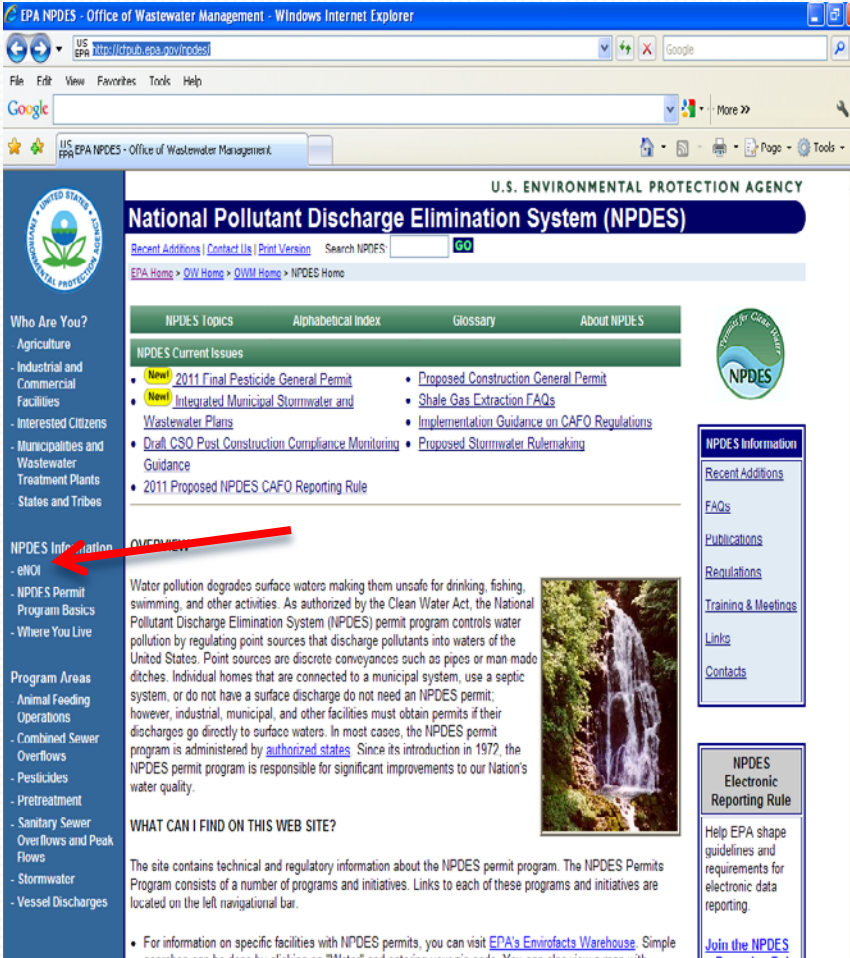
# Eligibility – Notice of Intent (NOI)

- Electronic NOI (eNOI) system simplifies NOI submission.
- **No fee to submit EPA's NOI** (or obtain coverage under EPA's PGP).
- NOIs only need to be submitted once during the life of the permit (current PGP expires October 31, 2016), unless there is an update.
- Only need one NOI to cover all applications per state (may list multiple Pest Management Areas within the NOI).



# EPA's Final PGP: Part 1 of 9 Electronic NOI Submission (eNOI)

- Decision-makers must file using eNOI unless requesting a waiver because the use of eNOI would incur undue burden or expense (will need to provide reason in paper NOI).
- Refer to PGP website under Trainings & Meetings for a presentation on how to file an NOI.



The screenshot shows the EPA NPDES website in a Windows Internet Explorer browser. The page title is "National Pollutant Discharge Elimination System (NPDES)". The left sidebar contains a navigation menu with the following items: "Who Are You?" (Agriculture, Industrial and Commercial Facilities, Interested Citizens, Municipalities and Wastewater Treatment Plants, States and Tribes), "NPDES Information" (eNOI, NPDES Permit Program Basics, Where You Live), "Program Areas" (Animal Feeding Operations, Combined Sewer Overflows, Pesticides, Pretreatment, Sanitary Sewer Overflows and Peak Flows, Stormwater, Vessel Discharges), and "NPDES Information" (Recent Additions, FAQs, Publications, Regulations, Training & Meetings, Links, Contacts). A red arrow points to the "NPDES Information" link in the sidebar. The main content area features a search bar, a "NPDES Topics" menu, and a list of recent additions including "2011 Final Pesticide General Permit", "Integrated Municipal Stormwater and Wastewater Plans", "Drill, CSO Post-Construction Compliance Monitoring Guidance", "2011 Proposed NPDES CAFO Reporting Rule", "Proposed Construction General Permit", "Shale Gas Extraction FAQs", and "Implementation Guidance on CAFO Regulations". A "NPDES Information" sidebar on the right contains links for "Recent Additions", "FAQs", "Publications", "Regulations", "Training & Meetings", "Links", and "Contacts". Below this is a "NPDES Electronic Reporting Rule" section with the text: "Help EPA shape guidelines and requirements for electronic data reporting." and a "Join the NPDES" link. The bottom of the page contains a "WHAT CAN I FIND ON THIS WEB SITE?" section with the text: "The site contains technical and regulatory information about the NPDES permit program. The NPDES Permits Program consists of a number of programs and initiatives. Links to each of these programs and initiatives are located on the left navigational bar." and a note: "For information on specific facilities with NPDES permits, you can visit EPA's Envirofacts Warehouse. Simple searches can be done by clicking on 'Water' and entering your zip code. You can also view a map with..."





# Poll Question #2

- Will you need to file an NOI?
  - Yes
  - Maybe, depends on my activities
  - Unclear of requirements
  - No



# Poll Question #3

- Have you tried using EPA's eNOI system to submit an NOI for the PGP yet?
  - Yes, I submitted an NOI and it was relatively easy
  - Yes, I submitted an NOI but it was relatively difficult
  - Yes, but I have not yet completed submitting the NOI
  - Not yet, but I will need to
  - No, and I don't expect to need to



QUESTIONS?



## EPA's Final PGP: Part 2 of 9

# Effluent Limits – Technology-Based Effluent Limits

- **All Operators** must minimize discharges by using only the amount of pesticide and frequency of application necessary to control the target pest (Part 2.0)
- **Applicators** must (Part 2.1):
  - Maintain pesticide application equipment in proper operational condition
  - Assess weather conditions
- **Certain Decision-makers** (i.e., Federal and state agencies, other entities with responsibility to control pests, and other entities that apply pesticides in excess of specified annual treatment area thresholds) must implement pest management measures based on IPM principles (Part 2.2.1 – 2.2.4):
  - Identify/assess pest problem
  - Assess pest management alternatives
  - Follow appropriate procedures for pesticide use



## EPA's Final PGP: Part 5 of 9

# Pesticide Discharge Management Plan (PDMP)

- **Large Decision-makers who are required to submit an NOI** are required to develop a PDMP.
- **Not required** if Decision-maker is submitting an NOI solely for;
  - Discharges in response to a Declared Pest Emergency Situation; or
  - Discharges to Waters of the US containing NMFS Listed Resources of Concern
- PDMP documents how discharges will be minimized and effluent limitations will be met.
- Must develop the PDMP by the time the NOI is filed.
- Permittee may refer to other documents, such as a pre-existing IPM plan or spill prevention and response plan, in the PDMP rather than recreate the same text in the PDMP.



## EPA's Final PGP: Part 5 of 9

# Pesticide Discharge Management Plan (PDMP)

- Content of the PDMP includes:
  - Pesticide discharge management team information,
  - Problem identification,
  - Pest management options evaluation,
  - Response Procedures:
    - Spill Response Procedures
    - Adverse Incident Response Procedures
  - Documentation to support that ESA eligibility criteria (from Part 1.1.2.4) were met
- Decision-makers must keep a copy of the current PDMP at the address provided on the NOI (no need to submit).
- PDMP must be kept up-to-date for duration of permit coverage.



## EPA's Final PGP: Part 3 of 9

# Effluent Limits – Water Quality-Based Effluent Limits (WQBEL)

### All Operators:

- The permit includes a narrative WQBEL:  
“Your discharge must be controlled as necessary to meet applicable numeric and narrative state, territorial, or tribal water quality standards (WQS).”
- EPA expects that compliance with FIFRA in addition to compliance with the conditions in the permit will control discharges as necessary to meet applicable water quality standards.
- Section 401 of CWA: EPA permits required to obtain certification from states. Some states added requirements to PGP to ensure consistency with State WQS (Part 9 of the permit).
- During the life of the permit, EPA may determine, after reviewing new information, that additional control measures are warranted.



# Monitoring

- **Applicators** (Part 4.1):
  - Must conduct “visual monitoring” to detect observable adverse incidents that may be related to the pesticide discharge.
- **All Operators** (Part 4.2)
  - If any post-application surveillance occurs, must conduct “visual monitoring” to detect observable adverse incidents that may be related to the pesticide discharge.





# Corrective Action

## Corrective Action for other situations

- **All Operators:** Must review and revise practices if:
  - An unauthorized release or discharge occurs
  - Existing pest management measures do not meet applicable WQS

### Corrective Action Deadlines

- Changes must be made before next discharge or as soon as practicable.
- Schedule included in permit: any condition prompting need for repair and improvement is not allowed to persist indefinitely.



# Corrective Action

## Corrective Action for Adverse Incidents


- **All Operators:** If become aware of an adverse incident which may have resulted from your discharge:
  1. Within 24 hours of discovery or as soon as possible: Notify EPA Region by phone
  2. Within 30 days of discovery: Written report
  3. As necessary, corrective action



# EPA's Final PGP: Appendix H

## Forms – Adverse Incident Template

- 30-day Adverse Incident Report
- Report includes:
  - Operator name/telephone number/ mailing address
  - Date/location of adverse incident
  - Description of incident identified, including EPA registration number of product used and description of steps taken or will be taken to contain any adverse effects.

 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, DC 20460 <b>THIRTY (30)-DAY ADVERSE INCIDENT WRITTEN REPORT FOR                  THE PESTICIDE GENERAL PERMIT (PGP)                  FOR DISCHARGES FROM THE APPLICATION OF PESTICIDES</b>		Form Approved OMB No. 2040-NEW
This form is for Operators required to submit a written report of any reportable adverse incidents to the appropriate EPA Regional office and to the state lead agency for pesticide regulation. Where multiple Operators are authorized for a discharge that results in an adverse incident, reporting by any one of the Operators constitutes compliance for all of the Operators, provided a copy of this report is also provided to all of the other authorized Operators within 30 days of the reportable adverse incident.		
<b>A. Reportable Adverse Incident.</b> Is the adverse incident reportable? Reporting of adverse incidents is not required under the PGP in the following situations: (a) An Operator is aware of facts that indicate that the adverse incident was not related to toxic effects or exposure from the pesticide application; (b) An Operator has been notified by EPA, and retains such notification, that the reporting requirement has been waived for this incident or category of incidents; (c) An Operator receives information of an adverse incident, but that information is clearly erroneous; or (d) An adverse incident occurs to pests that are similar in kind to potential target pests identified on the FIFRA label.		
<input type="checkbox"/> Yes. You must complete this report and submit it to the appropriate EPA Regional office and to the state lead agency for pesticide regulation. <input type="checkbox"/> No. STOP. You are not required to complete this report. However, you may consider using this form to document the incident and your rationale for why reporting of the adverse incident is not required. This information may be useful to support your rationale should you be questioned on such.		
<b>B. Information from the 24-Hour Adverse Incident Notification</b> When an Operator observes or is otherwise made aware of an adverse incident, which may have resulted from a discharge from a pesticide application, the Operator must immediately notify the appropriate EPA Incident Reporting Contact, as identified at <a href="http://www.epa.gov/npdes/pesticides">www.epa.gov/npdes/pesticides</a> . This notification must be made by telephone within 24 hours of the Operator becoming aware of the adverse incident. Operators must include in the written report the information provided to EPA in the 24-hour adverse incident notification (PGP Part 6.4.1.1). Attach additional information if necessary.		
1. Caller's Contact Information:		
a. Name:	_____	
b. Telephone Number:	____-____-____ Ext ____	
2. Operator Information:		
a. Operator Name:	_____	
b. Mailing Address:	_____	
Street:	_____	
City:	State: ____	ZIP Code: _____
3. NOI NPDES Permit Tracking Number: _____ (Enter "NA" if not applicable)		
4. Contact person, if different than the person providing the 24-hour notice under item 1 above:		
a. Name:	_____	
b. Telephone Number:	____-____-____ Ext ____	
5. Describe how and when the Operator became aware of the adverse incident:		
_____		
_____		
6. Describe the location of the adverse incident:		
_____		
_____		



## EPA's Final PGP: Part 7 of 9

# Recordkeeping and Reporting

### All Operators:

- Copy of any Adverse Incident Reporting
- Copy of any corrective action documentation
- Copy of any spill and leak or other unpermitted discharge documentation

### For-Hire Applicators:

- Documentation of equipment calibration
- Information on each treatment area
  1. Description of each area, including location and size and identification of any waters to which pesticides are discharged
  2. Pesticide use patterns
  3. Target pests
  4. Name and EPA Registration # of each pesticide product used
  5. Quantity of each pesticide product applied to each treatment area
  6. Pesticide application dates
  7. Whether or not visual monitoring was conducted during and/or after pesticide application; if not, why not; and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides



# Recordkeeping and Reporting


Decision-makers who are required to submit an NOI and are:

Small Entity	Large Entity
<ul style="list-style-type: none"><li>• Submit and retain a copy of the NOI</li><li>• Keep Pesticide Discharge Evaluation Worksheet <i>(instead of Annual Report unless discharging to NMFS Listed Resources)</i></li><li>• Documentation of equipment calibration if also an Applicator</li></ul>	<ul style="list-style-type: none"><li>• Submit and retain copy of the NOI</li><li>• Copy of PDMP</li><li>• Submit and retain copies of Annual Reports</li><li>• Documentation of equipment calibration if also an Applicator</li></ul>

## EPA's Final PGP: Appendix F

# Forms – Pesticide Discharge Evaluation Worksheet

- Required for **Small Decision-makers who submit NOIs** (instead of Annual Report).
- Must retain at the address provided on the NOI.
- Worksheet includes:
  - Decision-maker and Applicator information
  - Locations and pesticide product use information
  - Identification of target pests and alternate pest management practices considered
  - Whether visual monitoring was conducted during/post application (if not, why not)
  - Adverse effects identified during visual monitoring


		UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, DC 20460	Form Approved OMB No. 2040-NEW
PESTICIDE DISCHARGE EVALUATION WORKSHEET FOR THE PESTICIDE GENERAL PERMIT (PGP) FOR DISCHARGES FROM THE APPLICATION OF PESTICIDES			
This worksheet is for any Operator who is also a Decision-maker required to submit a Notice of Intent (NOI) and is a small entity, as defined in Appendix A of the Pesticide General Permit (PGP). The information on this worksheet must be retained for each pesticide application activity.			
<b>A. General Information</b>			
1. Operator Name: <input type="text"/>			
2. Worksheet Preparer Name: <input type="text"/>			
3. Pest Management Area: #__ of ## __			
4. Pest Management Area Name: _____			
5. Indicate the pesticide use pattern for the Pest Management Area:			
a. <input type="checkbox"/> Mosquito and Other Flying Insect Pests    b. <input type="checkbox"/> Weed and Algae Pests    c. <input type="checkbox"/> Animal Pests    d. <input type="checkbox"/> Forest Canopy Pests			
6. For each treatment area (use additional pages for each treatment area):			
a. Provide a description of the treatment area within this Pest Management Area, including location description:			
_____			
_____			
b. Size of treatment area (in acres or linear feet): ____ acres or ____ linear feet.			
c. Name or location of any Waters of the United States to which discharges occurred:			
_____			
_____			
<b>B. Pest Evaluation</b>			
1. Identify the target pest(s) and explain why pest control is needed:			
_____			
_____			
_____			
2. Describe Pest Management Measure(s) implemented before the first pesticide application:			
_____			
_____			
_____			
<b>C. Pesticide Application</b>			
1. Name and contact information for pesticide applicator(s):			
Company Name: <input type="text"/>			
Street: <input type="text"/>			
City: <input type="text"/> State: <input type="text"/> Zip Code: <input type="text"/> - <input type="text"/>			
Contact Name: <input type="text"/>			
Phone: <input type="text"/> - <input type="text"/> - <input type="text"/> Ext <input type="text"/>			
E-mail: <input type="text"/>			



## EPA's Final PGP: Appendix G

# Forms – Annual Report Template

- Required for **Large Decision-makers who submit NOIs**
- Report includes:
  - Decision-maker and applicator information
  - Adverse incident and corrective action information
  - Summary of locations, use patterns, and pesticides, pesticide application methods
- Submit no later than February 15 after previous calendar year. Must be submitted even if coverage was terminated after a partial year.

		UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, DC 20460	Form Approved OMB No. 2040-NEW
ANNUAL REPORTING FORM FOR THE PESTICIDE GENERAL PERMIT (PGP) FOR DISCHARGES FROM THE APPLICATION OF PESTICIDES			
<small>This form is for any Operator that is a Decision-maker required to submit an NOI. The annual report must be submitted no later than February 15 of the following year for all pesticide activities covered under the permit occurring during the previous calendar year as detailed in Part 7 of the permit.</small>			
<b>Electronic Submission Waiver (skip if using eNOI)</b>			
<input type="checkbox"/> I hereby acknowledge my waiver request from the use of EPA's electronic Notice of Intent system (eNOI) because my use of eNOI will incur undue burden or expense over my use of this paper Annual Reporting form.			
Briefly describe the reason why use of the electronic system causes undue burden or expense: _____ _____			
<b>A. General Information</b>			
1. NPDES Permit Tracking Number: _____			
2. Operator Name: _____			
3. Operator Contact Information:			
a. Street: _____			
b. City: _____ c. State: _____ d. ZIP Code: _____			
e. Telephone: _____ Ext _____ f. Fax: _____			
4. Contact Information:			
a. Contact Name: _____			
b. Title: _____			
c. E-mail: _____			
<b>B. Adverse Incidents and Corrective Actions</b>			
1. Was an adverse incident observed and/or corrective actions taken for any Pest Management Area for which you have coverage under the permit?			
a. <input type="checkbox"/> No adverse incidents were observed or corrective action was taken. (Proceed to Section C)			
b. <input type="checkbox"/> Yes, an adverse incident was observed and/or a corrective action was taken. (Complete questions 2-6 for each Pest Management Area in which adverse incidents were observed or corrective actions were taken. Copy this section for non-electronic submissions.)			
Pest Management Area # _____ of ## _____			
2. Pest Management Area Name: _____			
3. If applicable, provide the date for any adverse incidents as a result of those treatment(s), as described in Part 6.4 of the permit (use additional pages, if needed):			
Date of adverse incident observation: _____			
4. Date and time the Operator contacted EPA to notify the Agency of the adverse incident, who the Operator spoke with at EPA, and any instructions received from EPA.			
a. Date: _____ c. Who the Operator spoke with at EPA: _____			
b. Time: _____ d. Instructions received from EPA: _____			
5. Date of submission of Thirty (30)-Day Adverse Incident Written Report: _____			
6. Describe any corrective action(s), including spill responses, resulting from pesticide application activities and the rationale for such action(s), subsequent to those steps described in the Thirty (30)-Day Adverse Incident Written Report: _____ _____ _____			



# CWA §401 Certifications

- Examples of additional requirements on Indian Country lands:
  - **Navajo Nation** – submit a copy of NOI; tribe may conduct compliance inspections
  - **Ohkay Owingeh** – submit copy of NOI & NOT at same time as submitted to EPA; PDMP upon request
  - **Pueblo of Isleta** – submit copy of all notifications, data, written reports/correspondence for actions within 5 river miles of northern boundary at same time as submitted to EPA
  - **Pueblo of Sandia** – submit copy of NOI and NOT at same time as submitted to EPA; PDMP upon request; tribe will send “Authorization to Proceed Letter”. Obtain acceptance letter from tribe prior to submitting NOT to EPA.
  - **Taos Pueblo** – submit copy of all notifications, data, written reports/correspondence at same time as submitted to EPA
  - **Ute Mountain Ute Tribe** – dischargers to Tier 3 waters must apply for individual permit from EPA





## Where to Go for Help

# Additional Information

For more information on NPDES Pesticide permitting:

**[www.epa.gov/npdes/pesticides](http://www.epa.gov/npdes/pesticides)**

PGP NOI homepage:

**[www.epa.gov/npdes/pesticides/enoi](http://www.epa.gov/npdes/pesticides/enoi)**

Send any questions to:

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



# End Presentation

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Time for Questions

