



Pesticide General Permit (PGP): Mosquito Control Activities

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. 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 EPA to register pesticides, the 2016 Pesticide General Permit (2016 PGP), authorizes certain point source discharges from the application of pesticides to waters of the United States in accordance with the terms and conditions described therein.

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 United States 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. NPDES permitting requirements are an addition to FIFRA requirements directed to certain pesticide applications that result in discharges to waters of the United States. As such, an NPDES permit does not negate the requirements under FIFRA to use registered pesticides consistent with product labeling.

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 United States 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 United States 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. EPA is the permitting authority in:

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

The remaining 46 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 EPA's 2016 PGP must comply with applicable state NPDES permitting requirements. A directory of state agency contact information is available at: <https://www.epa.gov/npdes/pesticide-permitting>.

The information that follows is only applicable for the geographic areas where 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.

EPA's Pesticide General Permit (PGP)

On October 24, 2016, the Environmental Protection Agency (EPA) issued a final National Pollutant Discharge Elimination System (NPDES) Pesticide General Permit (PGP) for point source discharges from the application of pesticides to waters of the United States. The 2016 PGP, which has an effective date of October 31, 2016, replaced the 2011 PGP that expired at midnight on October 31, 2016, and authorizes certain point source discharges from the application of pesticides to waters of the United States in accordance with the terms and conditions described therein. A copy of EPA's 2016 PGP and supporting documentation is available at: <https://www.epa.gov/npdes/pesticide-permitting>.

Am I eligible for EPA's 2016 PGP?

See Part 1.1 of the 2016 PGP for the Eligibility Requirements. The 2016 PGP is available for discharges to waters of the United States 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 United States with the following characteristics will require further investigation to determine whether coverage is available under EPA's 2016 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 EPA's 2016 PGP offer coverage for spraying mosquitocide on waters that have been listed as impaired for pesticide pollution?

EPA's 2016 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.¹
- 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.
- 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 EPA.

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

Yes, the 2016 PGP provides that pesticide applications are covered automatically under the permit and may be performed immediately for any Declared Pest Emergency Situations. EPA does not expect the 2016 PGP to delay

¹ Coverage is available under the 2016 PGP as long as the pesticide ingredients do not degrade (break down) into an active ingredient for which the waterbody is impaired. For example, there are organophosphate insecticides that are registered by 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 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 EPA's general permit in that waterbody. In these instances, use of an organophosphate insecticide, for example, 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 2016 PGP.

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

Pesticide rotation is allowed under EPA's 2016 PGP. There are no requirements in the 2016 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. 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 EPA's 2016 PGP?

EPA's 2016 PGP delineates responsibilities for Operators, Decision-makers, Applicators, and For-Hire Applicators. Under EPA's 2016 PGP, certain Operators are required to submit a Notice of Intent (NOI) to notify EPA of their intent to be covered under the 2016 PGP at least 10 days prior to discharge (or 30 days prior to discharge to waters of the United States 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 United States with NMFS Listed Resources of Concern).

Under EPA's 2016 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 2016 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 United States 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 United States.

For more information on NOIs (including how and when to submit them), see Part 1.2 of the 2016 PGP and the PGP website at: <https://www.epa.gov/npdes/pesticide-permitting>.

What is required under EPA's 2016 PGP?

The 2016 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 United States. 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 United States.

All permittees covered under the permit are required to retain documentation of the pesticides discharged to waters of the United States, 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 EPA summarizing the pesticide applications covered under the permit. EPA expects that these reports will provide valuable information to better target monitoring efforts by EPA and states to assess the potential effects of these types of pesticide discharges on water quality.

As required under the Endangered Species Act (ESA), EPA consulted with NMFS to ensure that the permit was

not likely to adversely affect listed species. That consultation resulted in requirements for certain Operators who discharge to waters of the United States containing NMFS Listed Resources of Concern. EPA's website (<https://www.epa.gov/npdes/pesticide-permitting>) includes information on these resources, including their geographic locations. EPA expects that a small percentage (approximately two percent) of pesticide discharges covered under the 2016 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. 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.

Per certification requirements of CWA Section 401, states, territories, and tribes with treatment as state status in areas where EPA's permit applies have an opportunity to add conditions to EPA's 2016 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 2016 PGP: Massachusetts; Oklahoma; Alaska; Idaho; Washington; Washington, DC; American Samoa; Guam; and many tribal areas across the United States. Part 9 of the 2016 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 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: <https://www.epa.gov/npdes/pesticide-permitting>.