

Clean Water Act - Permitting of Discharges from Pesticide Applications

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Region 8

Montana Office



Background: NPDES Permitting

NPDES CWA Statutory Framework

- All “point” sources
- “Discharging pollutants”
- Into “waters of the U.S.”



Must obtain NPDES permit coverage from EPA or an NPDES- authorized State



Nov. 27, 2006

Final CWA Pesticides Rule

"The application of a pesticide to waters of the United States consistent with all relevant requirements under FIFRA does not constitute the discharge of a pollutant that requires an NPDES permit in the following two circumstances:

1. The application of pesticides ***directly to waters of the US*** to control pests. Examples of such applications include applications to control mosquito larvae, aquatic weeds, or other pests that are present in waters of the US; and
2. The application of pesticides to control pests that are present **over** waters of the US, **including near** such waters, where a portion of the pesticides will ***unavoidably be deposited to waters of the US*** to target the pests effectively; for example when insecticides are aerially applied to a forest canopy where waters of the US may be present below the canopy or when pesticides are applied over or near water for control of adult mosquitoes or other pests."

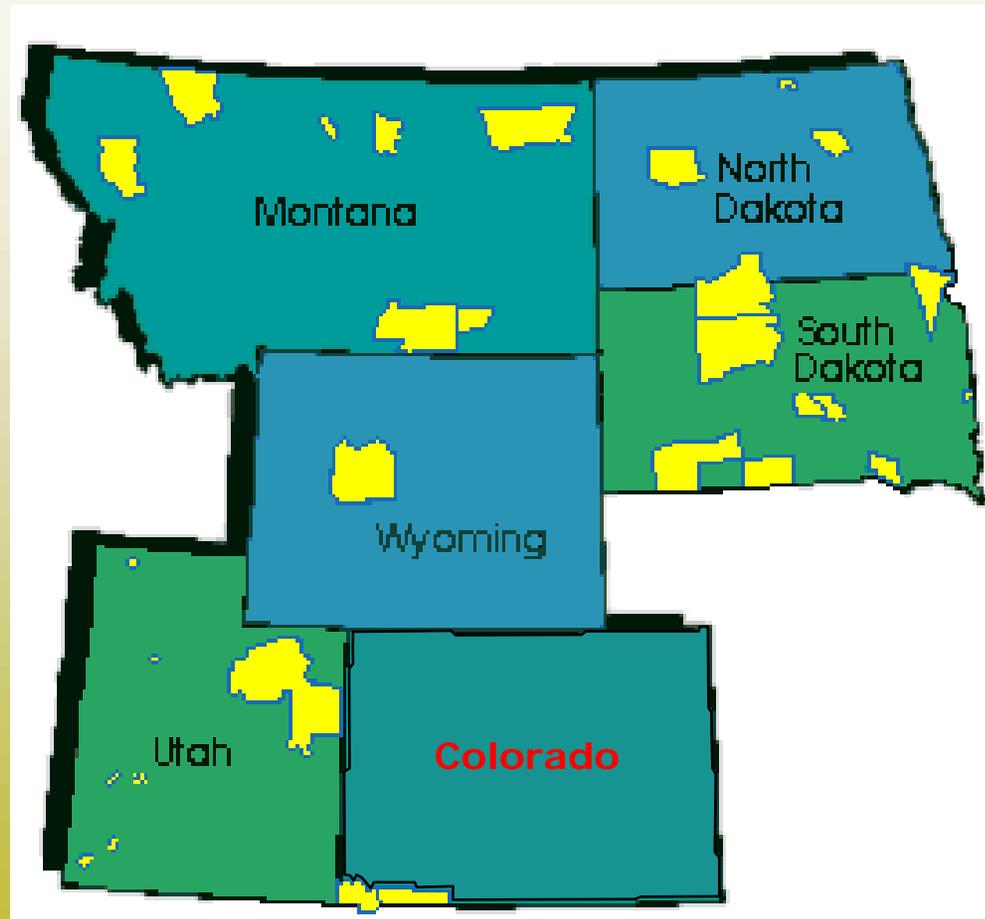


NPDES Program Authorizations (PGP)

EPA PGP in R8

Indian Country

Federal
Facilities in
Colorado



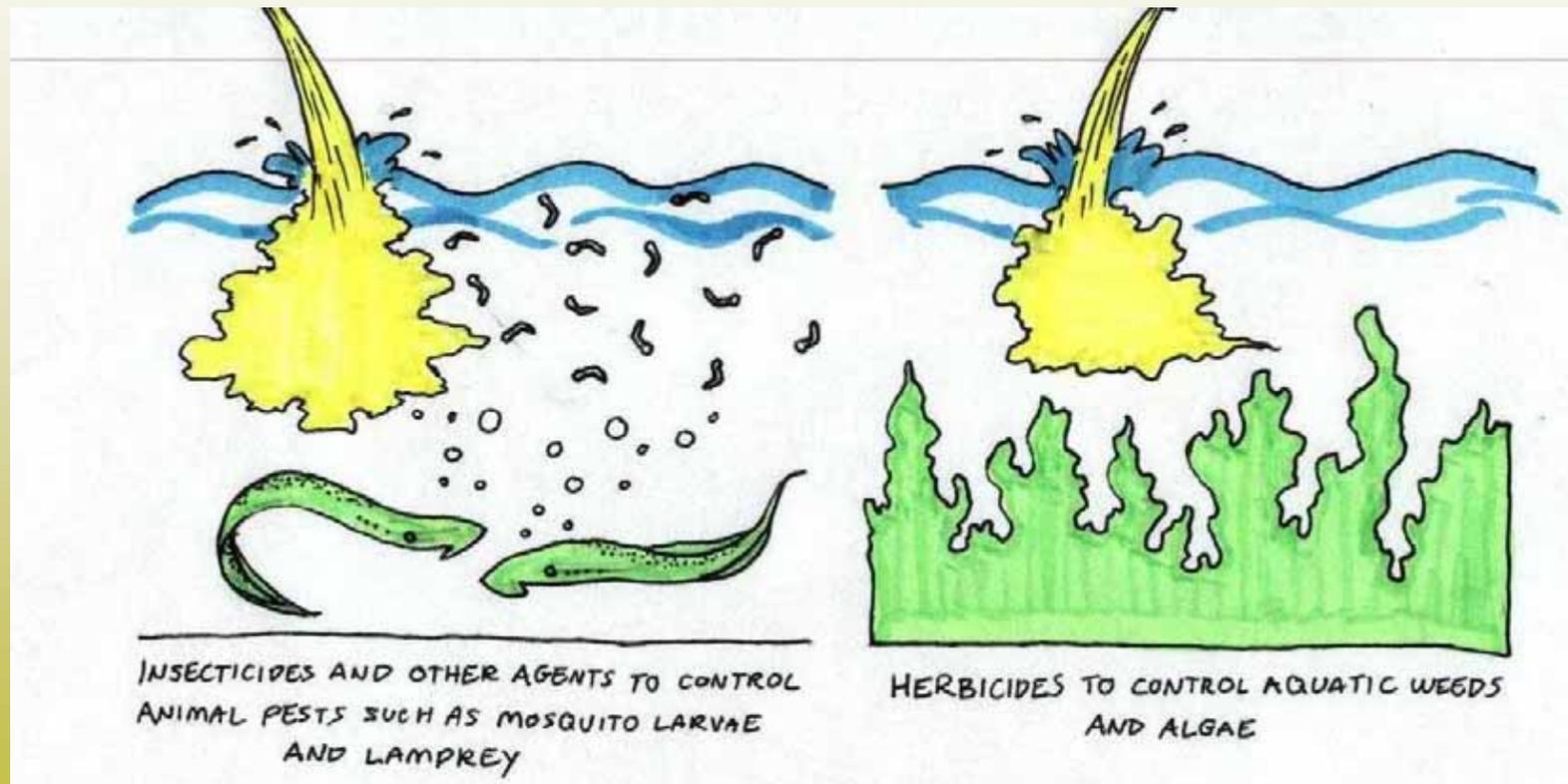
Draft Pesticide General Permit – Scope

- Coverage under the permit generally includes pesticide applications covered by the 2006 Rule

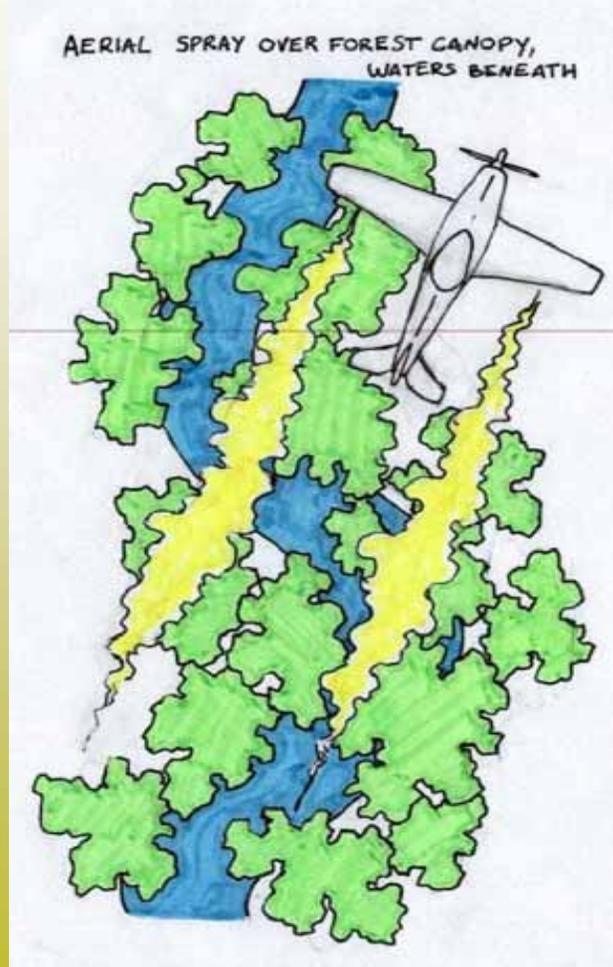
- Pesticide uses covered under permit:
 - Mosquito and Other Flying Insect Control
 - Aquatic Weed and Algae Control
 - Aquatic Nuisance Animal Control
 - Forest Canopy Pest Control



Direct Application to Water for Aquatic Pests ("To") – Covered by 2006 Rule



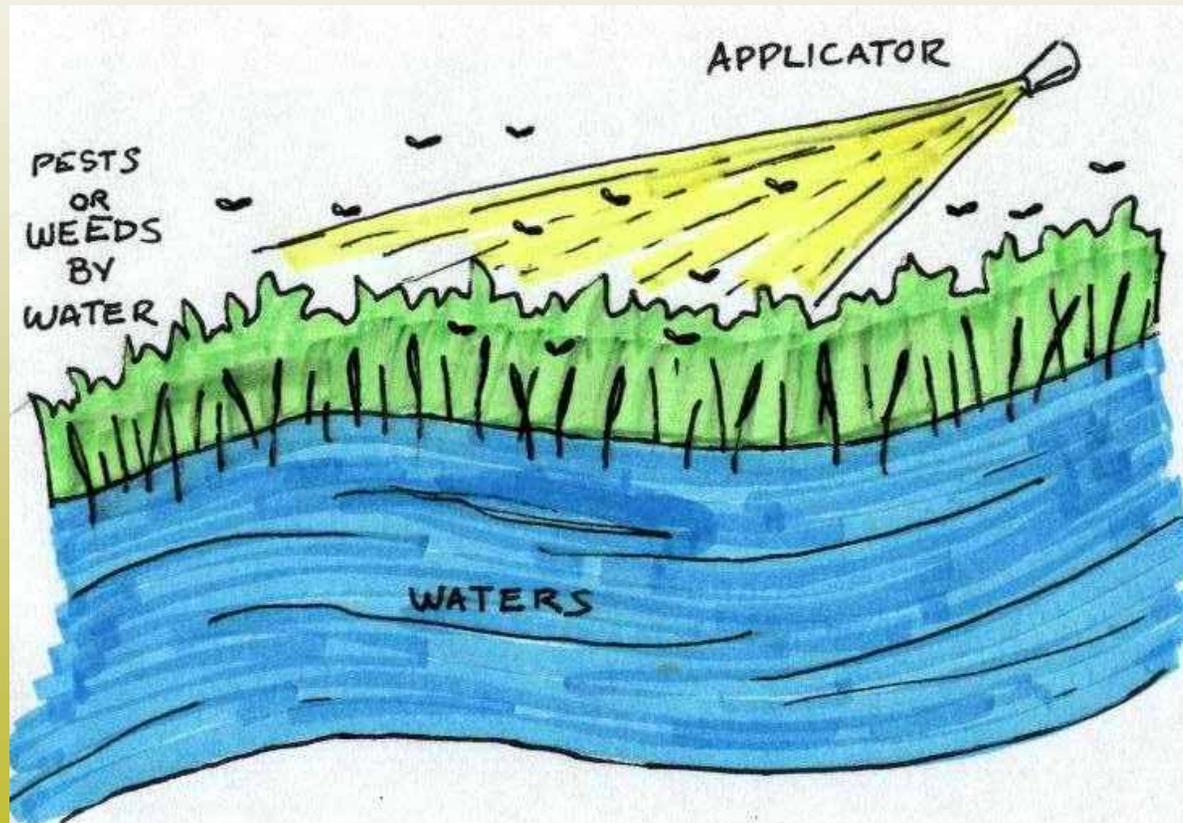
Forest Canopy Control ("Over") – Covered by 2006 Rule



Mosquito and Other Flying Insect Pest Control ("Over" & "Near") – Covered by 2006 Rule



Weed and Insect Control Near Water ("Near") – Covered by 2006 Rule

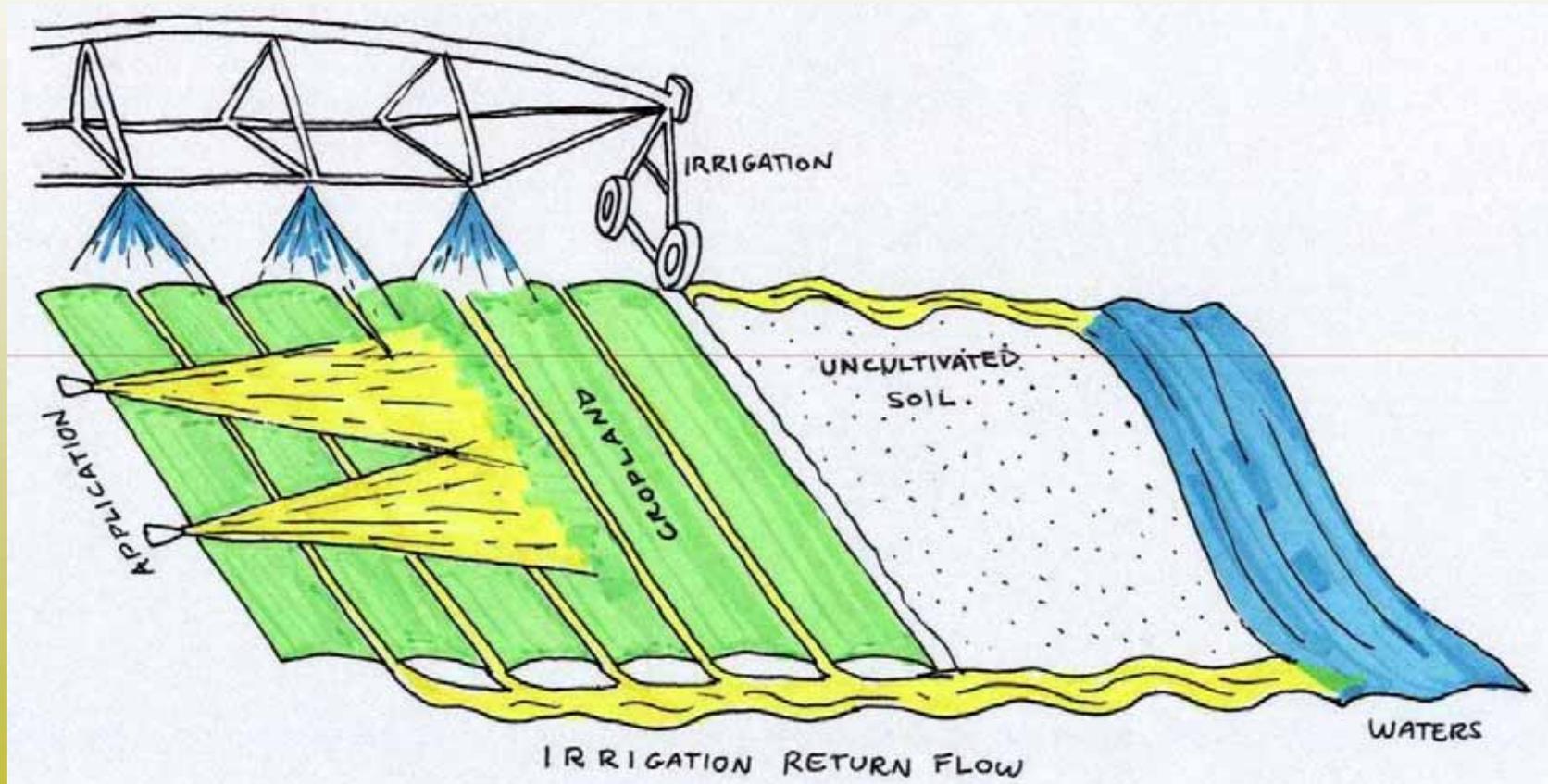


Draft Pesticide General Permit – Outside Scope

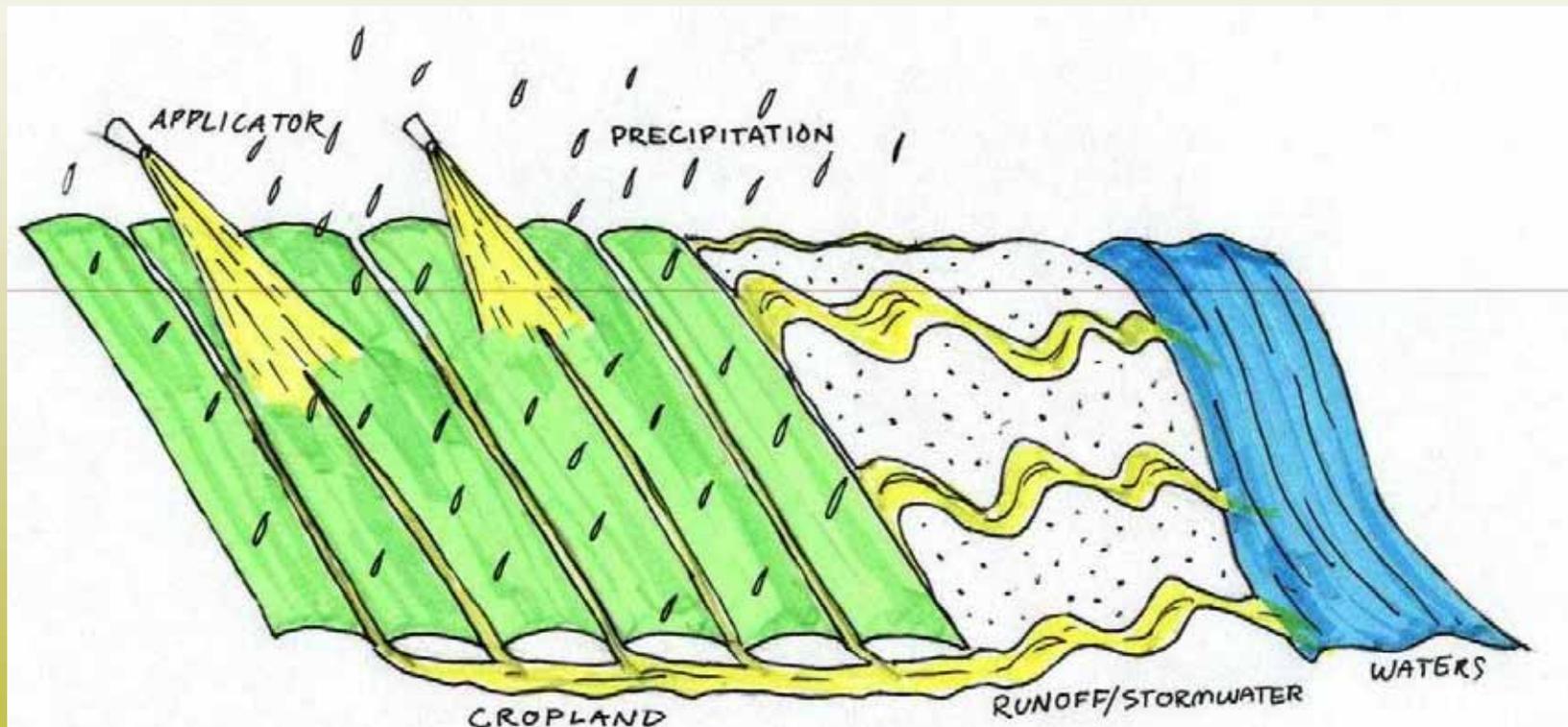
- ❑ Terrestrial applications to control pests on agricultural crops or forest floors
- ❑ Off target spray drift
- ❑ Activities exempt from permitting under the Clean Water Act:
 - Irrigation Return Flow
 - Agricultural Stormwater Runoff



Irrigation Return Flow Generally Exempt by Statute



Agricultural Stormwater Generally Exempt by Statute



Draft Pesticide General Permit Annual Treatment Area Thresholds

PGP Part	Pesticide Use	Annual Threshold
Part 2.2.1	Mosquitoes and Other Flying Insect Pest Control	640 acres of treatment
Part 2.2.2	Aquatic Weed and Algae Control	
	In Water	20 acres of water treatment area (1)
	At Water's Edge	20 linear miles at water's edge (2)
Part 2.2.3	Aquatic Nuisance Animal Control	
	In Water	20 acres of water treatment area (1)
	At Water's Edge	20 linear miles at water's edge (2)
Part 2.2.4	Forest Canopy Pest Control	640 acres of forest canopy

- (1) Calculations should include the area of the applications made to: (1) waters of the U.S. and (2) conveyances with a hydrologic surface connection to waters of the U.S. at the time of pesticide application. For calculating annual treatment area totals, count each pesticide application activity as a separate activity. For example, applying pesticides twice a year to a ten acre site should be counted as twenty acres of treatment area.
- (2) Calculations should include the area of the application made at water's edge adjacent to: (1) waters of the U.S. and (2) conveyances with a hydrologic surface connection to waters of the U.S. at the time of pesticide application. For calculating annual treatment totals, count each pesticide application activity as a separate activity. For example, treating both sides of a ten mile ditch is equal to twenty miles of water treatment area.



Draft Pesticide General Permit Monitoring

- Permit will also include monitoring for all permittees.
 - Visual monitoring for adverse effects during application and during any post application surveillance
 - Monitoring of management practices



Draft Pesticide General Permit Pesticide Discharge Management Plan

- Operators submitting NOIs would also be required to prepare a Pesticide Discharge Management Plan (PDMP) for their pest management areas.
 - Documents how discharges will be minimized and effluent limitations will be met
 - Developed prior to first pesticide application covered under the permit
 - Kept up-to-date for duration of permit coverage, even if discharges subsequently fall below the applicable NOI threshold.



Draft Pesticide General Permit Reporting and Recordkeeping

- Annual Reporting
 - Permittees submitting NOIs would be required to submit annual reports documenting pesticide application activities..

- Adverse Incident Reporting
 - All permittees would be required to report adverse incidents which would help EPA to identify possible permit violations and where permit may need modification to further protect water quality.

- Records
 - PDMP: Permittees submitting NOIs would be required to develop a **Pesticide Discharge Management Plan**
 - Permittees submitting NOIs would be required to keep pesticide management records for PDMP, adverse incident reports, corrective action documentation, and annual reports
 - Kept on-site and accessed by public through requests to EPA



Draft Pesticide General Permit Questions in Federal Register Notice

- ❑ The type, size, and number of entities that are applying pesticides to U.S. waters
- ❑ Other pesticide use patterns that should be covered under this permit
- ❑ The appropriateness of the annual treatment area thresholds
- ❑ The appropriateness of entities not submitting an NOI
- ❑ The best way to cover entities with shared responsibilities for meeting permit requirements



Draft Pesticide General Permit Questions in Federal Register Notice

- ❑ The type, size and number of entities that are already practicing IPM
- ❑ The appropriateness of ambient water quality sampling and who should be required to do this
- ❑ The appropriateness of a scope of operators required to submit annual reports and the type, level of detail, and practical utility of the information being requested



For More Information NPDES PGP Website

For more information:

www.epa.gov/npdes/pesticides

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