

IN THE UNITED STATES COURT OF APPEALS FOR  
THE NINTH CIRCUIT

CENTER FOR BIOLOGICAL DIVERSITY,	)	
	)	
Petitioner,	)	No. _____
	)	
v.	)	
	)	
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and UNITED STATES FISH AND WILDLIFE SERVICE,	)	
	)	
Respondents.	)	

**PETITION FOR REVIEW**

Pursuant to Section 509(b)(1) of the Clean Water Act, 33 U.S.C. § 1369(b)(1), Federal Rule of Appellate Procedure 15, and Ninth Circuit Local Rule 15-1, the Center for Biological Diversity (Petitioner) seeks review by this Court of the General Permit for Point Source Discharges from the Application of Pesticides (Pesticide Permit), Docket # EPA-HQ-OW-2020-0005, issued by the United States Environmental Protection Agency (EPA) under the Clean Water Act, 33 U.S.C. § 1251, *et seq.* A copy of the Pesticide Permit is attached hereto as Exhibit A.

The Pesticide Permit authorizes discharges of biological pesticides, and chemical pesticides that leave residue, from point sources into waters of the United

States. Notice of this action was published in the Federal Register at 86 Fed. Reg. 51665 (Sept. 16, 2021). A copy of the Federal Register notice is attached hereto as Exhibit B. The Pesticide Permit will become effective on October 31, 2021. *Id.* In accordance with 40 C.F.R. § 23.2, the Pesticide Permit is considered issued for the purpose of judicial review beginning two weeks after publication in the Federal Register, or on September 30, 2021.

EPA failed to comply with its obligations under the Clean Water Act in issuing the Pesticide Permit. *See* 33 U.S.C. § 1342(a). That challenge is ripe for judicial review by this Court. 33 U.S.C. § 1369(b)(1)(F) (authorizing review by the Court of Appeals for EPA action in “issuing or denying any permit under [33 U.S.C. § 1342]”).

This petition also challenges failures by the EPA and United States Fish and Wildlife Service (FWS) to comply with the requirements of the Endangered Species Act, 16 U.S.C. § 1531 *et seq.*, in taking this action. Specifically, EPA and FWS violated the Endangered Species Act by failing to ensure that the issuance of the Pesticide Permit and subsequent uses of the permit will not jeopardize any listed species or destroy or adversely modify critical habitat and by failing to complete required consultation pursuant to Section 7 of the Act prior to finalizing the action, in violations of 16 U.S.C. § 1536 (a)(2). EPA also violated the Endangered Species Act in failing to ensure that it will not “make any irreversible

or irretrievable commitment[s] of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures,” by initiating, but not completing, Section 7 consultation prior to its issuance of the Pesticide Permit. 16 U.S.C. § 1536 (d). FWS additionally violated the Endangered Species Act because it has unreasonably delayed the completion of Section 7 consultation on the Pesticide Permit until after the permit was issued. *Id.* at § 1536(b)(1)(A) (consultation to be completed within 90 days).

Respectfully submitted this 4th day of October, 2021.

*/s/Hannah Connor*

Hannah Connor (VSB # 74785)

Center for Biological Diversity

1411 K Street NW, Suite 1300

Washington, DC 20005

Tel: (202) 681-1676

Email: hconnor@biologicaldiversity.org

Jonathan Evans (Cal Bar # 247376)

Center for Biological Diversity

1212 Broadway, Suite 800

Oakland, CA 94612

Tel: (213) 598-1466

Email: jevans@biologicaldiversity.org

*Counsel for Petitioner Center for Biological  
Diversity*

IN THE UNITED STATES COURT OF APPEALS FOR  
THE NINTH CIRCUIT

---

CENTER FOR BIOLOGICAL )  
DIVERSITY, )  
 )  
 )  
Petitioner, ) No. \_\_\_\_\_ )  
 )  
v. )  
 )  
UNITED STATES ENVIRONMENTAL )  
PROTECTION AGENCY and UNITED )  
STATES FISH AND WILDLIFE )  
SERVICE, )  
 )  
Respondent. )

---

**RULE 26.1 DISCLOSURE STATEMENT**

Pursuant to Fed. R. App. P. 26.1, the Center for Biological Diversity hereby discloses that it is a non-profit organization existing under the laws of the State of California with no parent corporation and no publicly held corporations owning ten percent or more of any of its stock.

Respectfully submitted this 4th day of October, 2021.

/s/Hannah Connor  
Hannah Connor (VSB # 74785)  
1411 K Street NW, Suite 1300  
Washington, DC 20005  
Tel: (202) 681-1676  
Email: hconnor@biologicaldiversity.org

*Counsel for Petitioner Center for Biological  
Diversity*

# **EXHIBIT A**

United States Environmental Protection Agency (EPA)  
National Pollutant Discharge Elimination System (NPDES)

**PESTICIDE GENERAL PERMIT (PGP) FOR DISCHARGES FROM THE  
APPLICATION OF PESTICIDES**

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act (CWA), as amended (33 *United States Code* [U.S.C.] 1251 *et seq.*), any Operator of a point source discharge of pollutants (*i.e.*, discharge) resulting from the application of pesticides and eligible for permit coverage under Part 1.1 and located in an area identified in Appendix C where this permit is available is authorized to discharge to waters of the United States in accordance with the requirements of this permit. This permit is structured as follows:

- General permit conditions for all Operators are found in Parts 1 through 8;
- State- and tribal-specific permit conditions that apply to all Operators in those specific State or Indian Country are found in Part 9;
- Definitions of terms used in the permit and standard permit conditions that apply to all Operators are found in Appendices A and B, respectively; and
- Permit forms, worksheets, and templates are found in Appendices D through I.

This permit becomes effective on October 31, 2021. This permit and the authorization to discharge expire at midnight, October 31, 2026.

Signed and issued this 8<sup>th</sup> day of September 2021

**DEBORAH SZARO** Digitally signed by DEBORAH SZARO  
Date: 2021.09.08 10:36:59 -04'00'

Deborah A. Szaro,  
Acting Regional Administrator, EPA Region 1.

Signed and issued this 8<sup>th</sup> day of September 2021

**JAVIER LAUREANO** Digitally signed by JAVIER LAUREANO  
Date: 2021.09.08 10:32:18 -04'00'

Javier Laureano,  
Director, Water Division, EPA Region 2.

Signed and issued this 8<sup>th</sup> day of September 2021

**CARMEN GUERRERO PEREZ** Digitally signed by CARMEN GUERRERO PEREZ  
Date: 2021.09.08 11:13:43 -04'00'

Carmen R. Guerrero-Pérez,  
Director, Caribbean Environmental Protection Division, EPA Region 2  
Caribbean Office.

Signed and issued this 8<sup>th</sup> day of September 2021

**CATHERINE LIBERTZ** Digitally signed by CATHERINE LIBERTZ  
Date: 2021.09.08 09:19:38 -04'00'


Catherine A. Libertz,  
Director, Water Division, EPA Region 3.

Signed and issued this 8<sup>th</sup> day of September 2021

**JEANEANNE GETTLE** Digitally signed by JEANEANNE GETTLE  
Date: 2021.09.08 17:59:04 -04'00'

Jeanne M. Gettle,  
Director, Water Division, EPA Region 4.

Signed and issued this 8<sup>th</sup> day of September 2021

 Digitally signed by Fong, Tera  
Date: 2021.09.08 12:07:30 -05'00'

Tera L. Fong,  
Director, Water Division, EPA Region 5.

Signed and issued this 8<sup>th</sup> day of September 2021

**TROY HILL** Digitally signed by TROY HILL  
DN: cn=US, o=U.S. Government, ou=Environmental Protection Agency, cn=TROY HILL  
0.9.2342.19200300.100.1.1=#6001003651781  
Date: 2021.09.08 11:35:55 -05'00'

Troy Hill,  
Deputy Director, Water Division, EPA Region 6.

Signed and issued this 8<sup>th</sup> day of September 2021

**JEFFERY ROBICHAUD** Digitally signed by JEFFERY ROBICHAUD  
Date: 2021.09.08 13:04:41 -05'00'

Jeffery Robichaud,  
Director, Water Division, EPA Region 7.

Signed and issued this 8<sup>th</sup> day of September 2021

**HUMBERTO GARCIA** Digitally signed by HUMBERTO GARCIA  
Date: 2021.09.08 12:38:01 -06'00'

Humberto Garcia,  
Acting Director, Water Division, EPA Region 8.

Signed and issued this 8<sup>th</sup> day of September 2021

**TOMAS TORRES** Digitally signed by TOMAS TORRES  
Date: 2021.09.08 11:57:08 -07'00'

Tomás Torres,  
Director, Water Division, EPA Region 9.

Signed and issued this 8<sup>th</sup> day of September 2021

**DANIEL OPALSKI** Digitally signed by DANIEL OPALSKI  
Date: 2021.09.08 15:36:40 -07'00'

Daniel D. Opalski,  
Director, Water Division, EPA Region 10.

## Contents

<b>1.0</b>	<b>Coverage Under This Permit</b> .....	<b>1-1</b>
1.1	Eligibility .....	1-1
1.2	Authorization to Discharge Under This Permit .....	1-5
1.3	Alternative Permits .....	1-10
1.4	Severability .....	1-10
1.5	Other Federal and State Laws .....	1-11
1.6	Federally Listed Endangered and Threatened Species and Designated Critical Habitat .....	1-11
<b>2.0</b>	<b>Technology-Based Effluent Limitations</b> .....	<b>2-1</b>
2.1	Applicators' Responsibilities .....	2-1
2.2	Decision-makers' Responsibilities: For All Decision-makers.....	2-1
<b>3.0</b>	<b>Water Quality-Based Effluent Limitations</b> .....	<b>3-1</b>
<b>4.0</b>	<b>Monitoring</b> .....	<b>4-1</b>
4.1	Visual Monitoring Requirements for Applicators .....	4-1
4.2	Visual Monitoring Requirements for all Operators .....	4-1
<b>5.0</b>	<b>Pesticide Discharge Management Plan</b> .....	<b>5-1</b>
5.1	Contents of the Pesticide Discharge Management Plan .....	5-1
5.2	Pesticide Discharge Management Plan Modifications .....	5-3
5.3	Pesticide Discharge Management Plan Availability.....	5-3
<b>6.0</b>	<b>Corrective Action</b> .....	<b>6-1</b>
6.1	Situations Requiring Revision of Pest Management Measures .....	6-1
6.2	Corrective Action Deadlines.....	6-1
6.3	Effect of Corrective Action.....	6-1
6.4	Adverse Incident Documentation and Reporting.....	6-2
6.5	Reportable Spills and Leaks.....	6-4
6.6	Other Corrective Action Documentation .....	6-5
<b>7.0</b>	<b>Recordkeeping and Annual Reporting</b> .....	<b>7-1</b>
7.1	Recordkeeping for All Operators.....	7-2
7.2	Recordkeeping for All Operators who are For-Hire Applicators .....	7-2
7.3	Recordkeeping for Any Decision-maker Required to Submit an NOI and Who is a Small Entity .....	7-2
7.4	Recordkeeping for Any Decision-maker Required to Submit an NOI and Who is a Large Entity .....	7-3
7.5	Retention of Records for All Operators .....	7-4
7.6	Annual Reporting for Any Decision-maker Required to Submit an NOI and Who is a Large Entity .....	7-4
7.7	Annual Reporting for Any Decision-maker with Discharges to Waters of the United States Containing NMFS Listed Resources of Concern, as Defined in Appendix A, and Who is a Small Entity .....	7-5
7.8	Electronic Reporting Requirement .....	7-6
<b>8.0</b>	<b>EPA Contact Information and Mailing Addresses</b> .....	<b>8-1</b>
8.1	EPA Headquarters Addresses .....	8-1
8.2	EPA Regional Addresses .....	8-1



**9.0 Permit Conditions Applicable to Specific States (including Territories) and Indian Country .....9-1**

**Appendices**

**Appendix A. Definitions, Abbreviations, and Acronyms.....A-1**  
**Appendix B. Standard Permit Conditions .....B-1**  
**Appendix C. Areas Covered (and NPDES Permit Numbers).....C-1**  
**Appendix D. Notice of Intent Form .....D-1**  
**Appendix E. Notice of Termination Form .....E-1**  
**Appendix F. Pesticide Discharge Evaluation Worksheet.....F-1**  
**Appendix G. Annual Report Template.....G-1**  
**Appendix H. Adverse Incident Report Template.....H-1**  
**Appendix I. Endangered Species Procedures .....I-1**

## 1.0 Coverage Under This Permit

This permit covers any Operator who meets the eligibility requirements identified in Part 1.1 and if so required has submitted a Notice of Intent (NOI) in accordance with Part 1.2.

For the purpose of this permit, “Operator” is defined in Appendix A to mean any entity associated with the application of pesticides which results in a discharge to waters of the United States that meets either of the following two criteria: (1) any entity who performs the application of a pesticide or who has day-to-day control of the application (*i.e.*, they are authorized to direct workers to carry out those activities); or (2) any entity with control over the decision to perform pesticide applications including the ability to modify those decisions. Operators identified in (1) above are referred to in this permit as Applicators while Operators identified in (2) are referred to in this permit as Decision-makers. As defined, more than one Operator may be responsible for complying with this permit for any single discharge from the application of pesticides.

For purposes of this permit, all Operators are defined as either an Applicator or a Decision-maker or both an Applicator and a Decision-maker.

When an Operator is both an Applicator and a Decision-maker, the Operator must comply with all applicable requirements imposed on both Applicators and Decision-makers. When the permit references all “Operators,” both Applicators and Decision-makers must comply.

### 1.1 Eligibility

#### 1.1.1 Activities Covered

This permit is available to Operators who discharge to waters of the United States from the application of (1) biological pesticides or (2) chemical pesticides that leave a residue (collectively called *pesticides*), when the pesticide application is for one of the following pesticide use patterns:

- a. **Mosquito and Other Flying Insect Pest Control**—to control public health/nuisance and other flying insect pests that develop or are present during a portion of their life cycle in or above standing or flowing water. Public health/nuisance and other flying insect pests in this use category include mosquitoes and black flies.
- b. **Weed and Algae Pest Control**—to control weeds, algae, and pathogens that are pests in water and at water’s edge, including ditches and/or canals.
- c. **Animal Pest Control**—to control animal pests in water and at water’s edge. Animal pests in this use category include fish, lampreys, insects, mollusks, and pathogens.
- d. **Forest Canopy Pest Control**—application of a pesticide to a forest canopy to control the population of a pest species (*e.g.*, insect or pathogen) where, to target the pests effectively, a portion of the pesticide unavoidably will be applied over and deposited to water.

## 1.1.2 Limitations on Coverage

### **1.1.2.1 Discharges to Water Quality Impaired Waters**

Operators are not eligible for coverage under this permit for any discharges from a pesticide application to waters of the United States if the water is identified as impaired by a substance which either is an active ingredient in that pesticide or is a degradate of such an active ingredient. For purposes of this permit, impaired waters are those that have been identified by a state, tribe, or EPA pursuant to Section 303(d) of the CWA as not meeting applicable state or tribal water quality standards. Impaired waters, for the purposes of this permit, consist of both waters with EPA-approved or EPA-established total maximum daily loads (TMDLs) and waters for which EPA has not yet approved or established a TMDL. A list of those waters is available at <https://www.epa.gov/tmdl/>. If a discharge from a pesticide application would not be eligible under this permit because the water is listed as impaired for that specific pesticide, but there is evidence that shows the water is no longer impaired, Operators may submit this information to EPA consistent with Table 1-2 in Part 1.2.3, and request that coverage be allowed under this permit.

### **1.1.2.2 Discharges to Waters Designated as Tier 3 for Antidegradation Purposes**

Except for discharges from 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, Operators are not eligible for coverage under this permit for discharges to waters of the United States if the water is designated by a state or tribe as Tier 3 (Outstanding National Resource Waters) for antidegradation purposes under Title 40 of the *Code of Federal Regulations* (CFR) 131.12(a)(3). A list of Tier 3 waters in geographic areas covered under this permit is available on EPA's website at <https://www.epa.gov/npdes/pesticide-permitting>.

### **1.1.2.3 Discharges Currently or Previously Covered by Another Permit**

Discharges are not eligible for coverage under this permit if any of the following circumstances apply:

- a. The discharge is covered by another NPDES permit, or
- b. The discharge was included in a permit that in the past 5 years has been or is in the process of being denied, terminated, or revoked by EPA (this does not apply to the routine reissuance of permits every 5 years).

### **1.1.2.4 Endangered and Threatened Species and Critical Habitat Protection**

Coverage under this permit is available only for discharges and discharge-related activities that are not likely to result in any short or long term adverse effects to species that are federally-listed as endangered or threatened ("listed") under the Endangered Species Act (ESA) or habitat that is federally-designated as critical under the ESA ("critical habitat"), except as provided in eligibility Criteria B, C, and, for 60 days, D, below. As one of the provisions in this permit that help limit adverse effects to these resources, the six eligibility criteria (A-F) below relate to the impacts a prospective discharger's activities may have on a subset of these listed species and critical habitat. Specifically, the conditions below relate to potential impacts on National Marine Fisheries Service (NMFS) Listed Resources of Concern as defined in Appendix A. These

are resources that have been identified through consultation with NMFS as having potential vulnerability that warrants the additional protections entailed in compliance with eligibility criteria A-F. Other provisions that protect listed species more broadly include Part 1.6, which requires compliance with any conditions resulting from an ESA Section 7 consultation or ESA Section 10 permit, and the waiting period between NOI submittal and authorization to discharge, which provides an opportunity for the Services, EPA, and members of the public to identify any potential impacts on listed species and for EPA to notify the permittee if further conditions or an individual permit are necessary.

A step-by-step guide for determining eligibility with these conditions relating to the protection of NMFS Listed Resources of Concern as defined in Appendix A is provided in Appendix I. To demonstrate eligibility, Decision-makers must meet one or more of the following six eligibility criteria (A-F) for the entire term of coverage under the permit and are required to provide the supporting documentation with the NOI:

**Criterion A.** Pesticide application activities will not result in a point source discharge to one or more waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A for this permit. *Decision-makers are required to attach an aerial image of the pest management area(s) using the maps and resources at <https://www.epa.gov/npdes/pesticide-permitting-ESA-procedures>.*

**Criterion B.** Pesticide application activities for which permit coverage is being requested will discharge to one or more receiving waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A but consultation with NMFS under section 7 of the ESA has been concluded for pesticide application activities covered under this permit. Consultations can be either formal or informal and would have occurred only as a result of a separate federal action. The consultation addressed the effects of pesticide discharges and discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and it must have resulted in either:

- i. A biological opinion from NMFS finding no jeopardy to federally-listed species and no destruction/adverse modification of federally-designated critical habitat and the Reasonable and Prudent Measures to minimize take have been or are in the process of being implemented; or
- ii. Written concurrence from NMFS with a finding that the pesticide discharges and discharge-related activities are not likely to adversely affect federally-listed species or federally-designated critical habitat.

*Decision-makers are required to provide any tracking numbers of identifiers associated with the consultation (e.g., IPaC number, ECO number), the Services field office/regional office(s) providing the consultation, any copies of supporting correspondence with USFWS and/or NMFS, identification of the federal action agency(ies) involved, and the date the consultation was completed.*

**Criterion C.** Pesticide application activities for which permit coverage is being requested will discharge to one or more waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A, but all “take” of these resources

associated with such pesticide application activities has been authorized through NMFS' issuance of a permit under Section 10 of the ESA, and such authorization addresses the effects of the pesticide discharges and discharge-related activities on federally-listed species and federally-designated critical habitat. (The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. See Section 3 of the Endangered Species Act, 16 U.S.C. § 1532(19).) *Decision-makers are required to provide any tracking numbers of identifiers associated with the section 10 permit, the date the section 10 permit was granted, whether the permit was granted by the USFWS and/or NMFS, and the field office/regional office(s) granting the permit.*

**Criterion D.** Pesticide application activities were, or will be, discharged to one or more waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A, but only in response to a Declared Pest Emergency Situation. Decision-makers must provide EPA with their rationale supporting the determination whether the discharge is likely to result in any short or long term adverse effects to NMFS Listed Resources of Concern, including the description of appropriate measures to be undertaken to avoid or eliminate the likelihood of any short or long term adverse effects. *Decision-makers are required to provide information on anticipated applications and provide a rationale as to why any short or long term adverse effects are not expected or why the pest emergency poses a greater threat to the ESA-listed species than the pesticide application.*

**Criterion E.** Pesticide application activities for which permit coverage is being requested in the NOI will discharge to one or more waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A. Eligible discharges include those where the Decision-maker includes in the NOI written correspondence from NMFS that pesticide application activities performed consistent with appropriate measures will avoid or eliminate the likelihood of any short or long term adverse effects to NMFS Listed Resources of Concern. *Decision-makers are required to attach the written supporting correspondence from NMFS. Eligibility under this criterion is contingent upon the Decision-maker following the measures described in correspondence from NMFS designed to avoid or eliminate the likelihood of any short or long term adverse effects.*

**Criterion F.** Pesticide application activities for which permit coverage is being requested in the NOI will discharge to one or more waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A. Eligible discharges include those from pesticide application activities that are demonstrated by the Decision-maker as not likely to result in any short or long term adverse effects to NMFS Listed Resources of Concern or that the pest poses a greater threat to the NMFS Listed Resources of Concern than does the discharge of the pesticide. *Decision-makers must provide EPA with their documentation demonstrating the basis for their finding.*

## 1.2 Authorization to Discharge Under This Permit

### 1.2.1 How to Obtain Authorization

The following discharges, consistent with the permit eligibility provisions in Part 1.1, are automatically authorized by this permit beginning October 31, 2021.

- Eligible discharges that result from the application of a pesticide as part of *pesticide research and development* as defined in Appendix A;
- Eligible discharges for which submission of an NOI is not required. See Parts 1.2.2 and 1.2.3.

To obtain authorization under this permit for all other eligible discharges, a Decision-maker must submit a timely, complete, and accurate NOI consistent with the requirements of Parts 1.2.2 and 1.2.3.

### 1.2.2 Decision-makers Required to Submit an NOI

Any “Decision-maker who is or will be required to submit an NOI” as defined in Appendix A, is identified in Table 1-1.

For calculating annual treatment area totals for purposes of determining if an NOI must be submitted, see the definition for “annual treatment area threshold” in Appendix A.

An NOI provides notice to EPA that a Decision-maker intends to discharge to waters of the United States from pesticide application activities eligible for coverage under this permit. The NOI form included in Appendix D delineates the information required. The NOI must identify the pest management area where the Decision-maker will conduct activities resulting in discharges to waters of the United States to be covered under this permit. If the activities will result in discharges to any Tier 3 water eligible under Part 1.1.2.2, the NOI must specifically identify the Tier 3 water by the name listed at <https://www.epa.gov/npdes/pesticide-permitting>.

If required to submit an NOI, a Decision-maker must submit the NOI once, in accordance with the deadlines in Part 1.2.3, Table 1-2. The Decision-maker must submit an updated NOI if the criteria in Part 1.2.3, Table 1-3 are met. The Decision-maker must prepare and submit the NOI using EPA’s NPDES eReporting Tool (NeT) unless NeT is otherwise unavailable, or the Decision-maker has obtained a waiver from the requirement to use NeT for submission of the NOI. See Part 7.8 for detailed electronic reporting requirements. EPA will immediately post on the EPA’s website all NOIs received. Late NOIs will be accepted, but authorization to discharge will not be retroactive.

Coverage will be available for the duration of the permit for Decision-makers who file an NOI, including the Decision-makers’ employees, contractors, subcontractors, and other agents, for all activities identified on the NOI unless coverage is terminated pursuant to Parts 1.2.5 or 1.3. If a submitted NOI is not timely, accurate, or complete, any employee, contractor, subcontractor or other entity that discharges without the required NOI is not covered by this permit.

Applicators who are not also Decision-makers do not need to submit an NOI.

### 1.2.3 Discharge Authorization Date

Except for discharges identified in Tables 1-1 through 1-3, any Operator with eligible discharges is automatically authorized to discharge under this permit without submission of an NOI. Decision-makers with eligible discharges identified in Tables 1-1 through 1-3 are authorized under this permit consistent with the requirements of this permit.

On the basis of a review of an NOI or other information, EPA may delay authorization to discharge beyond any timeframe identified in Table 1-2. EPA may also require the Operator to undertake additional control measures to meet the narrative water quality-based effluent limit in Part 3.0, or it may deny coverage under this permit and require submission of an application for an individual NPDES permit, as detailed in Part 1.3.

All Decision-makers with eligible discharges for which an NOI is required are required to submit an NOI consistent with the earliest applicable due date identified in Table 1-2. Decision-makers may submit multiple NOIs with different activities on each of those NOIs such that discharges from different activities are authorized at different times.

**Table 1-1. Decision-makers Required to Submit NOIs**

<b>PGP Part/ Pesticide Use</b>	<b>Which Decision-makers Must Submit NOIs?</b>	<b>For Which Pesticide Application Activities?</b>
<b>All four use patterns identified in Part 1.1.1</b>	Any Decision-maker with an eligible discharge to a Tier 3 water (Outstanding National Resource Water) consistent with Part 1.1.2.2	Activities resulting in a discharge to a Tier 3 water
<b>All four use patterns identified in Part 1.1.1</b>	Any Decision-maker with an eligible discharge to waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A	Activities resulting in a discharge to waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A
<b>1.1.1(a) - Mosquito and Other Flying Insect Pest Control</b>	Any Agency for which pest management for land resource stewardship is an integral part of the organization's operations	All mosquito and other flying insect pest control activities resulting in a discharge to waters of the United States
	Mosquito control districts, or similar pest control districts	All mosquito and other flying insect pest control activities resulting in a discharge to waters of the United States
	Local governments or other entities that exceed the <i>annual treatment area threshold</i> identified here	Adulticide treatment if more than 6,400 acres during a calendar year
<b>1.1.1(b) - Weed and Algae Pest Control</b>	Any Agency for which pest management for land resource stewardship is an integral part of the organization's operations	All weed and algae pest control activities resulting in a discharge to waters of the United States
	Irrigation and weed control districts, or similar pest control districts	All weed and algae pest control activities resulting in a discharge to waters of the United States
	Local governments or other entities that exceed the <i>annual treatment area threshold</i> identified here	Treatment during a calendar year if more than either: 20 linear miles OR 80 acres of water ( <i>i.e.</i> , surface area)

PGP Part/ Pesticide Use	Which Decision-makers Must Submit NOIs?	For Which Pesticide Application Activities?
1.1.1(c) - Animal Pest Control	Any Agency for which pest management for land resource stewardship is an integral part of the organization's operations	All animal pest control activities resulting in a discharge to waters of the United States
	Local governments or other entities that exceed the <i>annual treatment area threshold</i> identified here	Treatment during a calendar year if more than either: 20 linear miles OR 80 acres of water ( <i>i.e.</i> , surface area)
1.1.1(d) - Forest Canopy Pest Control	Any Agency for which pest management for land resource stewardship is an integral part of the organization's operations	All forest canopy pest control activities resulting in a discharge to waters of the United States
	Local governments or other entities that exceed the <i>annual treatment area threshold</i> identified here	Treatment if more than 6,400 acres during a calendar year

**Table 1-2. NOI Submittal Deadlines and Discharge Authorization Dates for Discharges from the Application of Pesticides<sup>1</sup>**

Operator Type	NOI Submission Deadline	Discharge Authorization Date <sup>2</sup>
Any Decision-maker with any discharge to waters of the United States containing NMFS Listed Resources of Concern, except for those discharges in response to a Declared Pest Emergency Situation as defined in Appendix A.	At least 30 days before any discharge to waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A <sup>5</sup>	No earlier than 30 days after EPA posts on the Internet a receipt of a complete and accurate NOI <sup>3,5</sup>
Any Decision-maker with a discharge in response to a Declared Pest Emergency Situation for which that activity triggers the NOI requirement identified in Part 1.2.2, except for any discharges to waters of the United States containing NMFS Listed Resources of Concern.	No later than 30 days after beginning discharge	Immediately upon beginning to discharge for activities conducted in response to a Declared Pest Emergency Situation
Any Decision-maker with any discharge to waters of the United States containing NMFS Listed Resources of Concern, in response to a Declared Pest Emergency Situation as defined in Appendix A.	No later than 15 days after beginning to discharge in response to a Declared Pest Emergency Situation	Immediately upon beginning to discharge for activities conducted in response to a Declared Pest Emergency Situation for a period of at least 60 days <sup>4</sup>
Any Decision-maker who exceeds any annual treatment area threshold.	At least 10 days before exceeding an annual treatment area threshold	No earlier than 10 days after EPA posts on the Internet receipt of a complete and accurate NOI
Any Decision-maker otherwise required to submit an NOI as identified in Table 1-1.	At least 10 days before any discharge for which an NOI is required	No earlier than 10 days after EPA posts on the Internet receipt of a complete and accurate NOI

<sup>1</sup> State, territory, and tribal specific requirements in addition to the requirements in this table are provided in Part 9.0.

<sup>2</sup> On the basis of a review of an NOI or other information, EPA may delay authorization to discharge beyond any timeframe identified in Table 1-2, determine that additional technology-based and/or water quality-based effluent limitations or other conditions are necessary, or deny coverage under this permit and require submission of an application for an individual NPDES permit, as detailed in Part 1.3.

<sup>3</sup> Within 30 days after EPA posts on the Internet receipt of a complete and accurate NOI, for those areas with NMFS Listed Resources of Concern as defined in Appendix A, NMFS will provide EPA with a determination as to whether it believes the eligibility criterion of "not likely to result in any short or long term adverse effects to listed species or designated critical habitat" has been met, could be met with conditions that NMFS identifies, or has not been met. EPA expects to rely on NMFS's determination in deciding whether to withhold authorization. If NMFS does not provide EPA with this information within 30 days of EPA posting



on the Internet receipt of a complete and accurate NOI, the discharges will be authorized 30 days after EPA posts on the Internet receipt of a complete NOI.

<sup>4</sup> In any Declared Pest Emergency Situation in areas with waters of the United States containing NMFS Listed Resources of Concern, NMFS will have 30 days after submission of an NOI to provide EPA with a determination as to whether it believes the eligibility criteria of “not likely to result in any short or long term adverse effects to listed species or designated critical habitat” has been met, could be met with conditions that NMFS identifies, or has not been met. EPA expects to rely on NMFS’s determination in deciding whether to disallow continued permit coverage or if additional conditions are necessary. If NMFS does not provide EPA with a recommendation within 30 days of EPA posting on the Internet receipt of a complete and accurate NOI, authorization for these discharges will continue. If EPA identifies additional permit conditions or prohibitions or includes additional permit conditions or prohibitions recommended by NMFS as necessary to qualify discharges for particular Operators as eligible for coverage beyond 60 days under the PGP, those conditions remain in effect for the life of the permit.

<sup>5</sup> EPA may authorize certain discharges in less than 30 days, but no fewer than 10 days, for any discharges authorized under Criteria B, C, or E of Part 1.1.2.4 (for which NMFS has already evaluated the effects of these discharges).

**Table 1-3. NOI Change of Information Submittal Deadlines and Discharge Authorization Dates**

Operator Type	NOI Submission Deadline	Discharge Authorization Date
<p>Any Decision-maker requiring permit coverage for a pest management area not identified on a previously submitted NOI for this permit, except for discharges to any;</p> <p>(1) Tier 3 water or (2) Waters of the United States containing NMFS Listed Resources of Concern.</p> <p>Except for such waters, changes other than identification of a new pest management area or a new pesticide use pattern do not require a revised NOI submittal.</p>	<p>At least 10 days before beginning to discharge in that newly identified area unless discharges are in response to a Declared Pest Emergency Situation in which case not later than 30 days after beginning discharge.</p>	<p>No earlier than 10 days after EPA posts on the Internet the receipt of a complete and accurate NOI unless discharges are in response to a Declared Pest Emergency Situation in which case coverage is available immediately upon beginning to discharge from activities conducted in response to Declared Pest Emergency Situation.</p>
<p>Any Decision-maker discharging to a Tier 3 water not identified by name on a previously submitted NOI for this permit, except for Tier 3 waters containing NMFS Listed Resources of Concern</p>	<p>At least 10 days before beginning to discharge in that newly identified Tier 3 water unless discharges are in response to a Declared Pest Emergency Situation in which case not later than 30 days after beginning discharge.</p>	<p>No earlier than 10 days after EPA posts on the Internet receipt of a complete and accurate NOI unless discharges are in response to a Declared Pest Emergency Situation in which case coverage is available immediately upon beginning to discharge from activities conducted in response to Declared Pest Emergency Situation.</p>
<p>Any Decision-maker with any discharge to waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A, not identified on a previously submitted NOI for this permit. This includes changes in any treatment area, pesticide product, method or rate of application, or approximate dates of applications.</p>	<p>At least 30 days before beginning to discharge in that newly identified water containing NMFS Listed Resources of Concern unless discharges are in response to a Declared Pest Emergency Situation in which case not later than 15 days after beginning discharge.</p>	<p>No earlier than 30 days after EPA posts on the Internet receipt of a complete and accurate NOI unless discharges are in response to a Declared Pest Emergency Situation in which case coverage is available immediately upon beginning to discharge from activities conducted in response to Declared Pest Emergency Situation.</p>

1.2.4 Continuation of This Permit

If this permit is not reissued or replaced before the expiration date, it will be administratively continued in accordance with 40 CFR 122.6 and remain in force and effect. If an Operator was authorized to discharge under this permit before the expiration

date, any discharges authorized under this permit will automatically remain covered by this permit until the earliest of the following:

- a. A Decision-maker is authorized for coverage under a reissued permit or a replacement of this permit following the timely and appropriate submittal of a complete NOI under the new permit and in compliance with the requirements of the NOI;
- b. A Decision-maker submits a Notice of Termination (NOT) and that notice is processed and posted on the Internet consistent with Part 1.2.5.1;
- c. An NPDES individual permit for a discharge resulting from application of a pesticide that would otherwise be covered under this permit is issued or denied;
- d. EPA issues a formal permit decision not to reissue this general permit, at which time EPA will identify a reasonable period for covered dischargers to seek coverage under an alternative NPDES general permit or an NPDES individual permit. Coverage under this permit will cease when coverage under another permit is granted/authorized; or
- e. EPA has informed the Operator that its discharge is no longer covered under this permit.

#### 1.2.5 Terminating Coverage

**1.2.5.1 Submitting an NOT.** To terminate permit coverage, a Decision-maker who is required to submit an NOI as identified in Part 1.2.2 must submit a complete and accurate Notice of Termination. Information required to be included in an NOT is provided in Appendix E. Decision-makers required to submit an NOT must prepare and submit that information using EPA's NPDES eReporting Tool (NeT) unless NeT is otherwise unavailable or EPA waives the electronic submission requirement for an Operator consistent with the requirements in Part 7.8. The authorization to discharge under this permit terminates at 11:59 p.m. of the day that a complete NOT is processed and posted on EPA's website. If a Decision-maker submits an NOT without meeting one or more of the conditions identified in Part 1.2.5.2, the NOT is not valid. Decision-makers are responsible for complying with the terms of this permit until authorization is terminated. If required to submit annual reports pursuant to Part 7, prior to the termination of authorization under this permit, Decision-makers must file an annual report for the portion of the year up through the date of termination. The annual report is due no later than February 15 of the following year.

**1.2.5.2 When to Submit an NOT.** A Decision-maker who is required to submit an NOI as identified in Part 1.2.2 must submit the NOT within 30 days after one or more of the following conditions have been met:

- a. A new Decision-maker has taken over responsibility of the pest control activities covered under an existing NOI;
- b. The Decision-maker has ceased all discharges from the application of pesticides for which permit coverage was obtained and does not expect to discharge during the remainder of the permit term for any of the use patterns as identified in Part 1.1.1; or
- c. The Decision-maker has obtained coverage under an NPDES individual permit or an alternative NPDES general permit for all discharges required to be covered by an

NPDES permit, unless coverage was obtained consistent with Part 1.3, in which case coverage under this permit will terminate automatically.

**1.2.5.3 Termination for Operators not Required to Submit an NOI.** Permit coverage is terminated for Operators covered under this permit who are not required to submit an NOI when there is no longer a discharge from the application of pesticides, or the discharges are covered under an NPDES individual permit or alternative NPDES general permit.

## **1.3 Alternative Permits**

### **1.3.1 Requirements for Coverage Under an Alternative Permit**

In accordance with 40 CFR 122.64 and 124.5, EPA may require Operators to apply for and/or obtain authorization to discharge under either an NPDES individual permit or an alternative NPDES general permit.

If EPA requires an Operator to apply for an NPDES individual permit, EPA will notify the Operator in writing that a permit application is required. Such a notification will include a brief statement of the reasons for the decision and will provide application information. In addition, for Operators whose discharges are authorized under this permit, any notice will set a deadline to file the permit application and will include a statement that on the effective date of the NPDES individual permit, coverage under this general permit will terminate. EPA may grant additional time to submit the application if an Operator submits a request setting forth reasonable grounds for additional time. If the Operator is covered under this permit and fails to submit an NPDES individual permit application as required by EPA, the applicability of this permit to such Operator is terminated at the end of the day specified by EPA as the deadline for application submittal. EPA may take enforcement action for any unpermitted discharge or violation of any permit requirement.

### **1.3.2 Operator Requesting Coverage Under an Alternative Permit**

If an Operator does not want to be covered by this general permit but needs permit coverage, the Operator can apply for an NPDES individual permit. In such a case, the Operator must submit an individual permit application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to EPA at the applicable EPA Regional Office listed in Part 8. The request may be granted by issuance of an NPDES individual permit or authorization of coverage under an alternative NPDES general permit.

When an individual NPDES permit is issued or the Operator is authorized under an alternative NPDES general permit to discharge a pollutant to waters of the United States as a result of a pesticide application, authorization to discharge under this permit is terminated on the effective date of the NPDES individual permit or the date of authorization of coverage under the alternative NPDES general permit.

## **1.4 Severability**

Invalidation of a portion of this permit does not render the whole permit invalid. EPA's intent is that the permit will remain in effect to the extent possible; if any part of this

permit is invalidated, the remaining parts of the permit will remain in effect unless EPA issues a written statement indicating otherwise.

### **1.5 Other Federal and State Laws**

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. In fact, applications in violation of certain FIFRA requirements could also be a violation of the permit and therefore a violation of the CWA (*e.g.*, exceeding label application rates). Additionally, other laws and regulations might apply to certain activities that are also covered under this permit (*e.g.*, United States Coast Guard regulations).

### **1.6 Federally Listed Endangered and Threatened Species and Designated Critical Habitat**

Operators must comply with all conditions and/or requirements that address discharges from activities also covered under this permit resulting from any of the following pre-existing situations:

- a. ESA Section 7 consultation that Operators have completed with FWS and/or NMFS as a result of a separate federal action, and/or
- b. ESA Section 10 permit issued to the Operator by FWS and/or NMFS as a result of a separate federal action.

## 2.0 Technology-Based Effluent Limitations

This Part includes technology-based effluent limitations applicable to all Operators as defined in Appendix A for any discharges authorized under this permit, with compliance required upon beginning such discharge. All Operators are classified as either “Applicators” or “Decision-makers,” as defined in Appendix A, or both. Applicators must perform the tasks identified in Part 2.1 – Applicators’ Responsibilities. Decision-makers must perform the tasks identified in Part 2.2 – Decision-makers’ Responsibilities. There may be instances when a single entity acts as both an Applicator and a Decision-maker.

If an Operator’s discharge of pollutants results from the application of pesticide that is being used solely for the purpose of “pesticide research and development,” as defined in Appendix A, the Operator must use such pesticide consistent with any applicable research plan and experimental use permit.

As stated in Part 1.5, this permit requires all Operators to comply with all other applicable federal or state laws and regulations that pertain to application of pesticides by the Operator.

### 2.1 Applicators’ Responsibilities

To meet the effluent limitations of this permit, all Applicators must implement Part 2.1 to minimize the discharge of pesticides to waters of the United States from the application of pesticides, through the use of Pest Management Measures as defined in Appendix A.

- 2.1.1 To the extent not determined by the Decision-maker, use only the amount of pesticide and frequency of pesticide application necessary to control the target pest, using equipment and application procedures appropriate for this task.
- 2.1.2 Maintain pesticide application equipment in proper operating condition, including requirement to calibrate, clean, and repair such equipment and prevent leaks, spills, or other unintended discharges.
- 2.1.3 Assess weather conditions (*e.g.*, temperature, precipitation, and wind speed) in the treatment area to ensure application is consistent with all applicable federal requirements.

### 2.2 Decision-makers’ Responsibilities: For All Decision-makers

To meet the effluent limitations in Part 2.2, all Decision-makers must minimize the discharge of pesticides to waters of the United States from the application of pesticides, through the use of Pest Management Measures as defined in Appendix A.

To the extent the Decision-maker determines the amount of pesticide or frequency of pesticide application, the Decision-maker must use only the amount of pesticide and frequency of pesticide application necessary to control the target pest.

Decision-Maker’s Responsibilities: For Any Decision-maker Who is, or Will be Required to Submit an NOI.

To meet the effluent limitations of this permit prior to pesticide application, any Decision-maker is or will be required to submit an NOI as required in Part 1.2.2, except those Decision-makers that will need to submit an NOI only because they discharge to waters of the United States containing NMFS Listed Resources of Concern and that also comply with provisions in Part 1.6, must also implement Parts 2.2.1 - 2.2.4 to minimize the discharge of pesticides to waters of the United States from the application of pesticides, through the use of Pest Management Measures as defined in Appendix A.

### 2.2.1 Mosquito and Other Flying Insect Pest Control

This part applies to discharges from the application of pesticides for mosquito and other flying insect pest control as defined in Part 1.1.1.

- a. Identify the Problem.** Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the United States, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area as defined in Appendix A:
1. Establish densities for larval and adult mosquito or flying insect pest populations or identify environmental condition(s), either current or based on historical data, to serve as action threshold(s) for implementing Pest Management Measures;
  2. Identify target pest(s) to develop Pest Management Measures based on developmental and behavioral considerations for each pest;
  3. Identify known breeding sites for source reduction, larval control program, and habitat management;
  4. Analyze existing surveillance data to identify new or unidentified sources of mosquito or flying insect pest problems as well as sites that have recurring pest problems; and
  5. In the event there are no data for the pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in Part 2.2.1.a.
- b. Pest Management Options.** Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the United States, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize discharges resulting from the application of pesticides to control mosquitoes or other flying insect pests. In developing the Pest Management Measures for each pest management area, the Decision-maker must evaluate the following management options, including a combination of these management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:
1. No action;
  2. Prevention;
  3. Mechanical or physical methods;
  4. Cultural methods;
  5. Biological control agents;

## 6. Pesticides.

- c. Pesticide Use.** If a pesticide is selected to manage mosquitoes or flying insect pests, and application of the pesticide will result in a discharge to waters of the United States, any Decision-maker who is or will be required to submit an NOI must:
1. Conduct larval and/or adult surveillance in an area that is representative of the pest problem or evaluate existing larval surveillance data, environmental conditions, or data from adjacent areas prior to each pesticide application to assess the pest management area and to determine when the action threshold(s) is met;
  2. Reduce the impact on the environment and on non-target organisms by applying the pesticide only when the action threshold(s) has been met;
  3. In situations or locations where practicable and feasible for efficacious control, use larvicides as a preferred pesticide for mosquito or flying insect pest control when the larval action threshold(s) has been met; and
  4. In situations or locations where larvicide use is not practicable or feasible for efficacious control, use adulticides for mosquito or flying insect pest control when the adult action threshold(s) has been met.

### 2.2.2 Weed and Algae Pest Control

This part applies to discharges from the application of pesticides for control of weeds, algae, and pathogens as defined in Part 1.1.1.

- a. Identify the Problem.** Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the United States, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area as defined in Appendix A:
1. Identify areas with pest problems and characterize the extent of the problems, including for example water use goals not attained (*e.g.*, wildlife habitat, fisheries, vegetation, and recreation);
  2. Identify target pest(s);
  3. Identify possible factors causing or contributing to the pest problem (*e.g.*, nutrients, invasive species, *etc.*);
  4. Establish any pest- and site-specific action threshold as defined in Appendix A for implementing Part 2.2.2.b; and
  5. In the event there are no data for the pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in Part 2.2.2.a.
- b. Pest Management Options.** Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the United States, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize discharges resulting from the application of pesticides to control pests. In developing

the Pest Management Measures for each pest management area, the Decision-maker must evaluate the following management options, including a combination of these management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

1. No action;
2. Prevention;
3. Mechanical or physical methods;
4. Cultural methods;
5. Biological control agents;
6. Pesticides.

**c. Pesticide Use.** If a pesticide is selected to manage pests, and application of the pesticide will result in a discharge to waters of the United States, any Decision-maker who is or will be required to submit an NOI must:

1. Conduct surveillance in an area that is representative of the pest problem prior to each pesticide application to assess the pest management area and to determine when the action threshold(s) is met; and
2. Reduce the impact on the environment and non-target organisms by applying the pesticide only when the action threshold has been met.

### 2.2.3 Animal Pest Control

This part applies to discharges from the application of pesticides for control of animal pests as defined in Part 1.1.1.

**a. Identify the Problem.** Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the United States, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area as defined in Appendix A:

1. Identify areas with pest problems and characterize the extent of the problems, including for example water use goals not attained (*e.g.*, wildlife habitat, fisheries, vegetation, and recreation);
2. Identify target pest(s);
3. Identify possible factors causing or contributing to the problem (*e.g.*, nutrients, invasive species);
4. Establish any pest- and site-specific action threshold as defined in Appendix A for implementing Part 2.2.3.b; and
5. In the event there are no data for the pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in Part 2.2.3.a.

**b. Pest Management Options.** Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the United States, and at least once each year thereafter prior to the first pesticide application during that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize



discharges resulting from the application of pesticides to control pests. In developing the Pest Management Measures for each pest management area, the Decision-maker must evaluate the following management options, including a combination of these management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

1. No action;
2. Prevention;
3. Mechanical or physical methods;
4. Cultural methods;
5. Biological control agents;
6. Pesticides.

**c. Pesticide Use.** If a pesticide is selected to manage pests and application of the pesticide will result in a discharge to waters of the United States, any Decision-maker who is or will be required to submit an NOI must:

1. Conduct surveillance in an area that is representative of the pest problem prior to each application to assess the pest management area and to determine when the action threshold(s) is met; and
2. Reduce the impact on the environment and non-target organisms by evaluating site restrictions, application timing, and application method in addition to applying the pesticide only when the action threshold(s) has been met.

#### 2.2.4 Forest Canopy Pest Control

This part applies to discharges from the application of pesticides for forest canopy pest control as defined in Part 1.1.1.

**a. Identify the Problem.** Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the United States, and at least once each calendar year thereafter prior to the first pesticide application in that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area as defined in Appendix A:

1. Establish any pest- and site-specific action threshold as defined in Appendix A for implementing Part 2.2.4.b;
2. Identify target pest(s) to develop Pest Management Measures based on developmental and behavioral considerations for each pest;
3. Identify current distribution of the target pest and assess potential distribution in the absence of Pest Management Measures; and
4. In the event there are no data for the pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in Part 2.2.4.a.

**b. Pest Management Options.** Prior to the first pesticide application covered under this permit that will result in a discharge to waters of the United States, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize

discharges resulting from the application of pesticides to control pests. In developing the Pest Management Measures for each pest management area, the Decision-maker must evaluate the following management options, including a combination of these management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

1. No action;
  2. Prevention;
  3. Mechanical/physical methods;
  4. Cultural methods;
  5. Biological control agents;
  6. Pesticides.
- c. Pesticide Use.** If a pesticide is selected to manage forestry pests, and application of the pesticide will result in a discharge to waters of the United States, any Decision-maker who is or will be required to submit an NOI must:
1. Conduct surveillance in an area that is representative of the pest problem prior to each application to assess the pest management area and to determine when the pest action threshold is met;
  2. Reduce the impact on the environment and non-target organisms by evaluating the restrictions, application timing, and application methods in addition to applying the pesticide only when the action threshold(s) has been met; and
  3. Evaluate using pesticides against the most susceptible developmental stage.

### **3.0 Water Quality-Based Effluent Limitations**

All Operators must control discharges as necessary to meet applicable numeric and narrative state or tribal water quality standards for any discharges authorized under this permit, with compliance required upon beginning such discharge.

If at any time an Operator becomes aware (*e.g.*, through self-monitoring or by notification from the state or tribe), or EPA determines, that the Operator's discharge causes or contributes to an excursion of any applicable water quality standard, the Operator must take corrective action as required in Part 6 up to and including the ceasing of the discharge, if necessary.

## **4.0 Monitoring**

### **4.1 Visual Monitoring Requirements for Applicators**

During any pesticide application with discharges authorized under this permit, all Applicators must, when considerations for safety and feasibility allow, visually assess the area to and around where pesticides are applied for possible and observable adverse incidents as defined in Appendix A caused by application of pesticides, including the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use.

### **4.2 Visual Monitoring Requirements for all Operators**

During any Operator post-application surveillance of any pesticide application with discharges authorized under this permit, all Operators must visually assess the area to and around where pesticides were applied for possible and observable adverse incidents as defined in Appendix A caused by application of pesticides, including the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use.

## 5.0 Pesticide Discharge Management Plan

Any Decision-maker who is or will be required to submit an NOI as required in Part 1.2.2 and is a *large entity* as defined in Appendix A must prepare a Pesticide Discharge Management Plan (PDMP) by the time the NOI is filed, with two exceptions (for which a PDMP is not required to be developed):

- Any application is made in response to a Declared Pest Emergency Situation as defined in Appendix A; or
- Any Decision-maker who is required to submit an NOI solely because their application results in a point source discharge to waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A.

The PDMP does not contain effluent limitations; the effluent limitations are specified in Parts 2 and 3. The PDMP documents how Decision-makers will implement the effluent limitations in Parts 2 and 3, including the evaluation and selection of Pest Management Measures to meet those effluent limitations in order to minimize discharges. In the PDMP, Decision-makers may incorporate by reference any procedures or plans in other documents that meet the requirements of this permit. If Decision-makers rely upon other documents to comply with the effluent limitations in this permit, such as a pre-existing pest management plan, the Decision-maker must attach to the PDMP a copy of any portions of any documents that are used to document the implementation of the effluent limitations.

### 5.1 Contents of the Pesticide Discharge Management Plan

The PDMP must include the following elements:

- a. Pesticide Discharge Management Team;
- b. Problem Identification;
- c. Pest Management Options Evaluation;
- d. Response Procedures;
  1. Spill Response Procedures,
  2. Adverse Incident Response Procedures;
- e. Documentation to Support Eligibility Considerations Under Other Federal Laws;
- f. Signature Requirements.

#### 5.1.1 PDMP Team

Decision-makers must identify all the persons (by name and contact information) that compose the team as well as each person's individual responsibilities, including:

- a. Person(s) responsible for managing pests in relation to the pest management area;
- b. Person(s) responsible for developing and revising the PDMP; and
- c. Person(s) responsible for developing, revising, and implementing corrective actions and other effluent limitation requirements.

### 5.1.2 Problem Identification

Decision-makers must document the following:

- a. Pest problem description. Document a description of the pest problem at the pest management area, including identification of the target pest(s), source(s) of the pest problem and source of data used to identify the problem in accordance with Parts 2.2.1, 2.2.2, 2.2.3, and 2.2.4.;
- b. Action Threshold(s). Describe the action threshold(s) for the pest management area, including data used in developing the action threshold(s) and method(s) to determine when the action threshold(s) has been met;
- c. General location map. In the plan, include a general location map (*e.g.*, USGS quadrangle map, a portion of a city or county map, or other map) that identifies the geographic boundaries of the area to which the plan applies and the location of the waters of the United States; and
- d. Water quality standards. Document any Tier 3 (Outstanding National Resource Waters) and any water(s) identified as impaired by a substance which either is an active ingredient or a degradate of such an active ingredient.

### 5.1.3 Pest Management Options Evaluation

Decision-makers must document the evaluation of the pest management options including combination of the pest management options to control the target pest(s). Pest management options include the following: no action, prevention, mechanical/physical methods, cultural methods, biological control agents, and pesticides. In the evaluation, Decision-makers must consider the impact to water quality, impact to non-target organisms, feasibility, cost effectiveness, and any relevant previous Pest Management Measures.

### 5.1.4 Response Procedures

Decision-makers must document the following procedures in the PDMP:

- a. Spill Response Procedures – At a minimum, Decision-makers must have:
  1. Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases to waters of the United States. Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of the PDMP team;
  2. Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies.
- b. Adverse Incident Response Procedures – At a minimum, Decision-makers must have:
  1. Procedures for responding to any adverse incident resulting from pesticide applications;
  2. Procedures for notification of the adverse incident, both internal to the Decision-maker's agency/organization and external. Contact information for state/federal permitting agency, nearest emergency medical facility, and nearest hazardous chemical responder must be in locations that are readily accessible and available.

### 5.1.5 Documentation to Support Eligibility Considerations under Other Federal Laws

Decision-makers must keep with the PDMP documentation supporting their determination with regard to Part 1.1.2.4 (Endangered and Threatened Species and Critical Habitat Protection).

### 5.1.6 Signature Requirements

Decision-makers must sign, date, and certify the PDMP in accordance with 40 CFR 122.41(k).

## 5.2 Pesticide Discharge Management Plan Modifications

Decision-makers must modify the PDMP whenever necessary to address any of the triggering conditions for corrective action in Part 6.1, or when a change in pest control activities significantly changes the type or quantity of pollutants discharged. Changes to the PDMP must be made before the next pesticide application that results in a discharge, if practicable, or if not, no later than 90 days after any change in pesticide application activities. The revised PDMP must be signed and dated in accordance with 40 CFR 122.41(k).

## 5.3 Pesticide Discharge Management Plan Availability

Decision-makers must retain a copy of the current PDMP, along with all supporting maps and documents, at the address provided on the NOI. The PDMP and all supporting documents must be readily available, upon request, and copies of any of these documents provided, upon request to EPA, a state, tribal, or local agency governing discharges or pesticide applications within their respective jurisdictions, or representatives of the Services. EPA may provide copies of the PDMP or other information related to this permit that is in its possession to members of the public. Any Confidential Business Information (CBI) as defined in 40 CFR Part 2 may be withheld from the public provided that a claim of confidentiality is properly asserted and documented in accordance with 40 CFR Part 2; however, CBI must be submitted to EPA if requested and may not be withheld from those staff within EPA, FWS, and NMFS cleared for CBI review.

## 6.0 Corrective Action

All Operators must comply with the provisions of Part 6 for any discharges authorized under this permit, with compliance required upon beginning such discharge.

### 6.1 Situations Requiring Revision of Pest Management Measures

Operators must review and, as necessary, revise the evaluation and selection of Pest Management Measures consistent with Part 2.1 and 2.2 for the following situations:

- a. An unauthorized release or discharge associated with the application of pesticides (e.g., spill, leak, or discharge not authorized by this or another NPDES permit) occurs;
- b. Operators become aware or EPA concludes that Pest Management Measures are not adequate/sufficient for the discharge to meet applicable water quality standards;
- c. Any monitoring activities indicate failure to meet applicable technology-based effluent limitations in Part 2;
- d. An inspection or evaluation of activities by an EPA official, or local, state, or tribal entity reveals that modifications to the Pest Management Measures are necessary to meet the effluent limitations in this permit;
- e. Any Operator observes or is otherwise made aware of an adverse incident as defined in Appendix A.

### 6.2 Corrective Action Deadlines

If an Operator determines that changes to Pest Management Measures are necessary to eliminate any situation identified in Part 6.1, such changes must be made before or, if not practicable, as soon as possible after the next pesticide application that results in a discharge.

### 6.3 Effect of Corrective Action

The occurrence of a situation identified in Part 6.1 may constitute a violation of the permit. Correcting any situation identified in Part 6.1 does not absolve Operators of liability for any original violation. However, failure to comply with Part 6.2 constitutes an additional permit violation. EPA will consider the appropriateness and promptness of corrective action in determining enforcement responses to permit violations.

EPA may impose additional requirements and schedules of compliance, including requirements to submit additional information concerning the condition(s) triggering corrective action or schedules and requirements more stringent than specified in this permit. Those requirements and schedules will supersede those of Part 6.1 and 6.2 if such requirements conflict.



## 6.4 Adverse Incident Documentation and Reporting

### 6.4.1 Twenty-Four (24)-Hour Adverse Incident Notification

#### 6.4.1.1 Adverse Incident Notification Required

Except as provided for in Part 6.4.4, if an Operator observes or is otherwise made aware of an adverse incident as defined in Appendix A that may have resulted from a discharge from a pesticide application, the Operator must immediately notify the appropriate EPA Incident Reporting Contact as identified at <https://www.epa.gov/npdes/pesticide-permitting>. This notification must be made by telephone within 24 hours of the Operator becoming aware of the adverse incident and must include at least the following information:

- a. The caller's name and telephone number;
- b. Operator name and mailing address;
- c. If covered under an NOI, the NOI NPDES permit tracking number assigned by EPA;
- d. The name and telephone number of a contact person if different than the person providing the 24-hour notice;
- e. How and when the Operator became aware of the adverse incident;
- f. Description of the location of the adverse incident;
- g. Description of the adverse incident identified and the pesticide product, including EPA pesticide registration number, for each product applied in the area of the adverse incident;
- h. Description of any steps the Operator has taken or will take to correct, repair, remedy, clean up, or otherwise address any adverse effects; and
- i. If known, the identity of any other Operators authorized for coverage under this permit for discharges from the pesticide application activities that resulted in the adverse incident.

If an Operator is unable to notify EPA within 24 hours, the Operator must do so as soon as possible and also provide an appropriate rationale for why the Operator was unable to provide such notification within 24 hours.

The adverse incident notification and reporting requirements are in addition to what the registrant is required to submit under FIFRA Section 6(a)(2) and its implementing regulations at 40 CFR Part 159.

#### 6.4.1.2 Adverse Incident Notification Not Required

Reporting of adverse incidents is not required under this permit 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.

#### 6.4.2 Thirty (30)-Day Adverse Incident Written Report

Except as provided for in Part 6.4.4, within 30 days of a reportable adverse incident pursuant to Part 6.4.1.1 Operators must provide a written report of the adverse incident to the appropriate EPA Regional office at the address listed in Part 8 and to the state lead agency for pesticide regulation (see <http://npic.orst.edu/state1.htm>). The adverse incident report must include at least the following information:

- a. Information required to be provided in Part 6.4.1.1;
- b. Date and time the Operator contacted EPA notifying the Agency of the adverse incident, who the Operator spoke with at EPA, and any instructions received from EPA;
- c. Location of incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, *etc.*);
- d. A description of the circumstances of the adverse incident including species affected, estimated number of individual and approximate size of dead or distressed organisms;
- e. Magnitude and scope of the affected area (*e.g.*, aquatic square area or total stream distance affected);
- f. Pesticide application rate; intended use site (*e.g.*, on the bank, above waters, or directly to water); method of application; and the name of pesticide product and EPA registration number;
- g. Description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data for pesticides applied);
- h. If laboratory tests were performed, an indication of which test(s) were performed and when; additionally, a summary of the test results must be provided within 5 days after they become available if not available at the time of submission of the 30-day report;
- i. Description of actions to be taken to prevent recurrence of adverse incidents; and
- j. Signature, date, and certification in accordance with 40 CFR 122.41(k).

#### 6.4.3 Adverse Incident to Threatened or Endangered Species or Critical Habitat

Notwithstanding any of the other adverse incident notification requirements of this section, if an Operator becomes aware of an adverse incident affecting a federally listed threatened or endangered species or its federally designated critical habitat that may have resulted from a discharge from the Operator's pesticide application, Operator must immediately notify NMFS in the case of an anadromous or marine species, or FWS in the case of a terrestrial or freshwater species. This notification must be made by telephone to the contacts listed on EPA's website at <https://www.epa.gov/npdes/pesticide-permitting> immediately upon the Operator becoming aware of the adverse incident and must include at least the following information:

- a. The caller's name and telephone number;
- b. Operator name and mailing address;
- c. The name of the affected species;
- d. How and when the Operator became aware of the adverse incident;
- e. Description of the location of the adverse incident;
- f. Description of the adverse incident and the pesticide product, including the EPA pesticide registration number, for each product applied in the area of the adverse incident; and
- g. Description of any steps the Operator has taken or will take to alleviate the adverse impact to the species.

Additional information on federally-listed threatened or endangered species and federally-designated critical habitat is available from NMFS for anadromous or marine species or FWS for terrestrial or freshwater species, including at their websites, [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov) and [www.fws.gov](http://www.fws.gov). Note: In an adverse incident affecting federally listed threatened or endangered species or designated critical habitat, the Operator should leave the affected organisms alone, make note of any circumstances likely causing the death or injury, note the location and number or extent of aquatic organisms involved and, if possible, take photographs. In some circumstances, the Operator may be asked to carry out instructions provided by the Services to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

#### 6.4.4 Notification and Reporting for Adverse Incidents Involving Multiple Operators

Where multiple Operators are authorized for a discharge that results in an adverse incident, notification and reporting by any one of the Operators constitutes compliance for all of the Operators, provided a copy of the written report required in Part 6.4.2 is also provided to all of the other authorized Operators within 30 days of the reportable adverse incident.

## 6.5 Reportable Spills and Leaks

### 6.5.1 Spill, Leak, or Other Unpermitted Discharge Notification

Where a leak, spill, or other release into waters of the United States containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302 occurs in any 24-hour period, an Operator must notify the National Response Center immediately at (800) 424-8802 or, in the Washington, D.C., metropolitan area, call (202) 267-2675 in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302, as soon as the Operator has knowledge of the release. Contact information must be in locations that are readily accessible and available in the area where the spill, leak, or other unpermitted discharge may occur.

State or local requirements may necessitate also reporting spills or leaks to local emergency response, public health, or drinking water supply agencies.

### 6.5.2 Thirty-Day Spill, Leak, or Other Unpermitted Discharge Documentation

If an Operator becomes aware of a spill, leak, or other unpermitted discharge that triggers the notification in Part 6.5.1 and results in an adverse incident, the Operator must report the incident per the guidelines in Part 6.4.1 and 6.4.2. If the spill, leak, or other unpermitted discharge triggers the notification in Part 6.5.1 but does not result in an adverse incident, the Operator must document and retain the following information within 30 days of becoming aware of the situation:

- a. Information required to be provided in Part 6.5.1;
- b. Summary of corrective action taken or to be taken, including date initiated and date completed or expected to be completed; and
- c. Any measures to prevent recurrence of such a spill or leak or other discharge, including notice of whether PDMP modifications are required as a result of the spill or leak.

### 6.6 Other Corrective Action Documentation

For situations identified in Part 6.1 other than for adverse incidents (addressed in Part 6.4) or reportable spills or leaks (addressed in Part 6.5), Operators must document the situation triggering corrective action and document planned corrective action within 30 days of becoming aware of that situation and retain a copy of this documentation. This documentation must include the following information:

- a. Identification of the condition triggering the need for corrective action review, including any ambient water quality monitoring that assisted in determining that discharges did not meet water quality standards;
- b. Brief description of the situation;
- c. Date the problem was identified;
- d. Brief description of how the problem was identified, how the Operator learned of the situation, and date the Operator learned of the situation;
- e. Summary of corrective action taken or to be taken, including date initiated and date completed or expected to be completed; and
- f. Any measures to prevent reoccurrence of such an incident, including notice of whether PDMP modifications are required as a result of the incident.

## 7.0 Recordkeeping and Annual Reporting

The recordkeeping and annual reporting requirements vary depending on the type of Operator, whether a Decision-maker is a small or large entity, or whether a Decision-maker is required to submit an NOI solely because the discharge overlaps with NMFS Listed Resources of Concern as defined in Appendix A. Table 7-1 references applicable requirements for the range of Operators covered under this permit.

**Table 7-1: Applicable Recordkeeping and Annual Reporting Requirements for Different Types of Operators**

PGP Part	Applicable Type of Operator
7.1	Recordkeeping: All Operators
7.2	Recordkeeping: All Operators who are For-Hire Applicators as defined in Appendix A
7.3	Recordkeeping: Any Decision-maker required to submit an NOI and who is a <i>small entity</i> <sup>1</sup>
7.4	Recordkeeping: Any Decision-maker required to submit an NOI and who is a <i>large entity</i> <sup>2</sup>
7.5	Retention of Records: All Operators
7.6	Annual Reporting: Any Decision-maker required to submit an NOI and who is a <i>large entity</i> <sup>2</sup>
7.7	Annual Reporting: Any Decision-maker with discharges to waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A, and who is a <i>small entity</i> <sup>1</sup>

<sup>1</sup>**Small Entity** – As defined in Appendix A, is any (1) public entity that serves a population of 10,000 or less or (2) private enterprise that does not exceed the Small Business Administration size standard as identified at 13 CFR 121.201.

<sup>2</sup>**Large Entity** – As defined in Appendix A, is any (1) public entity that serves a population greater than 10,000 or (2) private enterprise that exceeds the Small Business Administration size standard as identified at 13 CFR 121.201.

Operators must keep written records as required in this permit for all discharges covered under this permit. These records must be accurate and complete to demonstrate the Operator's compliance with the conditions of this permit. Operators may rely on records and documents developed for other obligations such as requirements under FIFRA, and state or local pesticide programs provided that all requirements of this permit are satisfied.

EPA recommends that all Decision-makers who are or may be required to submit an NOI based on their annual treatment area keep records of acres or linear miles treated for all applicable use patterns covered under this general permit. The records should be kept up-to-date to help Decision-makers determine if the annual treatment area threshold as identified in Part 1.2.2 is met during any calendar year.

## 7.1 Recordkeeping for All Operators

All Operators must keep the following records:

- a. A copy of any Adverse Incident Reports (See Part 6.4.2);
- b. Rationale for any determination that reporting of an identified adverse incident is not required, consistent with allowances identified in Part 6.4.1.2;
- c. A copy of any corrective action documentation (See Part 6.6); and,
- d. A copy of any spill and leak or other unpermitted discharge documentation (See Part 6.5.2).

## 7.2 Recordkeeping for All Operators who are For-Hire Applicators

Any Operator who is a For-Hire Applicator as defined in Appendix A must retain the following records:

- a. Documentation of equipment calibration; and
- b. Information on each treatment area to which pesticides are discharged, including:
  1. Description or map of each treatment area indicating at a minimum, the location and size, (acres or linear feet) of treatment area, and identification of any waters, either by name or by location, to which pesticide(s) are discharged;
  2. Pesticide use pattern(s) (*i.e.*, mosquito and other flying insects, weed and algae, animal pest, or forest canopy);
  3. Target pest(s);
  4. Name of each pesticide product used including the EPA registration number;
  5. Quantity of each pesticide product applied to each treatment area;
  6. Pesticide application date(s); and
  7. Whether or not visual monitoring was conducted during pesticide application and/or post-application and if not, why not, and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.

## 7.3 Recordkeeping for Any Decision-maker Required to Submit an NOI and Who is a Small Entity

Any Decision-maker required to submit an NOI who is defined as a *small entity* must retain the following records at the address provided on the NOI:

- a. Copy of the NOI submitted to EPA, any correspondence exchanged between the Decision-maker and EPA specific to coverage under this permit, and a copy of the EPA acknowledgment letter with the assigned permit tracking number;
- b. Documentation of equipment calibration (only if Decision-maker is also the Applicator);
- c. Information on each treatment area to which pesticides are discharged, including:

1. Description or map of each treatment area indicating at a minimum, the location and size, (acres or linear feet) of treatment area, and identification of any waters, either by name or by location, to which pesticide(s) are discharged;
2. Pesticide use pattern(s) (*i.e.*, mosquito and other flying insects, weed and algae, animal pest, or forest canopy);
3. Target pest(s) and explanation of need for pest control;
4. Description of pest management measure(s) implemented prior to the first pesticide application;
5. Company name and contact information for pesticide applicator;
6. Name of each pesticide product used including the EPA registration number;
7. Quantity of each pesticide product applied to each treatment area;
8. Pesticide application start date;
9. Pesticide application end date; and
10. Whether or not visual monitoring was conducted during pesticide application and/or post-application and if not, why not and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.

A worksheet for documenting this information on each treatment area is provided in Appendix F, Pesticide Discharge Evaluation Worksheet.

#### **7.4 Recordkeeping for Any Decision-maker Required to Submit an NOI and Who is a Large Entity**

Any Decision-maker required to submit an NOI who is defined as a *large entity* must retain the following records at the address provided on the NOI:

- a. Copy of the NOI submitted to EPA, any correspondence exchanged between the Decision-maker and EPA specific to coverage under this permit, and a copy of the EPA acknowledgment letter with the assigned permit tracking number;
- b. A copy of the PDMP, including any modifications made to the PDMP during the term of this permit;
- c. Copy of annual reports submitted to EPA;
- d. Documentation of equipment calibration (only if Decision-maker is also the Applicator);
- e. Information on each treatment area to which pesticides are discharged, including:
  1. Description or map of each treatment area indicating at a minimum, the location and size, (acres or linear feet) of treatment area, and identification of any waters, either by name or by location, to which pesticide(s) are discharged;
  2. Pesticide use pattern(s) (*i.e.*, mosquito and other flying insects, weed and algae, animal pest, or forest canopy);
  3. Target pest(s) and explanation of need for pest control;
  4. Action thresholds;
  5. Method and/or data used to determine that action threshold(s) has been met;

6. Description of pest management measure(s) implemented prior to the first pesticide application;
7. Company name and contact information for pesticide applicator;
8. Name of each pesticide product used including the EPA registration number;
9. Quantity of each pesticide product applied to each treatment area;
10. Pesticide application date(s); and
11. Whether or not visual monitoring was conducted during pesticide application and/or post-application, and if not, why not, and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.

## 7.5 Retention of Records for All Operators

All required records must be documented as soon as possible but no later than 14 days following completion of each pesticide application. Operators must retain any records required under this permit for at least 3 years after the Operator's coverage under this permit expires or is terminated. Operators must make available to EPA, including an authorized representative of EPA, all records kept under this permit, upon request, and provide copies of such records, upon request.

## 7.6 Annual Reporting for Any Decision-maker Required to Submit an NOI and Who is a Large Entity

Any Decision-maker required to submit an NOI and is defined as a *large entity* in Appendix A must submit an annual report to EPA. Once a Decision-maker meets the obligation to submit an annual report, the Decision-maker must submit the annual report each calendar year thereafter for the duration of coverage under this general permit regardless of whether or not the Decision-maker has discharges from the application of pesticides in any subsequent calendar year. Decision-makers must submit the annual report electronically through EPA's NPDES eReporting Tool (NeT) unless NeT is otherwise unavailable, or the Decision-maker meets the waiver requirements for submitting a paper annual report. See Part 7.8. The annual report must be submitted no later than February 15 of the following year for all pesticide activities covered under this permit occurring during the previous calendar year. Annual reporting requirements begin with those activities occurring during calendar year 2022.

Any Decision-maker required to submit an NOI based on an annual treatment area threshold must include information for the calendar year, with the first annual report required to include activities for the portion of the calendar year after the point at which the Decision-maker exceeded the annual treatment area threshold. If the Decision-maker first exceeds an annual treatment area threshold after December 1, an annual report is not required for that first partial year, but an annual report is required thereafter, with the first annual report submitted also including information from the first partial year.

When Decision-makers terminate permit coverage as specified in Part 1.2.5 an annual report must be submitted for the portion of the year up through the date of termination. The annual report is due no later than February 15 of the next year.

The annual report must contain the following information:



- a. Decision-maker's name and contact information;
- b. NPDES permit tracking number(s);
- c. Contact person name, title, e-mail address (if any), and phone number; and
- d. For each treatment area, report the following information:
  1. Description or map of each treatment area indicating at a minimum, the location and size, (acres or linear feet) of treatment area, and identification of any waters, either by name or by location, to which pesticide(s) are discharged;
  2. Pesticide use pattern(s) (*i.e.*, mosquito and other flying insects, weed and algae, animal pest, or forest canopy) and target pest(s);
  3. Company name(s) and contact information for pesticide applicator(s), if different from the Decision-maker;
  4. Total amount of each pesticide product applied for the reporting year by the EPA registration number(s) and by application method (*e.g.*, aerially by fixed-wing or rotary aircraft, broadcast spray, *etc.*);
  5. Whether this pest control activity was addressed in the PDMP prior to pesticide application;
  6. If applicable, an annual report of any adverse incidents as a result of these treatment(s), for incidents, as described in Part 6.4.1; and
  7. If applicable, description of any corrective action(s), including spill responses, resulting from pesticide application activities and the rationale for such action(s).

### **7.7 Annual Reporting for Any Decision-maker with Discharges to Waters of the United States Containing NMFS Listed Resources of Concern, as Defined in Appendix A, and Who is a Small Entity**

Any Decision-maker required to submit an NOI for discharges to waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A and is a *small entity* as defined in Appendix A must submit an annual report to EPA. Once a Decision-maker meets the obligation to submit an annual report, the Decision-maker must submit the annual report each calendar year thereafter for the duration of coverage under this general permit regardless of whether or not the Decision-maker has discharges from the application of pesticides in any subsequent calendar year. Decision-makers must submit the annual report electronically through EPA's NPDES eReporting Tool (NeT) unless NeT is otherwise unavailable, or the Decision-maker meets the waiver requirements for submitting a paper annual report. See Part 7.8. The annual report must be submitted no later than February 15 of the following year for all pesticide activities covered under this permit occurring during the previous calendar year. Annual reporting requirements begin with those activities occurring during calendar year 2022.

When Decision-makers terminate permit coverage as specified in Part 1.2.5, an annual report must be submitted for the portion of the year up through the date of termination. The annual report is due no later than February 15 of the next year.

The annual report must contain the following information for any discharges to waters of the United States containing NMFS Listed Resources of Concern:

- a. Decision-maker's name and contact information;
- b. NPDES permit tracking number(s);
- c. Contact person name, title, e-mail address (if any), and phone number; and
- d. For each treatment area, report the following information:
  1. Description or map of each treatment area indicating at a minimum, the location and size, (acres or linear feet) of treatment area, and identification of any waters, either by name or by location, to which pesticide(s) are discharged;
  2. Pesticide use pattern(s) (*i.e.*, mosquito and other flying insects, weed and algae, animal pest, or forest canopy) and target pest(s);
  3. Company name(s) and contact information for pesticide applicator(s), if different from the Decision-maker;
  4. Total amount of each pesticide product applied for the reporting year by the EPA registration number(s) and by application method (*e.g.*, aerially by fixed-wing or rotary aircraft, broadcast spray, *etc.*);
  5. The approximate date(s) of any discharge;
  6. If applicable, an annual report of any adverse incidents as a result of these treatment(s) for incidents as described in Part 6.4.1; and
  7. If applicable, description of any corrective action(s), including spill responses, resulting from pesticide application activities and the rationale for such action(s).

## 7.8 Electronic Reporting Requirement

Decision-makers must submit all NOIs, NOTs, and annual reports electronically unless the Decision-maker has received a waiver from the appropriate EPA Regional Office based on one of the following conditions:

- If the Decision-maker is physically located in a geographic area (*i.e.*, zip code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission; or
- If the Decision-maker has limitations regarding available computer access or computer capability.

If a Decision-maker wishes to obtain a waiver from submitting a report electronically, the Decision-maker must submit a request to the appropriate EPA Regional Office. EPA Regional Office contact information can be found in Part 8.2. In that request, the Decision-maker must document which exemption they meet, provide evidence supporting any claims, and supply a copy of the completed NOI form. A waiver may only be considered granted once the Decision-maker receives written confirmation from EPA or its authorized representative.

## 8.0 EPA Contact Information and Mailing Addresses

Decision-makers must submit any NOI, NOT, and annual report, as appropriate, using EPA's NPDES eReporting Tool (NeT) unless NeT is otherwise unavailable or EPA waives the electronic submission requirement for an Operator consistent with the requirements identified on the NOI form in Appendix D, the NOT form in Appendix E, or the annual report form in Appendix G. If NeT is unavailable or the Decision-maker has received a waiver from electronic submission, Operators must submit these notices to EPA Headquarters at the address specified in Part 8.1.

Within 30 days of becoming aware of an adverse incident, Operators must send all incident reports under Part 6.4 to the appropriate EPA Regional offices (see Part 8.2) for the jurisdiction within which the incident occurred and to the appropriate state or tribal lead agency for pesticide regulation in that jurisdiction (see <http://npic.orst.edu/state1.htm>).

All other written correspondence concerning discharges covered under this permit and directed to EPA, including individual permit applications, must be sent to the address of the appropriate EPA Regional Office listed below in Part 8.2.

Note: If EPA notifies Operators (either directly, by public notice, or by making information available on the Internet) of other reporting options that become available at a later date (*e.g.*, electronic submission), Operators may take advantage of those options in accordance with the instructions provided by EPA to satisfy the reporting requirements of this permit.

### 8.1 EPA Headquarters Addresses

#### Via United States Postal Service Mail:

United States Environmental Protection Agency  
Office of Water, Water Permits Division  
Mail Code 4203M, ATTN: NPDES Pesticides  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

#### Via overnight/express delivery:

United States Environmental Protection Agency  
Office of Water, Water Permits Division  
Room 7420, ATTN: NPDES Pesticides  
1201 Constitution Avenue, NW  
Washington, DC 20004  
Phone: 202-564-9545

### 8.2 EPA Regional Addresses

#### Region 1: Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont, and Maine

United States EPA Region 1  
Water Division

5 Post Office Square, Suite 100  
Mail Code 06-1  
Boston, MA 02109-3912

**Region 2: New Jersey, New York, Puerto Rico, and Virgin Islands**

For Puerto Rico and the Virgin Islands:  
United States EPA Region 2  
Caribbean Environmental Protection Division  
Multimedia Permits and Compliance Branch  
City View Plaza II  
48 Carr 165, Suite 7000  
Guaynabo, PR 00968-8073

For New Jersey and New York:  
United States EPA Region 2  
Water Division  
290 Broadway, 24<sup>th</sup> Floor  
New York, NY 10007-1866

**Region 3: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia**

United States EPA Region 3  
Clean Water Branch  
Water Division (3WD40)  
1650 Arch Street  
Philadelphia, PA 19103

**Region 4: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee**

United States EPA Region 4  
Water Protection Division  
Atlanta Federal Center  
61 Forsyth Street SW  
Atlanta, GA 30303

**Region 5: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin**

United States EPA Region 5  
Water Division  
Permits Branch  
77 W. Jackson Boulevard  
Mail Code WP-16J  
Chicago, IL 60604

**Region 6: Arkansas, Louisiana, Oklahoma, Texas, and New Mexico (except see Region 9 for Navajo, and see Region 8 for Ute Mountain Reservation)**

United States EPA Region 6  
Permitting and Water Quality Branch  
R6 WD-P  
1201 Elm Street, Suite 500  
Dallas, TX 75270

**Region 7: Iowa, Kansas, Missouri, and Nebraska**

United States EPA, Region 7  
Permits and Loans (PAL) Branch  
Water Division  
11201 Renner Blvd.  
Lenexa, KS 66219

**Region 8: Colorado, Montana, North Dakota, South Dakota, Wyoming, Utah (except see Region 9 for Goshute Reservation and Navajo Reservation), the Ute Mountain Reservation in New Mexico, and the Pine Ridge Reservation in Nebraska**

United States EPA Region 8  
8WD-CWW  
1595 Wynkoop Street  
Denver, CO 80202-1129

**Region 9: Arizona; California; Hawaii; Nevada; Guam; American Samoa; the Commonwealth of the Northern Mariana Islands; the Goshute Reservation in Utah and Nevada; the Navajo Reservation in Utah, New Mexico, and Arizona; the Duck Valley Reservation in Idaho; and Fort McDermitt Reservation in Oregon**

United States EPA Region 9  
Water Division, WTR-2-3  
75 Hawthorne Street  
San Francisco, CA 94105

**Region 10: Alaska, Idaho, Oregon (except see Region 9 for Fort McDermitt Reservation), and Washington**

United States EPA Region 10  
Water Division 19-C04  
1200 6th Avenue, Suite 155  
Seattle, WA 98101

## 9.0 Permit Conditions Applicable to Specific States (including Territories) and Indian Country

The provisions of this Part provide modifications or additions to the applicable conditions of this permit to reflect specific additional conditions required as part of the state or tribal CWA Section 401 certification process, or the Coastal Zone Management Act (CZMA) certification process, or as otherwise established by the permitting authority. The specific additional revisions and requirements only apply to activities in those specific states, Indian Country, and federal facilities. States, Indian Country and federal facilities not included in this Part do not have any modifications or additions to the applicable conditions of this permit.

### 9.1 EPA Region 1

#### 9.1.1 Commonwealth of Massachusetts, except Indian Country

a. *Applicable to Mosquito and Other Flying Insect Pest Control, Weed and Algae Pest Control, Animal Pest Control, and Forest Canopy Pest Control*

1. Pursuant to M.G.L. c. 131 §40, applicants for coverage under this permit are hereby notified that issuance of this concurrence letter does not in any way constitute MassDEP approval of chemical treatment as it relates to the provisions of the Wetlands Protection Act.
2. Pursuant to 321 CMR 10.04, applicants for coverage under this permit are hereby notified that issuance of this concurrence letter does not in any way constitute the Massachusetts Division of Fisheries and Wildlife's (MassWildlife) approval of the chemical treatment as it relates to the provisions of the Massachusetts Endangered Species Act (M.G.L c.131A) or its implementing regulations (321 CMR 10).
3. Pursuant to M.G.L. c. 132B §10 and 333 CMR 10.00, chemical treatments to water using general use pesticides shall only be performed by an applicator currently licensed by MassDEP to perform chemical applications to aquatic systems and the Massachusetts Department of Agricultural Resources (MDAR) Pesticide Program in the aquatics category, if applicable. Chemical treatments to Bordering Vegetated Wetlands (310 CMR 10.55(2)(a)) and Salt Marsh (310 CMR 10.32(2)) using general use pesticides and techniques that ensure chemicals are not applied to water shall only be performed by an applicator currently licensed by the MDAR Pesticide Program. Chemical treatments using restricted use pesticides shall only be performed by an applicator currently certified by the MDAR Pesticide Program.
4. Pursuant to M.G.L c. 132B §6 and 333 CMR 8.00, pesticides used for treatments must be currently approved for use in the state by the MDAR Pesticide Program and registered by EPA.
5. Pursuant to M.G.L. c.131 §40, 310 CMR 10.00, 310 CMR 22.20B(8), 314 CMR 3.05(5), 310 CMR 10.04, and 314 CMR 9.03(4), since chemical treatments constitute the alteration of wetland resources, a Notice of Intent (NOI) must be filed in accordance with the Wetlands Protection

Act and Wetlands Protection Regulations. This condition does not apply when treatment is undertaken with algaecide containing copper approved by MassDEP and used by legally established water supply agencies to control taste and odors. This condition does not apply to the introduction of pollutants from nonpoint source agricultural and silvicultural activities or normal maintenance or improvement of land in agricultural use as defined in 310 CMR 10.04 and 314 CMR 9.03(4).

6. Pursuant to M.G.L. c.131 §40, 310 CMR 22.20B(8), 314 CMR 3.05(5), 310 CMR 10.04, and 314 CMR 9.03(4), applicants for coverage under this permit shall obtain a final Order of Conditions or Negative Determination of Applicability from the local Conservation Commission or a MassDEP Emergency Order prior to treatment. Applicants are required to provide a copy of a valid Order of Conditions or Negative Determination of Applicability annually to MassDEP prior to application of chemicals authorized under this permit. This condition does not apply when treatment is undertaken with algaecide containing copper approved by MassDEP and used by legally established water supply agencies to control taste and odors. This condition does not apply to the introduction of pollutants from nonpoint source agricultural and silvicultural activities or normal maintenance or improvement of land in agricultural use as defined in 310 CMR 10.04 and 314 CMR 9.03(4).
7. Pursuant to M.G.L. c. 111 §5E, 314 CMR 3.05(5), 310 CMR 10.04, and 314 CMR 9.03(4), shoreline areas of a lake or pond must be posted with signs warning the general public of any water use restrictions stated on the chemical label, or otherwise required by MassDEP or other state Agencies, for a minimum of one week. This is especially important at bathing beaches and other areas of common access. The signs shall clearly state that the chemical treatment is being conducted pursuant to a permit issued by the EPA and MassDEP. A new sign shall be posted for each treatment event. This condition does not apply when treatment is undertaken with algaecide containing copper approved by MassDEP and used by legally established water supply agencies to control taste and odors. This condition does not apply to the introduction of pollutants from nonpoint source agricultural and silvicultural activities or normal maintenance or improvement of land in agricultural use as defined in 310 CMR 10.04 and 314 CMR 9.03(4).
8. Pursuant to M.G.L. c. 111 §5E, MassDEP may require the applicant for coverage under this permit to cease application of chemicals to a body of water at any time following the issuance of coverage under this permit if the Department determines that the chemical treatment will be ineffective or will result in unreasonable restrictions on current water uses or will produce unnecessary adverse side effects on non-target flora or fauna.
9. Pursuant to M.G.L. c. 111 §5E, chemical application shall be applied in accordance with the manufacturer's label directions, existing pesticide use

- laws, and any conditions imposed by other local or state agencies.
10. Pursuant to M.G.L. c. 111 §5E, issuance of coverage under this permit does not release the applicant for coverage under this permit from liability resulting from the negligent or reckless application of chemicals.
  11. Pursuant to M.G.L. c. 111 §5E, 314 CMR 3.05(5), 310 CMR 10.04, and 314 CMR 9.03(4), applicants must implement Massachusetts state conditions for the use of alum (appended). This condition does not apply to the introduction of pollutants from nonpoint source agricultural and silvicultural activities or normal maintenance or improvement of land in agricultural use as defined in 310 CMR 10.04 and 314 CMR 9.03(4).
  12. Pursuant to M.G.L. c. 111 §5E, 314 CMR 3.05(5), 310 CMR 10.04, and 314 CMR 9.03(4), applicants must implement Massachusetts state conditions for electronic notification (appended). This condition does not apply when treatment is undertaken with algaecide containing copper approved by MassDEP and used by legally established water supply agencies to control taste and odors. This condition does not apply to the introduction of pollutants from nonpoint source agricultural and silvicultural activities or normal maintenance or improvement of land in agricultural use as defined in 310 CMR 10.04 and 314 CMR 9.03(4).
  13. Pursuant to M.G.L. c. 111 §5E, 314 CMR 3.05(5), 310 CMR 10.04, and 314 CMR 9.03(4), applicants must implement Massachusetts state conditions for the use of products containing 2,4-D (appended). This condition does not apply to the introduction of pollutants from nonpoint source agricultural and silvicultural activities or normal maintenance or improvement of land in agricultural use as defined in 310 CMR 10.04 and 314 CMR 9.03(4).
  14. Pursuant to M.G.L. c. 111 §5E, applicants must implement Massachusetts state conditions for any chemical or site-specific situation as deemed necessary by MassDEP.
  15. Pursuant to M.G.L. c. 111 §5E, 314 CMR 3.05(5), 310 CMR 10.04, and 314 CMR 9.03(4), by December 31st each year the applicant for coverage under this permit shall submit, in electronic form, an annual Treatment Summary report to MassDEP certifying the treatment date(s), target species (provide genus and species and common name(s) when possible), application rate(s), target in-water concentration, location, acreage treated and the total weight/volume for each chemical used in the treatment. This condition does not apply when legally established water supply agencies use algaecide containing copper, with approval from MassDEP, to control taste and odors. This condition does not apply to the introduction of pollutants from nonpoint source agricultural and silvicultural activities or normal maintenance or improvement of land in agricultural use as defined in 310 CMR 10.04 and 314 CMR 9.03(4).
  16. Pursuant to M.G.L. c. 111 §5E, the NOI shall indicate whether the proposed treatment is within a Zone II of a drinking water groundwater



supply.

17. Pursuant to M.G.L. c. 111 §5E, the NOI shall indicate whether the proposed treatment is to a surface public water supply.
18. Pursuant to M.G.L. c. 111 §5E, no chemical treatment shall be conducted while a Massachusetts Department of Public Health advisory is in effect.
19. Pursuant to 314 CMR 4.05(5)(e), applicants shall stay informed of EPA's and other investigations related to per- and polyfluoroalkyl substances (PFAS) resulting from the storage and transportation of pesticides in storage containers (e.g., fluorinated high-density polyethylene (HDPE) containers) (<https://www.epa.gov/pesticides/pfas-packaging>). MassDEP is closely following this issue and understands and supports EPA continuing its investigation and assessment of the potential impacts on human health and the environment. As the Pesticide General Permit does not require effluent monitoring, it would not be possible for MassDEP to require monitoring of discharges for PFAS. To minimize PFAS release, applicants should avoid use of containers, such as fluorinated HDPE containers, that have been demonstrated to leach PFAS into materials stored in the containers, and the use of poly-fluorinated propellants. Applicators are also encouraged, where feasible, to minimize the use of formulations containing poly-fluorinated chemicals, either as active or inactive ingredients.

*Applicable to Animal Pest Control only*

20. Pursuant to M.G.L. c. 111 §5E, MassDEP must provide written approval of the Pesticide General Permit NOI, when applicable, prior to the applicant receiving coverage under the permit.

*Applicable to Mosquito and Other Flying Insect Pest Control only*

21. Pursuant to M.G.L. c. 132B §10, 333 CMR 10.00, and M.G.L. c. 252, chemical treatments must be performed by an applicator currently licensed/certified by the MDAR Pesticide Program and in accordance with any provisions or policies instituted by the State Reclamation and Mosquito Control Board.
  22. Pursuant to M.G.L. c. 132B, 333 CMR 14.00., applicants for coverage under this permit must adhere to the public notification provisions of the Child Protection Act (Chapter 85 of the Acts of 2000) when applicable.
  23. Pursuant to M.G.L. c. 132B, 333 CMR 13.00, and M.G.L. c. 21E §7, applicants must comply with state law and regulations regarding spills and leaks associated with the application of pesticides covered under this permit.
- b. That there is a reasonable assurance that the activity will be conducted in a manner which will not violate applicable state water quality standards.

## 9.1.2 Indian Country within the State of Massachusetts

- a. No additional requirements

## 9.1.3 Indian Country within the State of Connecticut

- a. No additional requirements

## 9.1.4 State of New Hampshire

- a. No additional requirements

## 9.1.5 Indian Country within the State of Rhode Island

- a. No additional requirements

## 9.1.6 Federal Facilities in the State of Vermont

- a. No additional requirements

**9.2 EPA Region 2**

## 9.2.1 Indian Country within the State of New York

- a. St. Regis Mohawk Tribe

1. Any Responsible-Person/Decision-Maker required under Part 1.2 of the PGP to submit a Notice of Intent (NOI) to EPA for coverage under the PGP, must concurrently submit an electronic copy of the NOI to the SRMT Environmental Division, Water Resource Program Manager. Additionally, an electronic copy of the Notice of Termination (NOT) must be provided within three business days after electronic confirmation is received from EPA that the NOT has been accepted. The NOI and NOT must be electronically provided to the following addresses:

Mr. Tiernan W. Smith  
Water Resources Program Manager Saint Regis Mohawk Tribe  
449 Frogtown Road Akwesasne, NY 13655  
[Tiernan.Smith@srmt-nsn.gov](mailto:Tiernan.Smith@srmt-nsn.gov)  
518.358.2272 ext. 5073

- a. This condition is necessary to ensure that any and all discharge from the proposed project will comply with the Saint Regis Mohawk Tribes Water Quality Standards. This condition will ensure compliance with these standards because it provides the Saint Regis Mohawk Tribe with the information necessary to evaluate the site-specific details related to compliance prior to pesticide application. Additionally, it ensures that the Saint Regis Mohawk Tribe is notified of the permit termination, which allows for post-application water quality standard compliance monitoring.
- b. Authorizing Citation: Saint Regis Mohawk Tribe Water Quality Standards (2019).

2. Any Responsible-Person/Decision-Maker that is required under Part 5.0 of the PGP to prepare a Pesticide Discharge Management Plan (PDMP) must submit an electronic copy of the PDMP to the SRMT Environment Division, Water Resources Program Manager 10 days before pesticide application begins. The PDMP must be provided to the electronic address listed above.
  - a. This condition is necessary to assure that any and all discharge from the proposed project will comply with the Saint Regis Mohawk Tribes Water Quality Standards. This condition will ensure compliance with these standards because it gives Tribal program management and staff time to become familiar with the project site, the proposed action, prepare for pesticide inspections, and determine any mitigation strategies necessary for compliance.
  - b. Authorizing Citation: Saint Regis Mohawk Tribe Water Quality Standards (2019).
  
3. Any Responsible-Person/Decision-Maker that is required under Part 7.0 of the PGP to submit an annual report to EPA must submit an electronic copy of the annual report concurrently to the SRMT Water Resource Program. Additionally, any correspondences between the applicant and EPA related to analytical data, written reports, corrective action, enforcement, monitoring, or an adverse incident must likewise be routed to the SRMT Water Resources Program at the above electronic address.
  - a. This condition is necessary to assure that any and all discharge from the proposed project will comply with the Saint Regis Mohawk Tribes Water Quality Standards. This condition will ensure compliance with these standards because it allows the SRMT Environment Division to remain informed on the compliance status of discharges authorized by the permit as it pertains to the Saint Regis Mohawk Tribes Water Quality Standards.
  - b. Authorizing Citation: Saint Regis Mohawk Tribe Water Quality Standards (2019).
  
4. An "Authorization to Proceed Letter" with site-specific mitigation requirements may be sent out to the permittee when a review of the NOI and PDMP, on a case-by-case basis, is completed by the SRMT Environment Division, Water Resource Program. This approval will allow the application to proceed if all mitigation requirements are met.

- a. This condition is necessary to assure that any and all discharge from the proposed project will comply with the Saint Regis Mohawk Tribes Water Quality Standards.
- b. Authorizing Citation: Saint Regis Mohawk Tribe Water Quality Standards (2019).

b. Seneca Nation

1. Any Decision-maker required under Part 1.2 of the 2021 PGP that is required to submit a notice of intent (NOI) to the EPA for coverage, must submit a copy of the NOI to the Seneca Nation's Environmental Protection Department (EPD) within three business days of submittal to the EPA. Additionally, a copy of the Notice of Termination (NOT) must be provided within three business days after electronic confirmation is received from the EPA that the NOT has been accepted. The NOI and NOT must be submitted electronically to [epd@sni.org](mailto:epd@sni.org) or provided to the following address:

Seneca Nation  
Environmental Protection Department (EPD)  
Attn: Director of EPD  
12837 Route 438  
Irving, NY 14081

- a. This condition is necessary to ensure the Seneca Nation may evaluate the proposed activity for the purpose of determining whether the discharge from the certified project will violate the certification for WQS. This condition will also allow the Seneca Nation's EPO the opportunity to inspect the proposed activity, prior to the initial operation for the purpose of determining whether the discharge from the certified project will violate the certification. The citation that authorizes this condition is 40 CFR 121.11(a) and **1.2.2** of the Seneca Nation of Indians Ordinance.
2. The Seneca Nation is working actively towards finalizing and implementing the Water Quality Standards (WQS); therefore, the EPD would require an applicant to submit or grant access to the permit to obtain information on the impact of effluents on receiving waters, including the capability of receiving waters to support future designated uses and achieve the WQS of the Nation; and to advise prospective dischargers of discharge requirements, and coordinate with the appropriate permitting agencies. The citation that authorizes this condition is **1.1.2.2** of the Seneca Nation of Indians Ordinance.
3. Any Decision-maker that is required under Part 5.0 of the PGP to prepare a Pesticide Discharge Management Plan (PDMP), must submit an electronic copy of the PDMP to the Seneca Nation's EPD at the electronic address listed above, at least 10 days prior to date in which

the pesticide application is set to begin. Citations that authorize this condition is 40 CFR 121.11(a) and **1.2.2** of the Seneca Nation of Indians Ordinance.

4. Any Decision-maker that is required under Part 7.0 of the PGP to submit an annual report to the EPA, must also submit an electronic copy of the annual report concurrently to the Seneca Nation 's EPD. Additionally, any correspondence between the applicant and EPA related to the analytical data, written reports, or an adverse incident written reports should also be submitted to the Seneca Nation's EPD, at the above listed electronic address. Citations that authorize this condition is *the Seneca Nation of Indians Ordinance - Use and Disposal of Dangerous Chemicals (1981) and SNI Pesticides Ordinance Revision (CN: R-04- 13-13-12)*.

## 9.2.2 The Commonwealth of Puerto Rico

- a. No additional requirements

## 9.3 EPA Region 3

### 9.3.1 The District of Columbia

- a. Discharges authorized by this permit must comply with the District of Columbia Water Pollution Control Act of 1984, as amended (DC Official Code § 8-103.01 and § 8-103.06, et seq.) to ensure that District waters, waters in adjacent and downstream states, and the beneficial uses of these waters will not be harmed or degraded by the discharges.
- b. Discharges authorized by this permit must comply with §§ 1104.1 and 1104.8 of Chapters 11 and 19 of Title 21 District of Columbia Municipal Regulations to attain and maintain designated uses of the District of Columbia waters.
- c. Discharges authorized by this permit must comply with the District of Columbia Pesticide Education and Control Amendment Act of 2012, the Pesticide Operations Act of 1977, and implementation regulations (DC Law 19-191).
- d. All reporting and notification requirements of this permit and 40 CFR § 122.41 shall also be made to the Associate Director, Inspection and Enforcement Division, Department of Energy & Environment, Government of the District of Columbia, 1200 First Street, NE, 5th floor, Washington, DC 20002; telephone (202) 535-2226 or email [Joshua.Rodriguez@dc.gov](mailto:Joshua.Rodriguez@dc.gov).

### 9.3.2 Federal Facilities in the State of Delaware

- a. No additional requirements

## 9.4 EPA Region 4

### 9.4.1 Indian Country within the State of Alabama

- a. No additional requirements

### 9.4.2 Indian Country within the State of Florida

- a. No additional requirements

### 9.4.3 Indian Country within the State of Mississippi

- a. No additional requirements

### 9.4.4. Indian Country within the State of North Carolina

- a. Eastern Band of Cherokee Indians

1. Measures shall be taken to prevent or control spills of fuels, lubricants or other toxic materials used in construction from entering the watercourse.
2. All dredged material shall be removed to an upland location and/or graded on adjacent areas (so long as such areas are not regulated wetlands), to obtain original streamside elevations, i.e. overbank flooding shall not be artificially obstructed.
3. In areas not riprapped or otherwise stabilized, revegetation of stream banks and riparian zones shall occur concurrently with project progression. At a minimum, revegetation will approximate pre-disturbance conditions.
4. To the maximum extent practicable, all instream work under this certification shall be performed during low flow.
5. Heavy equipment, e.g. bulldozers, backhoes, draglines, etc., if required for this project, should not be used or operated within the stream channel. In those instances where such instream work is unavoidable, then it shall be performed in such a manner and duration as to minimize suspension of sediments and disturbance to substrates and bank or riparian vegetation.
6. Any fill or riprap including refuse fill, shall be of such composition that it will not adversely affect the biological, chemical or physical properties of the receiving waters and/or cause violations of water quality standards. If riprap is utilized, it is to be of such weight and size that bank stress or slump conditions will not be created because of its placement.
7. If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when work will be done.
8. Removal of existing riparian vegetation should be restricted to the minimum necessary for project construction.

9. Should evidence of stream pollution or jurisdictional wetland impairment and/or violations of water quality standards occur as a result of this activity (either from a spill or other forms of water pollution), the EBCI Water Quality Section shall be notified immediately by calling 828-359-6772.

## 9.5 EPA Region 5

### 9.5.1 Indian Country within the State of Michigan

- a. Keweenaw Bay Indian Community
1. Applications of pesticides within the Keweenaw Bay Indian Community are not eligible for discharge coverage under this permit. Contact EPA Region 5 office for an individual permit application.

### 9.5.2 Indian Country within the State of Minnesota

- a. Fond du Lac Reservation
1. Applications of pesticides within the Fond du Lac Reservation are not eligible for discharge coverage under this permit. Contact EPA Region 5 office for an individual permit application.
- b. Grand Portage Band of Chippewa
1. The General Permit authorization is for the application of pesticides that may occur within the exterior boundaries of the Grand Portage Reservation in accordance with the Grand Portage Land Use Ordinance. Operators are authorized to discharge under this permit consistent with the Annual Treatment Area Thresholds listed in the table below. A Notice of Intent is required for treatments that exceed the thresholds listed below.

<b>Pesticide Use</b>	<b>Annual Threshold</b>
<b>Mosquitoes and Other Flying Insect Pests</b>	6400 acres of treatment area
<b>Aquatic Weed and Algae Control:</b>	
-In Water	20 acres of treatment area
-At Water's Edge	20 linear miles of treatment area at water's edge
<b>Aquatic Nuisance Animal Control:</b>	
-In Water	20 acres of treatment area
-At Water's Edge	20 linear miles of treatment area at water's edge
<b>Forest Canopy Pest Control</b>	640 acres of treatment area

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, each pesticide application activity is counted 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.

Calculations should include the linear extent 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, each pesticide application activity and each side of a linear water body is counted as a separate activity or area. For example, treating both sides of a ten-mile ditch is equal to twenty miles of water treatment area.

2. In accordance with Water Quality Standards and the 1996 Cooperative Agreement between the Grand Portage Band of Chippewa and the Minnesota Pollution Control Agency, PGPs are denied within the no discharge zone of Lake Superior designated as Outstanding Resource Value Waters-Prohibited. These waters are located in the Grand Portage Zone of Lake Superior in "that portion of the Shoreline Waters north of latitude 47 degrees, 57 minutes, 13 seconds and east of Hat Point."
3. Only those activities specifically authorized by the PGP are authorized by this Certification. This Certification does not authorize impacts to cultural properties, or historical sites, or properties that may be eligible for listing as such.
4. All pesticide application discharges authorized by the PGP must comply with the Grand Portage Water Quality Standards, the Water Resources Ordinance, and Applicable Federal Standards (as defined in the Water Resources Ordinance). As such, appropriate steps must be taken to ensure that biological and chemical pollutants associated with pesticide applications are prevented from entering Waters of the Reservation. All spills must be reported to the appropriate emergency-management agency, and measures must be taken to prevent the pollution of Waters of the Reservation, including groundwater.
5. A copy of the Pesticide Discharge Management Plan (the "Plan") required by the PGP must be submitted to the Board at the same time the requisite Notice of Intent is sent to EPA. The Board may require monitoring of pesticide application discharges as determined on a case-by-case basis. If the Board determines that a monitoring plan is necessary, the monitoring plan must be prepared and incorporated into the Plan before the Notice of Intent is submitted to the EPA. The Plan should be sent to:

Grand Portage Environmental Resources Board  
P.O. Box 428  
Grand Portage, MN 55605

Copies of the Notice of Intent and Notice of Termination required under the PGP must be submitted to the Board at the address above at the same time they are submitted to the EPA.

6. If requested by the Grand Portage Environmental Department, the permittee must provide additional information necessary for a case-by-



case eligibility determination to assure compliance with the Grand Portage Water Quality Standards and any Applicable Federal Standards.

7. Discharges that the Board has determined to be or that may reasonably be expected to be contributing to a violation of Grand Portage Water Quality Standards or Applicable Federal Standards are not authorized by this certification.
8. The Board retains full authority provided by the Water Resources Ordinance to ensure compliance with and to enforce the provisions of the Water Resource Ordinance, the Grand Portage Water Quality Standards, Applicable Federal Standards, and these certification conditions.
9. Appeals related to Board actions taken in accordance with any of the preceding conditions may be heard by the Grand Portage Tribal Court.

### 9.5.3 Indian Country within the State of Wisconsin

- a. Lac du Flambeau Band of Lake Superior Chippewa Indians
  1. Applications of pesticides within the Lac du Flambeau Reservation are not eligible for discharge coverage under this permit. Contact EPA Region 5 office for an individual permit application.
- b. Bad River Band of Lake Superior Tribe of Chippewa Indians
  1. Applications of pesticides within the Bad River Band of Lake Superior Tribe of Chippewa Indians are not eligible for discharge coverage under this permit. Contact EPA Region 5 office for an individual permit application.
- c. Sokaogon Chippewa Community
  1. No additional requirements

## 9.6 EPA Region 6

### 9.6.1 Indian Country within the State of Louisiana

- a. No additional requirements

### 9.6.2 The State of New Mexico except Indian Country

- a. Operators must comply with the New Mexico Pesticide Control Act [New Mexico Statutes Annotated (NMSA) 1978 §§ 76-4-1 to -39] and rules authorized by this Act [Title 21, Chapter 17, Parts 50, 51, 53, and 56 of the New Mexico Administrative Code (NMAC)] administered and enforced by the New Mexico Department Agriculture. More information on pesticide compliance is available at <https://www.nmda.nmsu.edu/nmda-homepage/divisions/aes/pesticides/>.
- b. Operators are not eligible for coverage under this permit for discharges to Tier 3 designated Outstanding National Resource Waters (ONRWs) listed in 20.6.4.9(D) New Mexico Administrative Code (NMAC), except for discharges from pesticide applications that will result in restoration or maintenance of the chemical, physical or biological integrity of the ONRW. Prior to pesticide application

discharge to an ONRW for restoration or maintenance activities, Operators shall submit a copy of the Notice of Intent (NOI), project plan, and Notice of Termination (NOT) to the NMED for review. NMED, or the appropriate oversight agency, will review on a case-by-case basis discharges that may result in degradation from restoration or maintenance activities. In the NOI and project plan, Operators must demonstrate that the degradation from restoration or maintenance activities (1) will be limited to the shortest possible time; (2) will be minimized and controlled by best management practices or in accordance with permit requirements as appropriate, and all practical means of minimizing the duration, magnitude, frequency and cumulative effects of such degradation shall be utilized; (3) will not result in water quality lower than necessary to protect any existing use of the surface water; and (4) will not alter the essential character or special use that makes the water an ONRW. Discharges that will not comply with these antidegradation requirements will be required to seek coverage under an individual permit.

All requested material should be sent to:

New Mexico Environment Department  
Surface Water Quality Bureau  
P.O. Box 5469  
Santa Fe, NM 87502-5469  
Telephone: (505) 827-0187

- c. Prior to pesticide application discharge to surface waters other than ONRWs for restoration or maintenance activities that may result in temporary and short-term degradation, Operators shall submit a copy of the Notice of Intent (NOI), project plan, and Notice of Termination (NOT) to the NMED for review. NMED, or the appropriate oversight agency, will review on a case-by-case basis discharges that may result in temporary and short-term degradation from restoration or maintenance activities. In the NOI and project plan, Operators must demonstrate that the degradation from restoration or maintenance activities (1) will be limited to the shortest possible time; (2) will be minimized and controlled by best management practices or in accordance with permit requirements as appropriate, and all practical means of minimizing the duration, magnitude, frequency and cumulative effects of such degradation shall be utilized; and (3) will not result in water quality lower than necessary to protect any existing use of the surface water. Discharges that will not comply with these antidegradation requirements will be required to seek coverage under an individual permit.

All requested material should be sent to:

New Mexico Environment Department  
Surface Water Quality Bureau  
P.O. Box 5469  
Santa Fe, NM 87502-5469  
Telephone: (505) 827-0187

- d. Operators with coverage under this permit shall meet the additional notification and monitoring requirements outlined in 20.6.4.16(G) NMAC, including written notice to local political subdivisions, local water planning entities, local conservancy and irrigation districts, and local media outlets. Operators shall implement post-treatment assessment monitoring within the application area and provide notice to the public in the immediate and near downstream vicinity of the application prior to and during the application.
- e. Operators must comply with applicable notification and removal requirements for spills and adverse incidents in 20.6.2.1203 NMAC. For an Environmental EMERGENCY (24-hrs) call: 505-827-9329; and for non-emergencies call: 866-428-6535 (voice mail, 24 hours/day). For more information as to what further corrective actions may be necessary or appropriate for spills or adverse incidents that affect surface water quality, an Operator may also contact the NMED Surface Water Quality Bureau at:

New Mexico Environment Department  
Surface Water Quality Bureau  
1190 South Saint Francis Drive  
P.O. Box 5469  
Santa Fe, NM 87502-5469  
Telephone: (505) 827-0187

- f. Pursuant to 20.6.2.1201 NMAC, for pesticide application discharges that are not covered by this permit, Operators shall file a notice of intent to discharge with the NMED Ground Water Quality Bureau for discharges that may affect groundwater, and/or the NMED Surface Water Quality Bureau for discharges that may affect surface water.

All such notices and related material should be sent to:

New Mexico Environment Department  
Ground Water Quality Bureau (GWQB)  
Surface Water Quality Bureau (SWQB)  
1190 South Saint Francis Drive  
P.O. Box 5469  
Santa Fe, NM 87502-5469  
Telephone: (505) 827-0187, SWQB or (505) 827-2900, GWQB

9.6.3 Indian Country within the State of New Mexico, except Navajo Reservation  
(See Region 9) and Ute Mountain Reservation (See Region 8)

- a. Ohkay Owingeh
  - 1. No additional requirements
- b. Pueblo of Isleta
  - 1. Copies of all Notices (NOIs and NOTs) and any correspondence between the Applicator/Decision-maker/Operator and the EPA related to notices, analytical data, written reports, corrective action, enforcement ,

monitoring, permit exceedances or adverse incident reports should be routed concurrently to the Pueblo in electronic format and by U.S. First Class Mail at the following addresses:

Pueblo of Isleta  
Environment Department  
Attention: Tribal Water Quality Control Officer  
PO Box 1270  
Isleta NM 87022  
Electronically: [WQCO@isletapueblo.com](mailto:WQCO@isletapueblo.com)

- a. This condition is necessary to ensure that the discharge resulting from the application of pesticides will comply with 40 CFR 121.11(a) and Pueblo of Isleta Surface Water Quality Standards (POI SWQS) Section II. A and B
- b. Citation that authorizes this condition: POI SWQS Section II. Implementation of the Pueblo ' s antidegradation policy and implementation plan requires that controls on the introduction of pollutants into surface waters are established and maintained.
2. Electronic copies of all Notices (NOIs and NOTs), reports, and associated analytical data required to be submitted to the U.S. EPA for actions covered under this permit occurring within 8 river miles upstream of the northern exterior boundary of the Pueblo of Isleta shall be provided concurrently to the Pueblo at the e-mail address specified in permit condition 1, above.
  - a. This condition is necessary to ensure that the discharge resulting from the application of pesticides will comply with POI SWQS Section II. B. 2. regarding potential pollutants in receiving waters .
  - b. Citation that authorizes this condition: POI SWQS Section II. B. 2. Implementation of the Pueblo's antidegradation policy requires that information be obtained by the Tribal Water Quality Control Officer to assess the impact of pollutants on receiving waters.
3. Restricted use pesticides are prohibited from being applied within the exterior boundaries of the Pueblo of Isleta.
  - a. This condition is necessary to ensure that the discharge resulting from the application of pesticides will comply the narrative criterion for toxic substances in the POI SWQS.
  - b. Citation that authorizes this condition: POI SWQS Section III. General Standards, Subsection N. Toxic Substances.
4. The Pueblo of Isleta may require a more stringent Action Threshold in order to protect existing uses of surface water bodies, pollinator insects, or other ecologically valuable insect or their habitat(s) within the exterior boundaries of the Pueblo.

- a. This condition is necessary to ensure that the discharge resulting from the application of pesticides will comply the narrative criterion for toxic substances in the POI SWQS.
- b. Citations that authorize this condition: POI SWQS Section II. Subsection 10 to support the enforcement of federal permits; and Section III. General Standards, Subsection N. Toxic Substances.
- c. Pueblo of Sandia
  1. Any Decision-maker required under Part 1.2 of the PGP to submit a Notice of Intent (NOI) to EPA for coverage under the PGP, must concurrently submit an electronic copy of the NOI to the Pueblo of Sandia's Environmental Department. Additionally, an electronic copy of the Notice of Termination (NOT) must be provided within three business days after electronic confirmation is received from EPA that the NOT has been accepted. The NOI and NOT must be electronically provided to the following addresses:

Electronic Addresses:  
Environment Director: [gkaufman@sandiapueblo.nsn.us](mailto:gkaufman@sandiapueblo.nsn.us)  
Water Quality Manager: [arosebrough@sandiapueblo.nsn.us](mailto:arosebrough@sandiapueblo.nsn.us)
  2. Any Decision-maker that is required under Part 5.0 of the PGP to prepare a Pesticide Discharge Management Plan (PDMP) must submit an electronic copy of the PDMP to the Pueblo of Sandia Environment Department 10 days before pesticide application begins. The PDMP must be provided to the electronic addresses listed above.
  3. Any Decision-maker that is required under Part 7.0 of the POP to submit an annual report to EPA must submit an electronic copy of the annual report concurrently to the Pueblo of Sandia Environment Department. Additionally, any correspondences between the applicant and EPA related to analytical data, written reports, corrective action, enforcement, monitoring, or an adverse incident written reports should likewise be routed to the Pueblo of Sandia at the above electronic addresses.
  4. An "Authorization to Proceed Letter" with site-specific mitigation requirements may be sent out to the permittee when a review of the NOI and PDMP, on a case-by-case basis, is completed by the Pueblo of Sandia Environment Department. This approval will allow the application to proceed if all mitigation requirements are met.
- d. Pueblo of Taos
  1. No additional requirements
- e. Pueblo of Santa Clara
  1. Any Decision-maker required under Part 1.2 of the PGP to submit a Notice of Intent (NOI) to EPA for coverage under the PGP, must submit a copy of the NOI to the Santa Clara Pueblo Office of Environmental Affairs at the same time the NOI is submitted to the U.S. EPA. Additionally, a copy of the Notice of Termination (NOT) must be provided at the same time after electronic

confirmation is received from EPA that the NOT has been accepted. The NOI and NOT shall be provided to the following address in electronic format:

Dino Chavarria  
Santa Clara Pueblo  
Office of Environmental Affairs  
[dinoc@santaclarapueblo.org](mailto:dinoc@santaclarapueblo.org)

- a. This condition is necessary to ensure that the discharge from the proposed project will comply with the NPDES PGP and applicable provisions of the CWA to protect waters of the United States.
2. Any Decision-maker that is required under Part 7.0 of the PGP to submit an annual report to EPA, must submit an electronic copy of the annual report to the Santa Clara Pueblo Office of Environmental Affairs at the same time the annual report is submitted to the U.S. EPA.
  - a. This condition is necessary to ensure water quality is not degraded, and that the discharge from the proposed project complies with the narrative criterion for toxic substances in the Santa Clara Pueblo Water Quality Code. Recordkeeping and annual reporting will demonstrate the Operator's compliance with the conditions of the certification and permit, and therefore the water quality requirements.
- a. Pueblo of Pojoaque
  1. No additional requirements
- b. Pueblo of Picuris
  1. No additional requirements
- c. Pueblo of Santa Ana
  1. Any Decision-maker required under Part 1.2 of the PGP to submit a Notice of Intent (NOI) to EPA for coverage under the PGP, must submit an electronic copy of the NOI to the Pueblo's Natural Resources Department- Water Resources Division concurrently when submittal to EPA. Additionally, an electronic copy of the Notice of Termination (NOT) must be provided within three business days after electronic confirmation is received from EPA that the NOT has been accepted. The NOI and NOT must be provided to the following address:

Pueblo of Santa Ana  
Department of Natural Resources  
Water Resources Division  
Attn: Andrew Sweetman  
02 Dove Rd  
Santa Ana Pueblo, NM  
87004

Andrew Sweetman  
Water Resources Division Manager  
[Andrew.Sweetman@santaana-nsn.gov](mailto:Andrew.Sweetman@santaana-nsn.gov)

Tammy Montoya  
Hydrologist  
Tammy.Montoya@santaana-nsn.gov

2. Any Decision-maker that is required under Part 5.0 of the PGP to prepare a Pesticide Discharge Management Plan (PDMP), must submit an electronic copy of the PDMP to the Pueblo of Santa Ana 's Department of Natural Resources before the NOI is submitted to the tribe (see contact information listed above).
  3. Any Decision-maker that is required under Part 7.0 of the PGP to submit an annual report to EPA, must submit an electronic copy of the report to the Tribe at the same time the report is submittal to the EPA. The annual report should be sent to the contact information listed above.
- d. Pueblo of Tesuque
1. Any applicant required under Part 1.2 of the PCP to submit a Notice of Intent (NOI) to EPA for coverage under the PCP, must submit a copy of the NOI to the Pueblo of Tesuque Department of Environment and Natural Resources and the Pueblo's Governor within three business days of submittal to EPA. Additionally, a copy of the Notice of Termination (NOT) must be provided within three business days after electronic confirmation is received from EPA that the NOT has been accepted. The NOI and NOT must be provided to the following address:  
  
Governor Mark Mitchell Pueblo of Tesuque  
20 TP828  
Santa Fe, NM 87506  
Email: [governor@puehlooftesuque.org](mailto:governor@puehlooftesuque.org)  
  
Sage Mountainflower Pueblo of Tesuque  
Director of Environment and Natural Resources 20 TP828  
Santa Fe, NM 87506  
Email: [sagem@pubelooftesuque.org](mailto:sagem@pubelooftesuque.org)
    - a. This condition is necessary to ensure that the Environment and Natural Resources Department can review plans prior to application to determine if the proposed project will impact water quality within the Pueblo (defined at 40 CFR 121.1(n.)
    - b. Citation that authorizes this condition: See Pueblo of Tesuque Water Quality Standards, Section III-O. Toxic Substances.
  2. Any applicant that is required under Part 5.0 of the PCP to prepare a Pesticide Discharge Management Plan (PDMP), must submit an electronic copy of the PDMP to the Pueblo of Tesuque Department of Environment and Natural Resources and the Pueblo's Governor at the same time that the NOI is submitted to the tribe (see contact information listed above).

- a. This condition is necessary to ensure that the discharge from the proposed project will comply with 40 CFR 121.1(n), the Pueblo of Tesuque is informed of the project scope as made available through the PDMP, and the Pueblo can ensure the water quality will be protected.
  - b. Citation that authorizes this condition: See Pueblo of Tesuque Water Quality Standards, Section III-O. Toxic Substances.
3. Any applicant that is required under Part 7.0 of the PCP to submit an annual report to EPA, must submit an electronic copy of the annual report to the Pueblo of Tesuque Department of Environment and Natural Resources and the Pueblo's Governor within three business days of submittal to EPA. (See contact information listed above).
  - a. This condition is necessary to ensure that the discharge from the proposed project will not impact water quality within the Pueblo and will comply with 40 CFR 121.1(n).
  - b. Citation that authorizes this condition: See Pueblo of Tesuque Water Quality Standards, Section III-O. Toxic Substances.
4. Any correspondences between the applicant and EPA related to analytical data, written reports, corrective action, enforcement, monitoring, or an adverse incident written reports should likewise be routed to the Pueblo of Tesuque Department of Environment and Natural Resources and the Pueblo's Governor at the above address.
  - a. This condition is necessary to ensure that the discharge from the proposed project will comply with defined at 40 CFR 121.1(n) and the discharges have not impacted water quality within the Pueblo.
  - b. Citation that authorizes this condition: See Pueblo of Tesuque Water Quality Standards, Section III-O. Toxic Substances.
- e. Pueblo of Nambe
  1. No additional requirements
- f. Pueblo of Acoma
  1. No additional requirements
- g. Pueblo of Laguna
  1. Any decision-maker required under Part 1.2 of the 2021 PGP to submit a Notice of Intent (NOI) to the EPA for coverage, must submit a copy of the NOI to the Pueblo of Laguna's Environmental & Natural Resources Department (ENRD) within three business days of submittal to the EPA. Additionally, a copy of the Notice of Termination (NOT) must be provided within three business days after electronic confirmation is received from the EPA that the NOT has been accepted. The NOI and NOT must be electronically submitted to [info.environmental@pol-nsn.gov](mailto:info.environmental@pol-nsn.gov).



- a. This condition is necessary to ensure that the ENRD may evaluate the proposed activity for the purpose of determining whether the discharge from the certified project will violate the certification.
  - b. Citations that authorize this condition: 40 CFR 121.11(a); and Pueblo of Laguna Code, Title XI – Environmental, Chapter 2. Water Quality Standards, Section 11-2-22 – Implementation (3) Obtain and assess information on the impact of effluents on receiving waters, including the capability of receiving waters to support designated uses and achieve Laguna Water Quality Standards; and to (4) Advise prospective dischargers of discharge requirements, and coordinate with the appropriate permitting agencies as to the same.
2. Any decision-maker/operator that is required under Part 5.0 of the 2021 PGP to prepare a Pesticide Discharge Management Plan (PDMP), must submit an electronic copy of the PDMP to the Pueblo of Laguna ENRD at the same time the NOI is submitted.
    - a. This condition is necessary to ensure that the ENRD may evaluate the proposed activity for the purpose of determining whether the discharge from the certified project will violate the certification.
    - b. Citations that authorize this condition: 40 CFR 121.11(a); and Pueblo of Laguna Code, Title XI – Environmental, Chapter 2. Water Quality Standards, Section 11-2-22(3)(4).
  3. Any correspondences between the applicator/decision-maker/operator and the EPA related to analytical data, written reports, corrective action, enforcement, monitoring, or an adverse incident written reports should likewise be routed to the Pueblo of Laguna ENRD at the above email address.
    - a. This condition is necessary to ensure that water quality is not degraded and that the discharge from the proposed project complies with the Pueblo of Laguna’s Water Quality Standards.
    - b. Citations that authorize this condition: Pueblo of Laguna Code, Title XI – Environmental, Chapter 2. Water Quality Standards, Section 11-2-22 – Implementation (9)...pursue inspection programs to ensure that dischargers comply with the requirements of the Standards and to support enforcement of federal permits issued by the EPA; and (14)Conduct an antidegradation analysis for regulated actions that may impair water quality; and Section 11-2-31 – General Standards.

#### 9.6.4 Indian Country within the State of Oklahoma

##### a. Pawnee Nation of Oklahoma

1. Copies of the Notice of Intent (NOI) and Notice of Termination (NOT) must be provided to the Pawnee Nation at the same time it is submitted to the Environmental Protection Agency to the following address:

Pawnee Nation Department of Environmental Conservation and Safety  
P.O. Box 470  
Pawnee, OK 74058  
Or email to [dnrs@pawneenation.org](mailto:dnrs@pawneenation.org)

2. An electronic copy of the Pesticide Discharge Management Plan must be submitted to the Pawnee Nation Department of Environmental Conservation and Safety at the same time the NOI is submitted (as required under Part 5.0 of the PGP),
3. The Pawnee Nation Department of Environmental Conservation and Safety must be notified at 918.762.3655 immediately upon discovery of any noncompliance with any provision of the permit conditions.

9.6.5 Indian Country within the State of Texas

- a. No additional requirement

**9.7 EPA Region 7**

9.7.1 Indian Country within the State of Iowa

- a. No additional requirements

9.7.2 Indian Country within the State of Kansas

- a. No additional requirements

9.7.3 Indian Country within the State of Nebraska, except Pine Ridge Reservation

(See Region 8)

- a. No additional requirements

**9.8 EPA Region 8**

9.8.1 Federal Facilities in the State of Colorado, except those located on Indian Country

- a. No additional requirements

9.8.2 Indian Country within the State of Colorado, as well as the portion of the Ute Mountain Reservation located in New Mexico

- a. Southern Ute Indian Tribe
  1. No additional requirements

9.8.3 Indian Country within the State of Montana

- a. The Confederated Salish and Kootenai Tribes
  1. The Tribes' respectfully request a copy of each 401 certification for a General Pesticide Permit that occur within the exterior boundaries of the Flathead Indian Reservation to be mailed to the Tribal Water Quality Regulatory Specialist. Conditions for the CSKT General Pesticide Permit are as followed:

a. In order to protect bald eagle populations, and the aquatic ecosystems upon which they rely, discharges of pesticides under this permit must comply with Montana Bald Eagle Management Guidelines Addendum 1994.

9.8.4 Indian Country within the State of North Dakota

- a. No additional requirements

9.8.5 Indian Country within the State of South Dakota, as well as the portion of the Pine Ridge Reservation located in Nebraska (see Region 7)

- a. No additional requirements

9.8.6 Indian Country within the State of Utah, except Goshute and Navajo Reservation (see Region 9)

- a. No additional requirements

9.8.7 Indian Country within the State of Wyoming

- a. No additional requirements

**9.9 EPA Region 9**

9.9.1 The Island of American Samoa

- a. No additional requirements

9.9.2 Indian Country within the State of Arizona, as well as Navajo reservation in New Mexico (See Region 6) and Utah (See Region 8)

- a. Hualapai Tribe

1. No additional requirements

- b. Navajo Nation

1. Courtesy copies of Notice of Intents submitted to U.S. EPA shall be made available to Navajo EPA for applications located on Navajo lands.
2. Applications located on Navajo lands and covered under the PGP will be subject to compliance inspections by Navajo EPA staff with active Federal Inspector Credentials under the authority of the Clean Water Act.

9.9.3 Indian Country within the State of California

- a. Hoopa Valley Tribe

1. No additional requirements.

- b. Twenty-Nine Palms Band of Mission Indians

1. Tribal EPA must receive written notification of the intent to discharge, and must be afforded the opportunity to evaluate whether the specific pollutant discharge proposed will violate TWQS prior to EPA granting the permit.

2. Permitted applicators under the PGP must keep Tribal EPA informed of authorized discharges under the PGP by submitting written information about the type, quantity, frequency, and location, intended purpose, and potential human health and/or environmental effects of the application. These requirements are pursuant to Section 4 of the Twenty-Nine Palms Band of Mission Indians Water Pollution Control Ordinance (022405A).
  3. Tribal EPA finds that the above stated conditions of the Tribe's certification for the PGP cannot be made less stringent without foregoing adherence to applicable Federal and Tribal standards.
- c. Kletsel Dehe Wintun Nation
    1. Applications of pesticides within the Kletsel Dehe Wintun Nation are not eligible for discharge coverage under this permit. Contact EPA Region 9 office for an individual permit application.
  - d. Morongo Band of Mission Indians
    1. Applications of pesticides within the Morongo Band of Mission Indians are not eligible for discharge coverage under this permit. Contact EPA Region 9 office for an individual permit application.
  - e. Big Pine Paiute Tribe of the Owens Valley
    1. Applications of pesticides within the Big Pine Paiute Tribe of the Owens Valley are not eligible for discharge coverage under this permit. Contact EPA Region 9 office for an individual permit application.
  - f. Table Mountain Rancheria of California
    1. No additional requirements.
  - g. La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation
    1. No additional requirements.

#### 9.9.4 The Island of Guam

##### a. **WATER QUALITY CERTIFICATION CONDITIONS**

WQC Order #2021-02 (Order) specifies conditions necessary to assuring that discharge(s) from NPDES proposed 2021 PGP activity will comply with water quality requirements. This water quality certification is subject to the conditions within this Order and based on the terms and conditions contained in the NPDES proposed 2021 Pesticide General Permit.

This Order does not constitute authorization of the permitted activities by any other local or federal agency or private person or entity. This Order does not excuse the permit holder from the obligation to obtain any other necessary approvals, authorizations or permits. This Order is not intended to waive or fulfill the requirement for certification with respect to any other federal license or permit required for any facility/activity covered by the proposed 2021 PGP.

The Guam EPA Administrator (Administrator) may, on the Administrator's own motion, or the application of any person, modify, suspend, or revoke the Order, if the Administrator determines that:

- i. There is a violation of any condition of the Order;
- ii. The Order was obtained by misrepresentation, or failure to disclose fully all relevant facts; or
- iii. There is an unreasonable or significant change in the scope of the proposed point source discharge(s) from the application of pesticides. (22 GAR §510611))

**b. GENERAL CONDITIONS**

1. For purposes of this Order, the term "Project Proponent" shall mean U.S. Environmental Protection Agency, and its agents, assignees, and contractors.
2. For purposes of this Order, the permit "Operator" shall mean any entity associated with the application of pesticides which results in a discharge to waters of the United States that meets either of the following two criteria: (1) any entity who performs the application of a pesticide or who has day-to-day control of the application; or (2) any entity with control over the decision to perform pesticide applications including the ability to modify those decisions. Operators identified in (1) above are referred to in the proposed PGP as Applicators while Operators identified in (2) are referred to in the proposed PGP as Decision-makers. As defined, more than one Operator may be responsible for complying with the proposed PGP for any single discharge from the application of pesticides.

For purposes of the proposed PGP, all Operators are defined as either an Applicator or a Decision-maker or both an Applicator and a Decision-maker.

When an Operator is both an Applicator and a Decision-maker, the Operator must comply with all applicable requirements imposed on both Applicator and Decision-makers. When the proposed PGP references all "Operators", both Applicators and Decision-makers must comply. (See proposed 2021 PGP Appendix A for definition of "Operator")

3. The Project Proponent shall enforce the proposed 2021 PGP and ensure that the Operator complies with the conditions of the permit at all times.
4. All submittals required by this Order shall be sent to the Guam Environmental Protection Agency Attn: 401 Federal Permit Manager, Non-Point Source Program, EMAS Division, 3304 Mariner Avenue, Bldg. 17-3304, Barrigada, Guam 96913, AND via email to [jesse.cruz@epa.guam.gov](mailto:jesse.cruz@epa.guam.gov).

The submittals shall be identified with WQC Order#2021-02 and include the PGP Permit Number (GUG87#####), certifying representative's name, title, mailing address and phone number.

5. Decision-makers required to submit a Notice of Intent (NOI) and Notice of Termination (NOT) to EPA for review and approval shall concurrently

submit a signed copy of the NOI and NOT to Guam EPA, consistent with condition A4. A copy of the current Pesticide Discharge Management Plan (PDMP), along with all supporting maps and documents, must be readily available, upon request and copies of any of these documents provided, upon request to Guam EPA. Coordination with Guam EPA is encouraged when the receiving water(s) for the proposed discharge is/are being identified.

6. Guam EPA may conduct inspections to ensure that conditions of activity/facility termination have been met and sources of pollutants have been removed or adequately mitigated.
7. Reports, monitoring and analytical data (e.g. Discharge Monitoring Reports (DMRs), follow-up monitoring reports, Exceedance Reports for Numerical Effluent Limits, etc.) submitted to EPA shall be concurrently submitted to Guam EPA, consistent with condition (b)(4).
8. The Project Proponent shall submit to Guam EPA a signed **Statement of Understanding of Water Quality Certification Conditions**. (see Attachment A in docket for an example) per condition 4.
9. Any Operator intending to apply pesticides by aircraft must first obtain an Aerial Pesticide Application Permit from Guam EPA.
10. Any person intending to apply pesticides as part of their occupational duties must first obtain a qualification/certification card from Guam EPA.
11. "Annual Treatment Area Thresholds" for Guam are as follows:

<b>ANNUAL TREATMENT AREA THRESHOLDS FOR GUAM*</b>	
<b>Pesticide Use</b>	<b>Annual Threshold</b>
<i>Mosquitoes and Other Flying Insects Pest Control</i>	5 acres of treatment area
<i>Weed and Algae Pest Control</i>	
• In Water	2 acres of treatment area
• At Water's Edge	1 linear mile of treatment area at water's edge
<i>Animal Pest Control</i>	
• In Water	5 acres of treatment area
• At Water's Edge	1 linear mile of treatment area at water's edge
<i>Forest Canopy Pest Control</i>	2 acres of treatment

\*Based on professional judgement

**c. WATER QUALITY CONDITIONS**

1. Point source discharge(s) to waterbodies under the jurisdiction of Guam EPA must be consistent with the antidegradation policy in 22 GAR §5101(b).
2. Proposed 2021 PGP discharges are prohibited as follows:
  - A. In Marine Waters, Category M-1 Excellent; and
  - B. In Surface Waters, Category S-1 High
3. An Individual Pesticide Permit will be required for any pesticide applied to a surface water drinking source (i.e. Fena Reservoir, Ugum River and its upstream tributaries) and shall adhere to the Safe Drinking Water Act and Safe Drinking Water Regulations at 10 GCA, Division II, Chapter 53.

**EMERGENCY/CONTINGENCY MEASURES:**

4. The Operator shall develop and implement a Spill Prevention and Containment Plan.
5. The Operator shall have adequate and appropriate spill response materials on hand to respond to emergency release of oil, petroleum or any other material into waters of the territory.
6. Any unpermitted discharge into territorial waters or onto land with a potential for entry into territorial waters, is prohibited. If this occurs, the Operator shall immediately take the following actions:
  - A. Cease operations at the location of the violation or spill.
  - B. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
  - C. Notify Guam EPA of the failure to comply. All petroleum spills shall be reported immediately to:
    - i. Guam's Emergency 911 system
    - ii. Guam EPA's 24-Hour Spill Response Team at (671) 888-6488 or during working hours (671) 300-4751
    - iii. US Coast Guard Sector Guam (671) 355-4824
    - iv. National Response Center 1-800-424-8802
  - D. Submit a detailed written report to Guam EPA within five days of noncompliance that describes the nature of the event, corrective action taken and/or planned steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
7. Compliance with this condition does not relieve the Operator from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

8. Submittal or reporting of any of this information does not provide relief from any subsequent enforcement actions for unpermitted discharges to waters of the United States .

**d. TIMING REQUIREMENTS**

1. This Order is valid for five (5) Years from Date of Certification, unless otherwise approved by the Guam EPA Administrator.
2. The Operator shall be required to adhere to the current Guam Coral Spawning Moratorium dates for both hard and soft corals where in-water activities may impair water quality. These dates can be obtained from the Guam Department of Agriculture, Division of Aquatic and Wildlife Resources, or the NOAA NMFS Pacific Islands Regional Office Habitat Conservation Division .

**e. REPORTING AND NOTIFICATION REQUIREMENT CONDITIONS**

1. The Operator shall provide notice to Guam EPA consistent with Condition (b)(4):
  - A. Immediately upon discovery of noncompliance with the provisions of this Order.
2. A Notice of Violation/Work Stop Order will be issued if certification conditions are not adhered to or when significant or sustained water quality degradation occurs. Work or discharge shall be suspended or halted until the Operator addresses environmental problems/concerns to Guam EPA's satisfaction . Guam EPA may also levy penalties and fines (10 GCA §47111). Invalidity or enforceability of one or more provisions of this certification shall not affect any other provision of this certification.

**9.9.5 Commonwealth of the Northern Mariana Islands**

- a. No additional requirements

**9.9.6 Indian Country within the State of Nevada, as well as the Duck Valley reservation in Idaho, the Fort McDermitt Reservation in Oregon (See Region 10) and the Goshute Reservation in Utah (See Region 8)**

- a. No additional requirements

**9.10 EPA Region 10**

**9.10.1 Indian Country and the Denali National Park and Preserve within the State of Alaska**

- a. No additional requirements.

**9.10.2 Indian Country within the State of Idaho, except Duck Valley Reservation (See Region 9)**

- a. No additional requirements



9.10.3 Indian Country within the State of Oregon, except Fort McDermitt Reservation (See Region 9)

- a. Confederated Tribes of the Warm Springs Reservation
  1. Applications of pesticides within the Confederated Tribes of the Warm Springs Reservation are not eligible for discharge coverage under this permit. Contact EPA Region 10 office for an individual permit application.
- b. Confederated Tribes of the Coos, Lower Umpqua & Siuslaw Indians
  1. Applications of pesticides within the Confederated Tribes of the Coos are not eligible for discharge coverage under this permit. Contact EPA Region 10 office for an individual permit application.<sup>1</sup>

9.10.4 Federal Facilities in the State of Washington, except those located on Indian Country

- a. Definitions
  1. For purposes of this Order, the term “Project Proponent” shall mean those that are seeking coverage under this general permit, and its agents, assignees and contractors.
  2. The Federal Agency shall mean the US Environmental Protection Agency (EPA). The Federal Agency shall enforce the permit and ensure that the Project Proponent complies with the conditions of the permits at all times.
- b. Water Quality
  1. Failure of any person or entity to comply with this Certification may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Certification.
  2. The Certification conditions within this Order must be incorporated into EPA’s final NPDES permit. Pursuant to 40 CFR 121.10(a), all certification conditions herein that satisfy the requirements of 40 CFR 121.7(d) must be incorporated into the permit. Pursuant to 40 CFR 121.10(b), the permit must clearly identify all certification conditions.
  3. This Certification does not authorize exceedances of water quality standards established in chapter 173-201A WAC. Authorizing exceedances of water quality standards is inconsistent with compliance.
- c. Requirements for Pesticide Applicators
  1. Permittees must be licensed in the State of Washington to apply aquatically labelled pesticides and must comply with chapters 16-228 of the Washington Administrative Code (WAC), 15.58 Revised Code of Washington (RCW), and 17.21 RCW.

---

<sup>1</sup> As of September 8, 2021, there is an outstanding 401 certification request with Confederated Tribes of the Coos, Lower Umpqua & Siuslaw Indians. Should the tribe grant or waive certification, EPA expects to take subsequent action to extend 2021 PGP coverage to the tribe.

*Citation: 16-228 WAC, 15.58 RCW, 17.21 RCW*

*Justification: This is a requirement of the State in order to make sure that pesticides are applied legally and appropriately.*

d. Requirements for Pesticide Application

1. The application of pesticide products must not cause or contribute to violations of the Water Quality Standards for Surface Water of the State of Washington (chapter 173-201A WAC), Ground Water Quality Standards (chapter 173-200 WAC), Sediment Management Standards (chapter 173-204 WAC), and human health-based criteria in the National Toxics Rule (40 CFR 131.36). Discharges that do not comply with these standards are prohibited.

*Citation: 173-201A WAC, 173-200 WAC, 173-204 WAC, 40 CFR 131.36*

*Justification: Ecology must ensure that the application of pesticide products does not cause harm to aquatic life, habitats, or human health.*

e. Short Term Modification of Water Quality Standards

1. Water Quality Standards for Surface Waters of the State of Washington (chapter 173-201A WAC) allow a temporary exceedance of water quality criteria provided the Permittee has complied with WAC 173-201A-410. Compliance with a lawfully issued discharge permit satisfies this requirement. *Citation: 173-201A WAC Justification: Ecology may allow short term exceedance of water quality standards in order to allow for pesticide and other chemical treatments to occur to protect beneficial uses of waterbodies and human and environmental health.*

- f. All discharges of pesticides directly to water, discharged above water or at the water's edge where pesticides will enter the water must submit an NOI and obtain coverage under this permit (chapter 173-201A WAC and chapter 173-226 WAC). The contents of this condition are required in order to comply with the State antidegradation policy (WAC 173-201A-300) and limit the discharge of polluting matter in water (RCW 90.48.080 and RCW 90.48.520).

*Citation: 173-201A WAC, WAC 173-201A-300, 173-226 WAC, RCW 90.48.080, RCW 90.48.520*

*Justification: Ecology must track discharges of wastewater and pollutants to waters of the state.*

g. Allowed active ingredients and conditions for use

1. Aquatic mosquito control
  - i. Bacillus sphaericus (strain H-5a5b)
  - ii. Bacillus thuringiensis israelensis (Bti)
  - iii. Malathion
  - iv. Methoprene
  - v. Monomolecular surface films
  - vi. Paraffinic white mineral oil
  - vii. Spinosad

- viii. Etofenprox
- ix. Naled
- x. Natural Pyrethrins
- xi. Permethrin
- xii. Piperonyl Butoxide (PBO)
- xiii. Prallethrin
- xiv. Resmethrin
- xv. Sumithrin (d-phenothrin)
- xvi. Deltamethrin (adulticide)

#### Additional Restrictions

##### Endangered, Threatened, Sensitive, or Candidate Species

The Permittee must ensure that the application of larvicides or adulticides does not cause permanent harm to vulnerable species, which include endangered, threatened, sensitive, or candidate species. Washington Department of Fish and Wildlife (WDFW) identified specific areas, which are known habitat for vulnerable species. These areas are identified in the document titled *Areas of Restricted Larvicide and Adulticide Use Due to Presence of Vulnerable Species* (<https://ecology.wa.gov/DOE/files/3e/3e837bdb-10d0-4496-9b51-40a0f053f53f.pdf>).

For those areas identified in *Areas of Restricted Larvicide and Adulticide Use Due to Presence of Vulnerable Species* that are within the Permittee's jurisdiction, the Permittee must develop a plan for the management of mosquitoes within the area of concern.

Plans must include:

- i. How mosquitoes are managed in the area of concern, including timing of application, larvicides and adulticides used, and how impacts to vulnerable species will be minimized or eliminated.
- ii. For state listed species: consultation and a letter of concurrence from Washington Department of Fish and Wildlife (WDFW).
- iii. Identification of how the Permittee will notify WDFW and affected land management agencies when treatments will be occurring in areas identified as habitat for vulnerable species.

Until the plan is completed and implemented, the Permittee is limited to the use of *Bacillus sphaericus* and Bti based larvicides.

##### Larvicides

The Permittee is not authorized to apply malathion in lakes, streams, in the littoral zone of water bodies, or the sites referenced in *Areas of Restricted Larvicide and Adulticide Use Due to Presence of Vulnerable Species*. Use of malathion is only allowed in response to the development of pesticide resistance within a specific larval mosquito population and after consultation with WDFW. The use of methoprene briquette formulations in marine or estuarine treatment sites is prohibited.

##### Adulticides

The Permittee must use ultra low volume (ULV) application equipment to apply adulticides if available.

Malathion and naled are not authorized to be used in the vulnerable species areas referenced in Areas of Restricted Larvicide and Adulticide Use Due to Presence of Vulnerable Species.

**Citation:** Chapter 90.48 RCW, RCW 90.48.010, RCW 90.48.520, RCW 90.52.040, RCW 90.54.020, RCW 90.48.080, RCW 90.48.260, Chapter 173-201A WAC, WAC 173-201A-020, WAC 173-201A-300, WAC 173-201A-240, WAC 173-201A-410(4)(c)(i and ii), Chapter 173-226 WAC, WAC 173-226-070, WAC 173-201A-320

**Justification:** Restrictions on the active ingredients allowed, as well as when and how pesticide products may be applied are technology-based requirements which Ecology has determined are necessary to meet the state requirement for the use of all known, available and reasonable methods of prevention, control and treatment (AKART).

## 2. Aquatic plant and algae management

For in water treatments of fresh water to manage aquatic noxious weeds, algae, and native nuisance plants.

- i. 2,4-D, Amine Formulation
- ii. 2,4-D, Ester Formulation
- iii. Aminopyralid
- iv. Bispyribac-sodium
- v. Carfentrazone-ethyl
- vi. Diquat Dibromide
- vii. Endothall, Dipotassium salt (e.g., Aquathol)
- viii. Endothall, Monopotassium salt (e.g., Hydrothol)
- ix. Florpyrauxifen-benzyl
- x. Flumioxazin
- xi. Fluridone
- xii. Glyphosate
- xiii. Imazamox
- xiv. Imazapyr
- xv. Penoxsulam
- xvi. Peroxyacetic/ Peracetic Acid plus Hydrogen Peroxide
- xvii. Sodium carbonate peroxyhydrate
- xviii. Topramezone
- xix. Triclopyr TEA
- xx. Adjuvants - Washington State Department of Agriculture (WSDA) registers adjuvants for aquatic use in Washington State (RCW15.58.050 and WAC 16-228-1400). Adjuvants approved for aquatic use by WSDA as of this date include: 800 Plus, Agri-Dex™, AgriSolutions Inergy, Antero-EA,

- Atmos™, Avor, Bond™, Brandt Magnify, Break-Thru SP 133, Breeze®, Bronc Max™, Bronc® Plus Dry, Bronc Plus Dry-EDT™, Choice Trio, CHS Deppex, Cide-Kick II M®, Class Act NG™, Competitor™, Cut-Rate™, Cygnet Plus™, Denali-EA™, DestinyHC™, Droplex™, Dyne-Amic™, Enerplex, Fast Break®, Forge, Fraction™, Glacier-EA, Guidance-EA, Hasten-EA™, Interlock™, Kinetic™, Level 7™, LI-700™, Liberate™, MSO Concentrate, MSO Concentrate with LeciTech, One-Ap XL™, Optify L27, Phase, Pro AMS Plus™, Rainier-EA™, Renegade-EA, Sphere 7, Spray-Rite™, Spreader 90, Superb HC™, Syl-Tac-EA™, Tactic™, Trail Blazer, Trapline Pro, Tronic™, Turbulence®, Winfield Solutions Inergy®, Yardage™
- xxi. Nutrient Inactivation Products: aluminum sulfate, sodium aluminate, calcium hydroxide/oxide, and calcium carbonate, lanthanum-modified bentonite clay, and powdered or granulated iron.
- xxii. Marker dyes, shading and water clarification products.

#### Additional restrictions

##### Littoral Zone Limitations for Native Nuisance Plants

The Permittee is authorized to apply chemicals to: A percentage of a water body's littoral zone based on the littoral acres of the water body and the size of the water body.

- a. The geographic area where the Permittee intentionally applies chemicals must remain the same for the entire length of the permit coverage up to the maximum percentage of the littoral zone allowed for by water body size.
- b. All untreated littoral areas must include native vegetation from the shore to the edge of the littoral zone where the plants stop growing in deeper water.
- c. The cumulative percentage of the littoral zone where herbicides are authorized to be applied must not exceed the amount allowed below:
  - i. In water bodies up to 15 acres in size, the Permittee is authorized to apply herbicides to no more than 75 percent of the littoral zone.
  - ii. In water bodies over 15 acres and up to 50 acres in size, the Permittee is authorized to apply herbicides to no more than 60 percent of the littoral zone.

- iii. In water bodies over 50 acres and up to 500 acres in size, the Permittee is authorized to apply herbicides to no more than 50 percent of the littoral zone.
- iv. In water bodies over 500 acres in size, the Permittee is authorized to apply herbicides to no more than 30 percent of the littoral zone.

#### Shoreline and Emergent Native Nuisance Plants

- a. The Permittee is authorized to apply herbicides to 100 percent of the plants within the right-of-way and on levees and dikes.
- b. The Permittee is authorized to apply herbicides to no more than 40 percent of native vegetation on shorelines, roadsides and ditches, but is authorized to apply herbicide to 100 percent of any noxious or quarantine-listed weeds.

Note: Ecology recognizes that discharge permits can regulate the specific areas where a Permittee discharges (or intentionally applies) a chemical. A discharge permit cannot regulate or control the extent of dispersion because it varies depending on environmental conditions. Dispersion means that sometimes the treatment affects more area or less area than anticipated.

#### Algae Control

- a. The Permittee may intentionally apply algaecides to filamentous green algae provided the treated areas do not exceed the maximum amount of littoral zone allowed according to the waterbody's size.
- b. The Permittee may intentionally apply algaecides to the entire waterbody or sections of the waterbody, as needed, when cyanobacteria or other potentially toxic or environmentally harmful algae species are in the waterbody.
- c. Restrictions for algaecide treatments are as follows:
- d. If a Permittee must conduct a full-waterbody pesticide (or algaecide) treatment for algae:
  - i. Permittees must take at minimum one dissolved oxygen measurement approximately 24 hours prior to the planned algae treatment. Multiple dissolved oxygen measurements may be taken at the same time of day as the planned treatment to determine an average dissolved oxygen level for the waterbody.
  - ii. Permittees must measure dissolved oxygen after the algaecide treatment is complete and the after effects of the treatment are occurring. The post-treatment dissolved oxygen level must not be lower than 0.2 mg/L below the mandatory single pre-treatment measurement or the average of multiple pre-treatment measurements.

- e. If water quality or algae conditions are such that a Permittee believes a full-waterbody treatment may cause a lethal drop in dissolved oxygen, or the Permittee is unable to conduct pre-treatment dissolved oxygen monitoring, the Permittee may use the following alternative treatment methods:
  - i. The Permittee may use only phosphorous sequestration products in the algae treatment.
  - ii. The Permittee may treat up to one third of the lake each week with algaecide

**Citation:** Chapter 90.48 RCW, RCW 90.48.010, RCW 90.48.520, RCW 90.52.040, RCW 90.54.020, RCW 90.48.080, RCW 90.48.260, RCW 77.04.012, RCW 77.04.020, RCW 77.12.047, Chapter 173-201A WAC, WAC 173-201A-020, WAC 173-201A-320, WAC 173-201A-240, WAC 173-201A-300, WAC 173-201A-410(4)(c)(i and ii), Chapter 173-226 WAC, WAC 173-226-070

**Justification:** Restrictions on the active ingredients allowed, as well as when and how pesticide products may be applied are technology-based requirements which Ecology has determined are necessary to meet the state requirement for the use of all known, available and reasonable methods of prevention, control and treatment (AKART).

### 3. Aquatic noxious weed control

For Shoreline and emergent noxious weeds in both freshwater and marine locations where pesticides are not directly discharged to water. Permittees are authorized to make herbicide applications only for the control of state listed noxious weeds and weeds on the WSDA quarantine list that are found in aquatic environments. Noxious weed means those species of plants listed as noxious class A, B, and C weeds by the Washington State Noxious Weed Control Board in accordance with Chapter 17.10 RCW. WSDA maintains the quarantine list in accordance with Chapter 17.24 RCW. The following pesticides are approved for use on state listed noxious weeds:

- i. Aminopyralid
- ii. Bispyribac-sodium
- iii. Carfentrazone-ethyl
- iv. 2,4-D, Amine Formulation
- v. Florpyrauxifen-benzyl
- vi. Flumioxazin
- vii. Glyphosate
- viii. Imazamox
- ix. Imazapyr
- x. Penoxsulam
- xi. Topramezone
- xii. Triclopyr TEA

- xiii. Adjuvants – Washington State Department of Agriculture (WSDA) registers adjuvants for aquatic use in Washington State (RCW15.58.050 and WAC 16-228-1400). Adjuvants approved for aquatic use by WSDA as of this date include: 800 Plus, Agri-Dex™, AgriSolutions Inergy, Antero-EA, Atmos™, Avor, Bond™, Brandt Magnify, Break-Thru SP 133, Breeze®, Bronc Max™, Bronc® Plus Dry, Bronc Plus Dry-EDT™, Choice Trio, CHS Deppex, Cide-Kick II M®, Class Act NG™, Competitor™, Cut-Rate™, Cygnet Plus™, Denali-EA™, DestinyHC™, Droplex™, Dyne-Amic™, Enerplex, Fast Break®, Forge, Fraction™, Glacier-EA, Guidance-EA, Hasten-EA™, Interlock™, Kinetic™, Level 7™, LI-700™, Liberate™, MSO Concentrate, MSO Concentrate with LeciTech, One-Ap XL™, Optify L27, Phase, Pro AMS Plus™, Rainier-EA™, Renegade-EA, Sphere 7, Spray-Rite™, Spreader 90, Superb HC™, Syl-Tac-EA™, Tactic™, Trail Blazer, Trapline Pro, Tronic™, Turbulence®, Winfield Solutions Inergy®, Yardage™
- xiv. Marker Dyes

**Citation:** Chapter 90.48 RCW, RCW 90.48.010, RCW 90.48.520, RCW 90.48.445, RCW 90.52.040, RCW 90.54.020, RCW 90.48.080, RCW 90.48.260, Chapter 173-201A WAC, WAC 173-201A-020, WAC 173-201A-300, WAC 173-201A-240, WAC 173-201A-410(4)(c)(i and ii), Chapter 173-226 WAC, WAC 173-226-070, WAC 173-201A-320

**Justification:** Restrictions on the active ingredients allowed, as well as when and how pesticide products may be applied are technology-based requirements which Ecology has determined are necessary to meet the state requirement for the use of all known, available and reasonable methods of prevention, control and treatment (AKART).

#### 4. *Zostera japonica* Management

Treatments of the non-native eelgrass *Zostera japonica* are limited to commercial clam beds in Willapa Bay and one application per year of imazamox with a treatment window of April 15 to June 30th. The Permittee must maintain a 10m buffer inside the parcel boundary where imazamox is not applied. The Permittee must not use adjuvants for *Zostera japonica* treatments.

**Citation:** Chapter 90.48 RCW, RCW 90.48.010, RCW 90.48.520, RCW 90.52.040, RCW 90.54.020, RCW 90.48.080, RCW 90.48.260, Chapter 173-201A WAC, WAC 173-201A-020, WAC 173-201A-300, WAC 173-201A-240, WAC 173-201A-410(4)(c)(i and ii), Chapter 173-226 WAC, WAC 173-226-070, WAC 173-201A-320



**Justification:** *Restrictions on the active ingredients allowed, as well as when and how pesticide products may be applied are technology-based requirements which Ecology has determined are necessary to meet the state requirement for the use of all known, available and reasonable methods of prevention, control and treatment (AKART).*

#### 5. Irrigation system aquatic weed control

The following conditions on irrigation system aquatic weed control treatments are in place to protect aquatic life, sensitive or threatened species, and water quality standards in Washington State. Please refer to the Washington State Irrigation System Aquatic Weed Control General Permit and Fact Sheet for more information

(<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Aquatic-pesticide-permits/Irrigation-system-aquatic-weed-control>).

- i. Copper (dissolved)
- ii. Acrolein
- iii. Endothall, Dipotassium salt (*e.g.*, Aquathol)
- iv. Endothall, Monopotassium salt (*e.g.*, Hydrothol)
- v. Xylene
- vi. Sodium Carbonate Peroxyhydrate
- vii. Fluridone
- viii. Imazapyr

#### Additional restrictions

The Permittee must not use adjuvants for irrigation system aquatic weed control.

Wherever treated water from a pesticide application eventually flows to a point of compliance, the Permittee must ensure that the pesticide concentrations do not exceed the following limits at the point of compliance:

#### Parameter Maximum instantaneous concentration

- Copper (dissolved) 25 µg/l
- Acrolein 21 µg/l
- Dipotassium Salt of Endothall (such as Cascade) 5.0 mg/l (acid equivalent)
- Mono (N,N-Dimethyl Alkylamine) Salt of Endothall (such as Teton) 0.050 mg/l (equal to 50 ug/l) (acid equivalent) at any time and 0.2 mg/l (equal to 200 ug/l) (acid equivalent), subject to timing windows (Condition 7).
- Xylene 5.1 mg/l

The maximum instantaneous concentration means the highest allowable discharge at any time. The point of compliance means the location where water treated with pesticides enters surface water bodies that existed prior to the creation of reclamation and irrigation projects.

**Citation:** Chapter 90.48 RCW, RCW 90.48.010, RCW 90.48.520, RCW 90.52.040, RCW 90.54.020, RCW 90.48.080, RCW 90.48.260, RCW 77.04.012, RCW 77.04.020, RCW 77.12.047, Chapter 173-201A WAC, WAC 173-201A-020, WAC 173-201A-320, WAC 173-201A-240, WAC 173-201A-300, WAC 173-201A-410(4)(c)(i and ii), Chapter 173-226 WAC, WAC 173-226-070.

**Justification:** Restrictions on the active ingredients allowed, as well as when and how pesticide products may be applied are technology-based requirements which Ecology has determined are necessary to meet the state requirement for the use of all known, available and reasonable methods of prevention, control and treatment (AKART).

## 6. Fish management

### i. Rotenone

- ii. Potassium Permanganate (KMnO<sub>4</sub>) is the only chemical permitted to neutralize rotenone treated waters when necessary to prevent damage to non-targeted organisms and maintain water quality outside of the area intended for rotenone treatment.

### Additional restrictions

All treatments conducted for fisheries management must follow: *Planning and Standard Operating Procedures for Use of Rotenone in Fish Management*; Finlayson, B., R. Schnick, D. Skaar, J. Anderson, L. Demong, D. Duffield, W. Horton, and J. Steinkjer. 2010. American Fisheries Society, Bethesda, MD.

**Citation:** Chapter 90.48 RCW, RCW 90.48.010, RCW 90.48.520, RCW 90.52.040, RCW 90.54.020, RCW 90.48.080, RCW 90.48.260, Chapter 173-201A WAC, WAC 173-201A-020, WAC 173-201A-300, WAC 173-201A-240, WAC 173-201A-410(4)(c)(i and ii), Chapter 173-226 WAC, WAC 173-226-070, WAC 173-201A-320

**Justification:** Restrictions on the active ingredients allowed, as well as when and how pesticide products may be applied are technology-based requirements which Ecology has determined are necessary to meet the state requirement for the use of all known, available and reasonable methods of prevention, control and treatment (AKART).

## 7. Invasive moth control

8. The following conditions on invasive moth control treatments are in place to protect aquatic life, sensitive or threatened species, and water quality standards in Washington State. Please refer to the Invasive Moth Control

Permit and Fact Sheet for more information

(<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Aquatic-pesticide-permits/Invasive-moth-control>).

- i. *Bacillus thuringiensis* var. *kurstaki* based pesticides
- ii. Gypsy moth pheromone based pesticides (e.g., disparlure)
- iii. Adjuvants authorized to be used for invasive moth control include latex-based adjuvants.

#### Additional restrictions

A period of three days between treatments is required prior to re-treating the previously treated area. The Permittee must notify WA State Department of Fish and Wildlife (WDFW) with regard to state listed threatened, endangered, and candidate species, on a site specific basis, 60 days prior to treatment. WDFW habitat biologist contact information can be found here:

<https://wdfw.maps.arcgis.com/apps/MapJournal/index.html?appid=48699252565749d1b7e16b3e34422271>.

**Citation:** Chapter 90.48 RCW, RCW 90.48.010, RCW 90.48.520, RCW 90.52.040, RCW 90.54.020, RCW 90.48.080, RCW 90.48.260, Chapter 173-201A WAC, WAC 173-201A-020, WAC 173-201A-300, WAC 173-201A-410(4)(c)(i and ii), WAC 173-201A-240, Chapter 173-226 WAC, WAC 173-226-070, WAC 173-201A-320

**Justification:** Restrictions on the active ingredients allowed, as well as when and how pesticide products may be applied are technology-based requirements which Ecology has determined are necessary to meet the state requirement for the use of all known, available and reasonable methods of prevention, control and treatment (AKART).

#### 9. Forest canopy pest control

The following conditions on forest canopy pest control treatments are in place to protect aquatic life, sensitive or threatened species, and water quality standards in Washington State.

Permittees performing forest canopy pest control must follow the requirements in Title 76 RCW (Forests and Forest Products).

**Citation:** Title 76 RCW

**Justification:** Restrictions on the active ingredients allowed, as well as when and how pesticide products may be applied are technology-based requirements which Ecology has determined are necessary to meet the state requirement for the use of all known, available and reasonable methods of prevention, control and treatment (AKART).

#### h. Public notice

Ecology includes public notification and treatment area postings in the pesticide permits it issues. These requirements are intended to protect the

public health, welfare, and enjoyment of waters of the state by reducing the public's exposure to pesticides.

The Permittee must publish a public notice in a newspaper of general circulation in the area where treatment will occur, prior to the first application of the season. The newspaper notice must contain:

1. Proposed schedule of treatments for the season.
2. Common name of the water body to be treated.
3. Chemicals to be used.
4. Any water use restrictions or precautions
5. Contact information of the Permittee and any agency staff involved.
6. Ecology's regional twenty-four (24) hour Emergency number.
7. Notification shall explain the project and explain that any treated areas will be flagged no more than 48 hours before treatment begins.

### Shoreline Signs

The Permittee must use Ecology posting templates contained in each pesticide permit to post the treated areas, where feasible, to 400 feet beyond the boundary of the treatment area. Sign postings must occur at all reasonable points of public access to the treatment area. Signs posting of treatment areas must be posted before treatment commences, but no more than 48 hours before the start of treatment. Signs must also be posted in the commonly spoken language of the area where treatment is occurring. Remove all old signs at the end of the water use restriction.

Shoreline posting templates can be found on the permit websites:

Aquatic Invasive Species Management:

<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Aquatic-pesticide-permits/Aquatic-invasive-species-management>

Aquatic Mosquito Control:

<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Aquatic-pesticide-permits/Aquatic-mosquito-control>

Aquatic Noxious Weed Control:

<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Aquatic-pesticide-permits/Aquatic-noxious-weed-control>

Aquatic Plant and Algae Management:

<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Aquatic-pesticide-permits/Aquatic-plant-algae-management>

Fisheries Management:

<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Aquatic-pesticide-permits/Fisheries-resource-management>

**Citation:** RCW 90.48.010, WAC 173-226-130

**Justification:** The public must be notified of chemical treatments in order to be aware of possible dangers of exposure. The public must be given the opportunity to comment on proposed projects or permits which may impact the beneficial uses of waterbodies, the environment, and aquatic life.

**i. Water rights**

Ecology includes notification of treatments and requirements for replacement water for individuals who withdraw potable water or that have a valid water right or claim for irrigation water or livestock in the pesticide permits it issues.

Permittees are required to provide, as detailed below, an alternative or replacement water source when treatment will affect potable water, irrigation water, or livestock watering, uses in order to comply with water rights laws and regulations.

1. The Permittees must notify individuals who withdraw potable water, or that have a valid water right or claim for irrigation water or livestock watering prior to treatment with any chemical that restricts the use of the water for these purposes.
2. Notification must be made to all those with a valid water claim or right in the treatment area, as well as in any applicable setback distances on the product label from the edge of the treatment area whose water use may be affected by the pending treatment.
  - i. Initial notification must occur prior any chemical treatment occurring during the year, and must occur each year treatment takes place.
3. If requested by an affected water user, the Permittees must provide at least two weeks advance notice of pending treatments with potable water, irrigation water, or livestock watering, restrictions.
4. If requested by an affected water user(s), the Permittees, at their own expense, must provide a replacement/alternative water supply until the water at the point of withdrawal tests at or below the concentration specified for the active ingredient(s) on the product label for the restricted water use. The replacement/alternative water supply must allow the requestor to use water as they are accustomed to (e.g. be able to run their kitchen faucet and obtain potable water), however the requestor may agree to lesser water provision (e.g. bottled water for a vacation house) if they choose.
  - i. Permittees are responsible for reaching an agreement with the requestor (affected water user) to determine how the replacement/alternative water supply will be provided.

**Citations:** 90.48.010 RCW, 173-201A-200(3) WAC

**Justification:** *These requirements are intended to protect the public health, welfare, and enjoyment of waters of the state by reducing the public's exposure to pesticides and preventing the improper discharge of pesticides.*

**j.** Treatment timing windows

Permittees must consult the WDFW timing windows prior to conducting any treatments. The Permittees must comply with WDFW timing windows to protect sensitive, threatened, or endangered species, and priority habitats and species such as salmon, steelhead, and bulltrout. WDFW timing window are located at: <https://www.arcgis.com/apps/MapSeries/index.html?appid=34533b2dd4f84932b5fd1a46e494bde6>.

Timing windows may apply to either fish or non-fish species. Permittees must refer to the WDFW timing window map for more information about waterbody-specific timing windows before conducting any treatments.

Some treatment timing windows require consultation with WDFW prior to beginning any treatment. Permittees must follow WDFW guidance and treatment limits on waterbodies where the treatment timing window requires consultation.

Timing windows do not apply to:

1. Treatments conducted for emergent and shoreline plants.
2. Treatments conducted for roadside, ditch bank and flood control structure plant control.
3. Nonnative fish such as bass, walleye, sunfish, perch, carp, or catfish. At their discretion, Permittees may choose to comply with the nonnative fish timing windows noted in the WDFW timing table.

#### Modified Timing Window Requests

Contact the regional WDFW biologist to develop a new timing window if the default window will not provide for adequate treatment. WDFW biologist contact information may be found through the Areas of Responsibilities Map Tool:

<https://www.arcgis.com/apps/MapJournal/index.html?appid=48699252565749d1b7e16b3e34422271>.

Chemicals subject to WDFW Timing Windows for Salmon, steelhead, bull trout and other priority species:

- i. 2,4-D Amine
- ii. 2,4-D Ester
- iii. Carfentrazone-ethyl
- iv. Copper
- v. Chlorine
- vi. Diquat
- vii. Endothall Dipotassium Salt
- viii. Endothall Mono Salt
- ix. Flumioxazin

- x. Potassium Permanganate
- xi. Rotenone

For all other chemicals allowed for use under Aquatic Plant and Algae Management and Aquatic Invasive Species Control check the WDFW Timing Window map tool for other priority species (non-fish) work windows.

For irrigation systems the WDFW timing windows only apply to endothall mono salt.

**Citations:** *RCW 77.15.120, RCW 77.15.130(1), RCW 77.04.012, Washington Department of Fish and Wildlife's Priority Habitat and Species Program is a science-based agency initiative used as part of AKART (173-201A-020 WAC)*

**Justification:** *Ecology must condition its permits to follow WDFW mandates to protect sensitive species and habitats.*

**k. Rare plants**

For treatments using herbicides or algaecides the Permittee must use Washington Department of Natural Resources (WDNR) Natural Heritage Program database to determine if sensitive, threatened, or endangered (rare) plants are present in the proposed treatment area in order to protect rare plants. If a rare plant does occur in or around the waterbody, the Permittee must survey for the rare plant and mitigate for impacts. The rare plant database is currently located at <https://www.dnr.wa.gov/NHPwetlandviewer>. If a rare plant is found in the treatment area the Permittee must consult with WDNR Natural Heritage Program staff for appropriate mitigations (<http://www.dnr.wa.gov/natural-heritage-program>) prior to beginning application of pesticides.

**Citations:** *Chapter 79.70 RCW, 79.70.010 RCW, 79.70.020 RCW, 79.70.030 RCW*

**Justification:** *Ecology must condition its permits to follow WDFW mandates to protect sensitive species and habitats.*

### Your right to appeal

You have a right to appeal this Certification/Consistency Determination to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Certification/Consistency Determination. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Certification/Consistency Determination:

- File your appeal and a copy of this Certification/Consistency Determination with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Certification/Consistency Determination on Ecology in paper form - by mail or in person. (See addresses below.) Email is not

accepted. You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Address	Mailing Address
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel RD SW, Suite 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

**A. Timing Requirements**

1. This Certification is valid until the expiration date including any administrative extension or termination date of the Pesticide General NPDES Permit.

**B. Notification Requirements**

1. The Federal Agency shall enforce, and the Project Proponent must comply with all the reporting and notification conditions of the Pesticide General NPDES permit, including conditions of the permit requiring the Project Proponent to report to Ecology.

9.10.5 Indian Country within the State of Washington

a. Port Gamble S’Klallam Tribe

1. No discharge from the project site shall cause exceedances of Port Gamble S’Klallam Surface Water Quality Standards narrative or numeric criteria in Tribal waters.
  - A. If any exceedance of these water quality standards occurred, the Natural Resources Department shall be notified immediately.
2. Operators performing activities under the PGP that may affect Tribal waters will require a permit<sup>1</sup> and shall submit their plans to the Port Gamble S’Klallam Natural Resources Department for review.
  - A. The Department has the right to require conditions outside of this Water Quality Certification prior to permit approval.
3. No activities allowed under the PGP shall result in the degradation of any Tribal waters or change in designated uses.
4. No activities allowed under the PGP shall affect resident aquatic communities<sup>4</sup> or resident/migratory wildlife species at any life stage.
  - A. Biological assessment methods used to determine the effect of an activity allowed under the PGP shall be approved by the PGST Natural Resources Department.
5. No activities allowed under the PGP shall be conducted within wetland and stream buffer zones as defined by *PGST Law and Order Code 24.08.01(c)*.



6. Concentrations for substances listed within the table in *Water Quality Standards for Surface Waters* sec. 7(7) shall not be exceeded by activities allowed under the PGP.

b. Tulalip Tribes

1. Permittee shall be responsible for achieving compliance with applicable sections of the Tulalip Tribe's Water Quality Standards.
2. Permittee shall be responsible for achieving compliance with applicable sections of the Tulalip Tribe's Tidelands Management Policy.
3. Permittee shall be responsible for achieving compliance with applicable sections of the Tulalip Tribe's Environmental Infractions.
4. *Notice of Intent: ANOI seeking coverage under the general permit* should be sent to the Tulalip Tribes Natural Resources Department upon application.
5. Any spills of drugs, pesticides, oil, or hazardous materials to waters of the Tulalip Tribes should be reported immediately to the Tribes (360-716-5911).
6. Any permit related action that may affect historic or archaeological properties should be reported to Richard Young, of the Tulalip Tribe's Cultural Resources Department. His contact information is (360) 716-2652 and [ryoung@tulaliptribes-nsn.gov](mailto:ryoung@tulaliptribes-nsn.gov).

## Appendix A

### Definitions, Abbreviations, and Acronyms

#### A.1. Definitions

**Action Threshold** – the point at which pest populations or environmental conditions necessitate that pest control action be taken based on economic, human health, aesthetic, or other effects. An action threshold may be based on current and/or past environmental factors that are or have been demonstrated to be conducive to pest emergence and/or growth, as well as past and/or current pest presence. Action thresholds are those conditions that indicate both the need for control actions and the proper timing of such actions.

**Active Ingredient** – any substance (or group of structurally similar substances if specified by the Agency) that will prevent, destroy, repel or mitigate any pest, or that functions as a plant regulator, desiccant, or defoliant within the meaning of FIFRA sec. 2(a). [40 CFR 152.3] Active ingredient also means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance. [40 CFR 174.3]

**Adverse Incident** – means an unusual or unexpected incident that an Operator has observed upon inspection or of which the Operator otherwise become aware, in which:

- (1) There is evidence that a person or non-target organism has likely been exposed to a pesticide residue, and
- (2) The person or non-target organism suffered a toxic or adverse effect.

The phrase toxic or adverse effect includes effects that occur within waters of the United States on non-target plants, fish, or wildlife that are unusual or unexpected (*e.g.*, effects are to organisms not otherwise described on the pesticide product label or otherwise not expected to be present) as a result of exposure to a pesticide residue, and may include:

- Distressed or dead juvenile and small fishes
- Washed up or floating fish
- Fish swimming abnormally or erratically
- Fish lying lethargically at water surface or in shallow water
- Fish that are listless or nonresponsive to disturbance
- Stunting, wilting, or desiccation of non-target submerged or emergent aquatic plants
- Other dead or visibly distressed non-target aquatic organisms (amphibians, turtles, invertebrates, *etc.*)

The phrase, toxic or adverse effect, also includes any adverse effects to humans (*e.g.*, skin rashes) or domesticated animals that occur either from direct contact with or as a secondary effect from a discharge (*e.g.*, sickness from consumption of plants or animals containing pesticides) to waters of the United States that are temporally and spatially related to exposure to a pesticide residue (*e.g.*, vomiting, lethargy).

**Annual Treatment Area Threshold** – an area (in acres) or linear distance (in miles) in a calendar year to which a Decision-maker is authorizing and/or performing pesticide applications in that area for activities covered under this permit.

For calculating annual treatment areas for Mosquitoes and Other Flying Insect Pest Control and Forest Canopy Pest for comparing with any threshold in Table 1-1, count each pesticide application activity to a treatment area (*i.e.*, that area where a pesticide application is intended to provide pesticidal benefits within the pest management area) as a separate area treated. For example, applying pesticides three times a year to the same 3,000 acre site should be counted as 9,000 acres of treatment area for purposes of determining if such an application exceeds an annual treatment area threshold. The treatment area for these two pesticide use patterns is additive over the calendar year.

For calculating annual treatment areas for Weed and Algae Control and Animal Pest Control for comparing with any threshold in Table 1-1, calculations should include either the linear extent of or the surface area of waters for applications made to waters of the United States or at water's edge adjacent to waters of the United States. For calculating the annual treatment area, count each treatment area only once, regardless of the number of pesticide application activities performed on that area in a given year. Also, 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 calendar year. For example, whether treating the bank on one side of a ten-mile long ditch, banks on both sides of the ditch, and/or water in that ditch, the total treatment area is ten miles for purposes of determining if an NOI is required to be submitted. Additionally, if the same 10 miles area is treated more than once in a calendar year, the total area treated is still 10 miles for purposes of comparing with any threshold in Table 1-1. The treatment area for these two pesticide use patterns is not additive over the calendar year.

**Applicator** – any entity who performs the application of a pesticide or who has day-to-day control of the application (*i.e.*, they are authorized to direct workers to carry out those activities) that results in a discharge to waters of the United States.

**Biological Control Agents** – these agents are organisms that can be introduced to Operator sites, such as herbivores, predators, parasites, and hyperparasites. [Source: US FWS IPM Guidance, 2004]

**Biological Pesticides (also called biopesticides)** – include microbial pesticides, biochemical pesticides and plant-incorporated protectants (PIP). Microbial pesticide is a microbial agent intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, that (1) is a eukaryotic microorganism including, but not limited to, protozoa, algae, and fungi; (2) is a procaryotic microorganism, including, but not limited to, Eubacteria and Archaeobacteria; or (3) is a parasitically replicating microscopic element, including but not limited to, viruses. [40 CFR 158.2100(b)] Biochemical pesticide means a pesticide that (1) is a naturally-occurring substance or structurally-similar and functionally identical to a naturally-occurring substance; (2) has a history of exposure to humans and the environment demonstrating minimal toxicity, or in the case of a synthetically-derived biochemical pesticides, is equivalent to a naturally-occurring substance that has such a history; and (3) Has a non-toxic mode of action to the target pest(s). [40 CFR 158.2000(a)(1)] Plant-incorporated protectant means a pesticidal substance that is intended to be produced and used in

a living plant, or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance. It also includes any inert ingredient contained in the plant or produce thereof. [40 CFR 174.3]

**Chemical Pesticides** – all pesticides not otherwise classified as biological pesticides.

**Cultural Methods** – manipulation of the habitat to increase pest mortality by making the habitat less suitable to the pest.

**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 waters of the United States.

**Decision-maker Who is or Will be Required to Submit an NOI** – any Decision-maker covered under the PGP who knows or should have known that an NOI will be required for those discharges beginning on the effective date of the permit. Excluded from this definition are those activities for which an NOI is required based solely on that Decision-Maker exceeding an annual treatment area threshold.

**Declared Pest Emergency Situation** – an event defined by a public declaration by a federal agency, state, or local government of a pest problem determined to require control through application of a pesticide beginning less than ten days after identification of the need for pest control. This public declaration may be based on:

- (1) Significant risk to human health;
- (2) Significant economic loss; or
- (3) Significant risk to:
  - (i) Endangered species,
  - (ii) Threatened species,
  - (iii) Beneficial organisms, or
  - (iv) The environment.

**Director** – a Regional Administrator of the EPA or an authorized representative. [Excerpted from 40 CFR 122.2]

**Discharge** – when used without qualification, means the “discharge of a pollutant.” [40 CFR 122.2]

**Discharge of a Pollutant** – any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source,” or any addition of any pollutant or combination of pollutants to the waters of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft that is being used as a means of transportation. This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by human; discharges through pipes, sewers, or other conveyances leading into privately owned treatment works. [Excerpted from 40 CFR 122.2]

**Facility or Activity** – any NPDES “point source” or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program. [40 CFR 122.2]

**Federal Facility** – any buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned, operated, or leased by, or constructed or manufactured for the purpose of leasing to, the federal government.

**For-Hire Applicator** – includes persons who make contractual pesticide applications for which they or their employer receives compensation (*e.g.*, lawn care firms, pest control companies).

**Impaired Water** (or “Water Quality Impaired Water” or “Water Quality Limited Segment”) – a water is impaired for purposes of this permit if it has been identified by a state, tribe or EPA pursuant to Section 303(d) of the CWA as not meeting applicable state or tribal water quality standards (these waters are called “water quality limited segments” under 40 CFR 130.2(j)). Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established.

**Indian Country** – (a) all land within the 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; (b) 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 (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. This definition includes all land held in trust for an Indian tribe. [18 U.S.C. 1151; 40 CFR 122.2]

**Inert Ingredient** – any substance (or group of structurally similar substances if designated by the Agency), other than an active ingredient, which is intentionally included in a pesticide product. [40 CFR 152.3] Inert ingredient also means any substance, such as a selectable marker, other than the active ingredient, where the substance is used to confirm or ensure the presence of the active ingredient, and includes the genetic material necessary for the production of the substance, provided that genetic material is intentionally introduced into a living plant in addition to the active ingredient. [40 CFR 174.3]

**Large Entity** – any entity that is not a “small entity.”

**Mechanical/Physical Methods** – mechanical tools or physical alterations of the environment, for pest prevention or removal.

**Minimize** – to reduce and/or eliminate pesticide discharges to waters of the United States through the use of Pest Management Measures to the extent technologically available and economically practicable and achievable.

**NMFS Listed Resources of Concern** – federally-listed endangered and threatened species and federally-designated or proposed critical habitat for which NMFS, in its Biological opinion entitled, ‘2021 Endangered Species Act Section 7 Consultation Biological opinion on the United States Environmental Protection Agency’s Proposed Pesticides General Permit,’ concluded the draft 2021 PGP, absent any additional mitigating measures, would either likely jeopardize the continued existence of such species or destroy or adversely modify such critical habitat. The Biological opinion included a Reasonable and Prudent Alternative, implemented through this permit, to avoid likely jeopardy to listed species or adverse modification of designated critical habitat. Additional

information, including maps noting where these resources overlap with PGP areas of coverage is available at <https://www.epa.gov/npdes/pesticide-permitting-ESA-procedures>.

**Non-target Organisms** – includes the plant and animal hosts of the target species, the natural enemies of the target species living in the community, and other plants and animals, including vertebrates, living in or near the community that are not the target of the pesticide.

**Operator** – for the purpose of this permit means any entity associated with the application of pesticides which results in a discharge to waters of the United States that meets either of the following two criteria:

- (i) any entity who performs the application of a pesticide or who has day-to-day control of the application (*i.e.*, they are authorized to direct workers to carry out those activities); or
- (ii) any entity with control over the decision to perform pesticide applications including the ability to modify those decisions.

**Person** – an individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee thereof.

**Pest** – Consistent with 40 CFR 152.5, any organism under circumstances that make it deleterious to man or the environment, if it is:

- (a) Any vertebrate animal other than man;
- (b) Any invertebrate animal, including but not limited to, any insect, other arthropod, nematode, or mollusk such as a slug and snail, but excluding any internal parasite of living man or other living animals;
- (c) Any plant growing where not wanted, including any moss, alga, liverwort, or other plant of any higher order, and any plant part such as a root; or
- (d) Any fungus, bacterium, virus, prion or other microorganism, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs (as defined in FFDCA sec. 201(g)(1)) and cosmetics (as defined in FFDCA sec. 201(i)).

**Pest Management Area** – The area of land, including any water, for which an Operator has responsibility and is authorized to conduct pest management activities as covered by this permit (*e.g.*, for an Operator who is a mosquito control district, the pest management area is the total area of the district).

**Pest Management Measure** – any practice used to meet the effluent limitations that comply with manufacturer specifications, industry standards and recommended industry practices related to the application of pesticides, relevant legal requirements, and other provisions that a prudent Operator would implement to reduce and/or eliminate pesticide discharges to waters of the United States.

**Pesticide** – means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (3) any nitrogen stabilizer, except that the term “pesticide” shall not include any article that is a “new animal drug” within the meaning of section 201(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(w)), that has been

determined by the Secretary of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of section 201(x) of such Act (21 U.S.C. 321(x)) bearing or containing a new animal drug. The term “pesticide” does not include liquid chemical sterilant products (including any sterilant or subordinate disinfectant claims on such products) for use on a critical or semi-critical device as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). For purposes of the preceding sentence, the term “critical device” includes any device that introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body and the term “semi-critical device” includes any device that contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body [FIFRA Section 2(u)].

The term “pesticide” applies to insecticides, herbicides, fungicides, rodenticides, and various other substances used to control pests. The definition encompasses all uses of pesticides authorized under FIFRA including uses authorized under sections 3 (registration), 5 (experimental use permits), 18 (emergency exemptions), 24(c) (special local needs registrations), and 25(b) (exemptions from FIFRA).

Note: drugs used to control diseases of humans or animals (such as livestock, fishstock and pets) are not considered pesticides; such drugs are regulated by the Food and Drug Administration. Fertilizers, nutrients, and other substances used to promote plant survival and health are not considered plant growth regulators and thus are not pesticides. Biological control agents, except for certain microorganisms, are exempted from regulation under FIFRA. (Biological control agents include beneficial predators such as birds or ladybugs that eat insect pests, parasitic wasps, fish, etc).

*This permit uses the term “pesticide” when referring to the “pesticide, as applied.” When referring to the chemical in the pesticide product with pesticidal qualities, the permit uses the term “active ingredient.”*

**Pesticide Discharges To Waters of the United States from Pesticide Application** - means the discharges that result from the application of biological pesticides, and the application of chemical pesticides that leave a residue, from point sources to waters of the United States. In the context of this definition of pesticide discharges to waters of the United States from pesticide application, this does not include agricultural storm water discharges and return flows from irrigated agriculture, which are excluded by law (33 U.S.C. 1342(l); 33 U.S.C. 1362(14)). [40 CFR 122.2]

*This permit uses the term “pesticide discharges” when referring to “pesticide discharges to waters of the United States from pesticide application.”*

**Pesticide Product** – a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.

**Pesticide Research and Development** – Activities undertaken on a systematic basis to gain new knowledge (research) and/or the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes (experimental development).

**Pesticide Residue** – for the purpose of determining whether an NPDES permit is needed for discharges to waters of the United States from pesticide application, means that portion of a pesticide application that is discharged from a point source to waters of the United States and no longer provides pesticidal benefits. It also includes any degradates of the pesticide. [40 CFR 122.2]

**Point Source** – any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff. [40 CFR 122.2]

**Pollutant** – dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. For purposes of this definition, a “biological pesticide” is considered a “biological material,” and any “pesticide residue” resulting from use of a “chemical pesticide” is considered a “chemical waste.” [Excerpted from 40 CFR 122.2]

**Small Entity** – any (1) private enterprise that does not exceed the Small Business Administration size standard as identified at 13 CFR 121.201, or (2) local government that serves a population of 10,000 or less.

**State** – means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands.

**Take** - means to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. See Section 3 of the Endangered Species Act, 16 U.S.C. § 1532 (19).

**Target Pest** – the organism(s) toward which pest management measures are being directed.

**Tier 3 Waters** – for antidegradation purposes, pursuant to 40 CFR 131.12(a)(3), Tier 3 waters are identified by states or tribes as having high quality waters constituting an Outstanding National Resource Water (ONRW), which may include waters of National Parks and State Parks, wildlife refuges, and waters of exceptional recreational or ecological significance.

**Total Maximum Daily Loads (TMDLs)** – a TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant’s sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, load allocations (LAs) for nonpoint sources and/or natural background, and it must include a margin of safety (MOS) and account for seasonal variations. [See section 303(d) of the CWA and 40 CFR 130.2 and 130.7]

**Treatment Area** – the entire area, whether over land or water, where a pesticide application is intended to provide pesticidal benefits within the pest management area. In some instances, the treatment area will be larger than the area where pesticides are actually applied. For example, the treatment area for a stationary drip treatment into a canal includes the entire width and length of the canal over which the pesticide is intended to control weeds. Similarly, the treatment area for



a lake or marine area is the water surface area where the application is intended to provide pesticidal benefits.

**Water Quality Impaired** – See ‘Impaired Water.’

**Water Quality Standards** – A water quality standard defines the water quality goals of a water body, or portion thereof, by designating the use or uses to be made of the water and by setting criteria necessary to protect the uses. Water quality standards also include an antidegradation policy and implementation procedures. See *P.U.D. No. 1 of Jefferson County v. Wash. Dept. of Ecology*, 511 U.S. 700, 705 (1994). States, tribes and EPA adopt water quality standards to protect public health or welfare, enhance the quality of water and serve the purposes of the CWA (See CWA sections 101(a)2 and 303(c)). Where necessary, EPA has the authority to promulgate federal water quality standards.

**Wetlands** – means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. [40 CFR 122.2]

**A.2. Abbreviations and Acronyms**

CBI	Confidential Business Information
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulation
CWA	Clean Water Act (or the Federal Water Pollution Control Act, 33 U.S.C. §1251 <i>et seq.</i> )
CZMA	Coastal Zone Management Act
EPA	U. S. Environmental Protection Agency
ESA	Endangered Species Act
FFDCA	Federal Food Drug and Cosmetic Act
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 <i>et seq.</i>
FWS	U. S. Fish and Wildlife Service
IPM	Integrated Pest Management
LA	Load Allocation
MOS	Margin of Safety
NEPA	National Environmental Policy Act
NeT	NPDES eReporting Tool
NMFS	U. S. National Marine Fisheries Service
NOI	Notice of Intent
NOT	Notice of Termination
NPDES	National Pollutant Discharge Elimination System
NRC	National Response Center
ONRW	Outstanding National Resource Water
PIP	Plant-incorporated Protectants
PDMP	Pesticide Discharge Management Plan
SARA	Superfund Amendments and Reauthorization Act
TMDL	Total Maximum Daily Load
U.S.C.	United States Code
WLA	Wasteload Allocation
WQS	Water Quality Standard

## Appendix B. Standard Permit Conditions

As provided by the introductory text of 40 CFR §122.41 and the regulation at 40 CFR §122.43(c), all of the standard permit conditions published in federal regulations at 40 CFR §122.41 are included below.

40 CFR § 122.41 - Conditions applicable to all permits.

The following conditions apply to all NPDES permits. Additional conditions applicable to NPDES permits are in §122.42. All conditions applicable to NPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved State regulations) must be given in the permit.

(a) *Duty to comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

(1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

(2) The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The Clean Water Act provides that any person who *negligently* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who *knowingly* violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or

imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization as defined in section 309(c)(3)(B)(iii) of the CWA shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

(3) Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

(b) *Duty to reapply.* If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

(c) *Need to halt or reduce activity not a defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(d) *Duty to mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

(e) *Proper operation and maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

(f) *Permit actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(g) *Property rights.* This permit does not convey any property rights of any sort, or any exclusive privilege.

(h) *Duty to provide information.* The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine

compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

(i) *Inspection and entry.* The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

(1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

(j) *Monitoring and records.* (1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

(3) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(4) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O.

(5) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

(k) *Signatory requirement.* (1) All applications, reports, or information submitted to the Director shall be signed and certified. (See §122.22)

(2) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

(l) *Reporting requirements—(1) Planned changes.* The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in §122.29(b); or

(ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under §122.42(a)(1).

(iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;

(2) *Anticipated noncompliance.* The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(3) *Transfers.* This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See §122.61; in some cases, modification or revocation and reissuance is mandatory.)

(4) *Monitoring reports.* Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices. As of December 21, 2016, all reports and forms submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient as defined in 40 CFR 127.2(b) in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), §122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by state law.

(ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

(5) *Compliance schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(6) *Twenty-four hour reporting.*

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A report shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times), and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above (with the exception of time of discovery) as well as the type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (*e.g.*, manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. As of December 21, 2020, all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient as defined in 40 CFR 127.2(b) in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), §122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and

independent of Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by state law. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See §122.41(g).

(B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See §122.44(g).)

(iii) The Director may waive the written report on a case-by-case basis for reports under paragraph (l)(6)(ii) of this section if the oral report has been received within 24 hours.

(7) *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under paragraphs (l)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (l)(6). For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports shall contain the information described in paragraph (l)(6) and the applicable required data in appendix A to 40 CFR Part 127. As of December 21, 2020 all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient as defined in 40 CFR 127.2(b) in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), §122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by state law. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

(8) *Other information.* Where the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

(9) *Identification of the initial recipient for NPDES electronic reporting data.* The owner, operator, or the duly authorized representative of an NPDES-regulated entity is required to electronically submit the required NPDES information (as specified in appendix A to 40 CFR Part 127) to the appropriate initial recipient, as determined by EPA, and as defined in §127.2(b) of this chapter. EPA will identify and publish the list of initial recipients on its Web site and in



the FEDERAL REGISTER, by state and by NPDES data group [see §127.2(c) of this chapter]. EPA will update and maintain this listing.

(m) *Bypass*—(1) *Definitions*. (i) *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) *Bypass not exceeding limitations*. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (m)(3) and (m)(4) of this section.

(3) *Notice*—(i) *Anticipated bypass*. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass. As of December 21, 2020 all notices submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient as defined in 40 CFR 127.2(b) in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), §122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by state law.

(ii) *Unanticipated bypass*. The permittee shall submit notice of an unanticipated bypass as required in paragraph (1)(6) of this section (24-hour notice). As of December 21, 2020 all notices submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient as defined in 40 CFR 127.2(b) in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), §122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by state law.

(4) *Prohibition of bypass*. (i) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (m)(3) of this section.

(ii) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (m)(4)(i) of this section.

(n) *Upset*—(1) *Definition*. *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(2) *Effect of an upset*. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (n)(3) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(3) *Conditions necessary for a demonstration of upset*. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the permittee can identify the cause(s) of the upset;

(ii) The permitted facility was at the time being properly operated; and

(iii) The permittee submitted notice of the upset as required in paragraph (l)(6)(ii)(B) of this section (24 hour notice).

(iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

(4) *Burden of proof*. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

## **Appendix C. Areas Covered**

EPA provides permit coverage for classes of point source discharges that occur in areas where EPA is the NPDES permitting authority. The geographic coverage of the 2021 PGP is listed below. This permit also applies in all areas of Indian Country that are not covered by an EPA-approved permitting program, for example, the areas of Indian Country described below:

---

### **1. EPA Region 1: Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont**

#### **Where EPA is Permitting Authority**

MAG87#### Massachusetts, including Indian Country within Massachusetts  
CTG87#### Indian Country within Connecticut  
NHG87#### New Hampshire  
RIG87#### Indian Country within Rhode Island  
VTG87#### Federal facilities within Vermont

---

### **2. EPA Region 2: New Jersey, New York, Puerto Rico, United States Virgin Islands**

#### **Where EPA is Permitting Authority**

NYG87#### Indian Country within New York State  
PRG87#### Puerto Rico

---

### **3. EPA Region 3: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia**

#### **Where EPA is Permitting Authority**

DCG87#### The District of Columbia  
DEG87#### Federal facilities within Delaware  
VAG87#### Indian Country within Virginia

---

### **4. EPA Region 4: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee**

#### **Where EPA is Permitting Authority**

ALG87#### Indian Country within Alabama  
FLG87#### Indian Country within Florida  
MSG87#### Indian Country within Mississippi  
NCG87#### Indian Country within North Carolina

---

### **5. EPA Region 5: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin**

#### **Where EPA is Permitting Authority**

ING87#### Indian Country within Indiana  
MIG87#### Indian Country within Michigan excluding Keweenaw Bay Indian Community  
MNG87#### Indian Country within Minnesota excluding Fond du Lac Band of Chippewa

---

WIG87####E Indian Country within Wisconsin excluding Lac du Flambeau Band of Lake Superior Chippewa Indians and Bad River Band of Lake Superior Tribe of Chippewa Indians

---

**6. EPA Region 6: Arkansas, Louisiana, Oklahoma, Texas, New Mexico (except see Region 9 for Navajo, and see Region 8 for Ute Mountain Reservation)**

**Where EPA is Permitting Authority**

LAG87####E Indian Country within Louisiana  
NMG87####E New Mexico, including Indian Country within New Mexico, except Navajo Reservation (see Region 9) and Ute Mountain Reservation (see Region 8)  
OKG87####E Indian Country within Oklahoma  
TXG87####E Indian Country within Texas

---

**7. EPA Region 7: Iowa, Kansas, Missouri, Nebraska (except see Region 8 for Pine Ridge Reservation)**

**Where EPA is Permitting Authority**

IAG87####E Indian Country within Iowa  
KSG87####E Indian Country within Kansas  
NEG87####E Indian Country within Nebraska, except Pine Ridge Reservation (see Region 8)

---

**8. EPA Region 8: Colorado, Montana, North Dakota, South Dakota, Wyoming, Utah (except see Region 9 for Goshute Reservation and Navajo Reservation), the Ute Mountain Reservation in NM, and the Pine Ridge Reservation in Nebraska**

**Where EPA is Permitting Authority**

COG87####E Federal facilities within Colorado and Indian Country within Colorado as well as the portion of the Ute Mountain Reservation located within New Mexico  
MTG87####E Indian Country within Montana  
NDG87####E Indian Country within North Dakota  
SDG87####E Indian Country within South Dakota as well as the portion of the Pine Ridge Reservation located within Nebraska (see Region 7)  
UTG87####E Indian Country within Utah, except Goshute and Navajo Reservation (see Region 9)  
WYG87####E Indian Country within Wyoming

---

**9. EPA Region 9: California, Hawaii, Nevada, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Goshute Reservation in Utah and Nevada, the Navajo Reservation in Utah, New Mexico, and Arizona, the Duck Valley Reservation in Idaho, and the Fort McDermitt Reservation in Oregon**

**Where EPA is Permitting Authority**

ASG87####E The Island of American Samoa  
AZG87####E Indian Country within Arizona, as well as Navajo Reservation within New Mexico (see Region 6) and Utah (See Region 8)

---

CAG87####E Indian Country within California excluding Kletsel Dehe Wintun Nation, Morongo Band of Mission Indians, and Big Pine Paiute Tribe of the Owens Valley.

GUG87#### The Island of Guam

JAG87#### Johnston Atoll

MWG87#### Midway Island, Wake Island, and other unincorporated U.S. possessions

MPG87#### Commonwealth of the Northern Mariana Islands

NVG87####E Indian Country within Nevada, as well as the Duck Valley Reservation within Idaho, the Fort McDermitt Reservation within Oregon (see Region 10) and the Goshute Reservation within Utah (see Region 8)

---

**10. EPA Region 10: Alaska, Washington, Idaho (except see Region 9 for Duck Valley Reservation), and Oregon (except see Region 9 for Fort McDermitt Reservation)**

**Where EPA is Permitting Authority**

AKG87####E Indian Country and the Denali National Park and Preserve within Alaska

IDG87####E Indian Country within Idaho, except Duck Valley Reservation (see Region 9)

ORG87####E Indian Country within Oregon, except Fort McDermitt Reservation (see Region 9) excluding Confederated Tribes of the Warm Springs, and Confederated Tribes of the Coos, Lower Umpqua & Siuslaw Indians

WAG87####E Federal Facilities within Washington and Indian Country within Washington where there is no EPA-approved permitting program (e.g., the Puyallup Tribal trust lands within the 1873 survey area of the Puyallup Reservation)

## **Appendix D. Notice of Intent Form**

Part 7.8 requires you to use the NPDES eNOI System to prepare and submit your NOI unless the electronic system is unavailable. If you are given a waiver by the EPA Regional Office to use a paper NOI form, and you elect to use it, you must complete and submit the following form.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC 20460  
NOTICE OF INTENT (NOI) OF COVERAGE UNDER THE PESTICIDE  
GENERAL PERMIT (PGP) FOR DISCHARGES FROM THE APPLICATION  
OF PESTICIDES**

Form Approved  
OMB No.  
**2040-0004**

Submission of this completed Notice of Intent (NOI) constitutes notice that the Operator identified in Section B intends to be authorized to discharge pollutants to waters of the United States within the pest management area identified in Section C under EPA's Pesticide General Permit. Submission of this NOI constitutes notice that the party identified in Section B of this form has read, understands, and meets the eligibility conditions of Part 1 of the permit; agrees to comply with all applicable terms and conditions of the permit; and understands that continued authorization under the permit is contingent on maintaining eligibility for coverage. To be granted coverage, all information required on this form must be completed. Please read and make sure you comply with all permit requirements, including the requirement for large entities to prepare a Pesticide Discharge Management Plan (PDMP) prior to NOI submittal. Refer to the instructions at the end of this form to complete your NOI.

**Approval to Use Paper NOI Form (Electronic Submission Waiver)**

Has the EPA Regional Office granted you a waiver from electronic reporting\*?  YES  NO

If yes, check which waiver you have been granted, the name of the EPA Regional Office staff person who granted the waiver, and the date of approval:

- Waiver granted:  The Decision-maker is physically located in a geographical area (i.e., ZIP code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission.  
 The Decision-maker has limitations regarding available computer access or computer capability.

Name of EPA staff person who granted the waiver: \_\_\_\_\_

Date approval obtained: \_\_\_\_/\_\_\_\_/\_\_\_\_

**\*Note: You are required to obtain approval from the applicable EPA Regional Office prior to using this paper NOI form. If you have not obtained a waiver, you must file this form electronically using EPA's NPDES eReporting Tool (NeT) at <https://www.epa.gov/npdes/pesticide-permitting>.**

**A. Notice of Intent Status**

1. Mark whether this is the first time you are requesting coverage under the 2021 PGP, or if this is a change of information for a discharge already covered under the 2021 PGP. If this is a change of information, supply the NPDES permit tracking number for the discharge.

- a.  Original NOI Submission  
b.  NOI Change of Information: \_\_\_\_\_ (NPDES Permit Tracking Number)

Please note: When selecting A.1.b please fill out Section B (Operator Name and Mailing Address) and the fields of the NOI that need to be modified.

**B. Operator Information**

1. Operator Name: \_\_\_\_\_

2. Operator Type (check one):

- a.  Federal government      b.  State government      c.  Local government  
d.  Mosquito control district (or similar)      e.  Irrigation control district (or similar)      f.  Weed control district (or similar)

g.  Other: If other, provide brief description of type of Operator: \_\_\_\_\_

3. Are you a large entity as defined in Appendix A of the permit? (check one):  Yes  No

Please note: If you answer "Yes" to question 3 you are required to develop a Pesticide Discharge Management Plan (PDMP) and submit an Annual Report reflecting all pesticide uses for which you are requesting permit coverage under this NOI.

4. In which state are your pest management areas located? Please specify only one state per NOI: \_\_\_\_

5. Mailing Address:

- a. Street: \_\_\_\_\_  
b. City: \_\_\_\_\_ c. State: \_\_\_\_ d. ZIP Code: \_\_\_\_\_-\_\_\_\_\_  
e. Telephone: \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_ Ext \_\_\_\_\_ f. Fax: \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_  
g. Contact Name: \_\_\_\_\_  
h. E-mail: \_\_\_\_\_

**C. Pest Management Areas: Complete Section C for each Pest Management Area for which coverage under EPA's Pesticide General Permit is desired. Copy this section for additional Pest Management Areas.**

Pest Management Area # \_\_\_ of ## \_\_\_

1. Pest Management Area Name: \_\_\_\_\_

Provide a map of the location of the Pest Management Area or describe the location of the Pest Management Area in detail.

2. Are any of your activities for which you are requesting coverage under this NOI occurring on Indian Country?  Yes  No  
If yes, identify the reservation or otherwise describe those areas:

\_\_\_\_\_  
\_\_\_\_\_

3. Are any of your activities (in this pest management area) for which you are requesting coverage under this NOI occurring on areas considered "federal facilities" as defined by the permit?  Yes  No

4. Mailing address and contact information of the pesticide Applicator (or check here  if same as provided in Section B):

a. Street: \_\_\_\_\_  
b. City: \_\_\_\_\_ c. State: \_\_\_\_\_ d. ZIP Code: \_\_\_\_\_-\_\_\_\_\_  
e. Telephone: \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_ Ext \_\_\_\_\_ f. Fax: \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_  
g. Contact Name: \_\_\_\_\_  
h. E-mail: \_\_\_\_\_

5. Pesticide Use Patterns to be included in this Pest Management Area (check all that apply):

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

6. Receiving Waters (check one):

- a.  Coverage requested for all waters of the United States within the Pest Management Area identified above.  
b.  Coverage requested specifically for the following waters of the United States within the Pest Management Area identified above.

\_\_\_\_\_  
\_\_\_\_\_

- c.  Coverage requested for all waters of the United States within the Pest Management Area identified above except for:

\_\_\_\_\_  
\_\_\_\_\_

7. Tier 3 Waters

Is coverage requested for discharge to a Tier 3 water (Outstanding National Resource Water) of the United States?  Yes  No

If yes, answer a and b:

a. Name of Tier 3 water(s): \_\_\_\_\_

b. Provide rationale for determination that pesticide discharge is necessary to protect water quality, the environment, and/or public health and that any such discharge will not degrade water quality or will degrade water quality only on a short-term or temporary basis:

\_\_\_\_\_  
\_\_\_\_\_

8. Water Quality, Impaired Waters

Operators are not eligible for coverage under this permit for any discharges from a pesticide application to waters of the United States if the waters are identified as impaired by a substance which is either an active ingredient of the pesticide designated for use or is a degradate of such an active ingredient. See Part 1.1.2.1 of the permit. Check one:

- a.  Waters are NOT impaired by any substance which is either an active ingredient of a pesticide to be discharged or a degradate of such an active ingredient  
b.  Waters are on a current state list as being impaired by a substance which is either an active ingredient of a pesticide to be discharged or a degradate of such an active ingredient; however, evidence is attached documenting that the waters are no longer impaired.



**C. Endangered Species Protection: Complete Section D for each Pest Management Area for which coverage under EPA's Pesticide General Permit is desired. Copy this section for additional Pest Management Areas.**

*Section 9 of the ESA prohibits take (i.e., short or long term adverse effects = harm) of ESA-listed species.*

*To be eligible for PGP coverage, you must certify that your discharges will not result in any short or long term adverse effects to NMFS' Listed Resources of Concern (i.e., take) or that any take resulting from your discharges is exempted by an ESA section 7 Incidental Take Statement or ESA section 10 permit.*

Pest Management Area # \_\_\_ of ## \_\_\_

1. Identify the criterion for which you are eligible for permit coverage as it applies to Federally Listed Threatened or Endangered Species (i.e., Species) and/or Federally Designated Critical Habitat (i.e., Habitat). A step-by-step guide for determining eligibility is provided in Appendix I of the PGP. Check one:

a.  Pesticide application activities will not result in a point source discharge to one or more waters of the United States containing National Marine Fisheries Service (NMFS) Listed Resources of Concern, as defined in Appendix A, of the PGP.

You are required to attach an aerial image of the pest management area using the maps and resources at <https://www.epa.gov/npdes/pesticide-permitting-ESA-procedures>.

b.  Pesticide application activities for which permit coverage is being requested will discharge to one or more receiving waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A of the PGP, but consultation with NMFS under Section 7 of the Endangered Species Act (ESA) has been concluded for pesticide application activities covered under the PGP. Consultations can be either formal or informal, and would have occurred only as a result of a separate federal action. The consultation addressed the effects of pesticide discharges and discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and must have resulted in either:

i. A biological opinion from NMFS finding no jeopardy to federally-listed species and no destruction/adverse modification of federally-designated critical habitat and the Reasonable and Prudent Measures to minimize take have been or are in the process of being implemented; or

ii. Written concurrence from NMFS with a finding that the pesticide discharges and discharge-related activities are not likely to adversely affect federally-listed species or federally-designated critical habitat.

You are required to provide any tracking numbers of identifiers associated with the consultation (e.g., IPaC number, ECO number), the Services field office/regional office(s) providing the consultation, any copies of supporting correspondence with USFWS and/or NMFS, identification of the federal action agency(ies) involved, and the date the consultation was completed. Attach additional pages as necessary.

---

---

---

c.  Pesticide application activities for which permit coverage is being requested will discharge to one or more waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A of the PGP, but all "take" of these resources associated with such pesticide application activities has been authorized through NMFS' issuance of a permit under section 10 of the ESA, and such authorization addresses the effects of the pesticide discharges and discharge-related activities on federally-listed species and federally-designated critical habitat. (The term "take" means to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. See Section 3 of the Endangered Species Act, 16 U.S.C. § 1532 (19).)

You are required to provide any tracking numbers of identifiers associated with the section 10 permit, the date the section 10 permit was granted, whether the permit was granted by the USFWS and/or NMFS, and the field office/regional office(s) granting the permit. Attach additional pages as necessary.

---

---

---

d.  Pesticide application activities were, or will be, discharged to one or more waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A of the PGP, but only in response to a Declared Pest Emergency Situation.

You are required to provide the supporting documentation. Complete question 2 below.

e.  Pesticide application activities for which permit coverage is being requested in the NOI will discharge to one or more waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A of the PGP. Eligible discharges include those where the Decision-maker includes in the NOI written correspondence from NMFS that pesticide application activities performed consistent with appropriate measures will avoid or eliminate the likelihood of any short or long term adverse effects to NMFS Listed Resources of Concern.

You are required to attach the written supporting correspondence from NMFS.

f.  Pesticide application activities for which permit coverage is being requested in the NOI will discharge to one or more waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A of the PGP. Eligible discharges include those from pesticide application activities that are demonstrated by the Decision-maker as not likely to result in any short or long term adverse effect to NMFS Listed Resources of Concern or that the pest poses a greater threat to the NMFS Listed Resources of Concern than does the discharge of the pesticide.

You are required to provide the supporting documentation by completing question 2 below.

2. If you checked criterion **d** or criterion **f** above, provide the following information for all discharges to waters of the United States containing NMFS Listed Resources of Concern identified within the pest management area for which permit coverage is being requested. For discharges pursuant to criterion **d**, Declared Pest Emergency Situations, information for items **a** through **g** should also include any discharges that have already occurred prior to NOI submission as well as the activities you performed in the 15 day period before submission of this NOI was required. In some cases, implementation of pest management measures as specified in the permit involves a degree of "adaptive management" such that exact timing and quantities of applications cannot be determined in advance for the duration of the permit. In such cases, the permittee must provide the required information to the extent feasible and consistent with the implementation of the selected pest management measures.

- a. Describe the location of the pest management area in detail or provide a map of the location
- b. Pest(s) to be controlled:

---

- c. Pesticide product(s) to be discharged and method of application: \_\_\_\_\_
- d. Planned quantity and rate of discharge(s) for each method of application: \_\_\_\_\_
- e. Number of planned discharges: \_\_\_\_\_
- f. Approximate date(s) of planned discharge(s): \_\_\_\_\_
- g. Your rationale supporting your determination that you meet the criterion for which you are submitting this NOI, **for example, the *specific BMPs applied, visual monitoring, equipment and/or site inspections, and other*** appropriate measures that will be undertaken to avoid or eliminate the likelihood of adverse effects. For certifications pursuant to criterion **d**, indicate whether the discharge is likely to result in any short or long term adverse effect to NMFS Listed Resources of Concern in response to a pest emergency and, if so, any feasible measures to avoid or eliminate such short or long term adverse effects; for example, it is not sufficient to state that "integrated pest management procedures will be applied" without describing the specific measures to be taken (attach additional pages as necessary):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

#### E. Certification

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. On the basis of my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Printed Name: [ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ]

Title: [ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ]

E-Mail: [ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ]

Signature/Responsible Official: \_\_\_\_\_ Date: [ | ] / [ | ] / [ | | | | ]

#### NOI Preparer (Complete if NOI was prepared by someone other than the certifier)

Preparer Name: [ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ]

Organization: [ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ]

Phone: [ | | | ] - [ | | | ] - [ | | | | ] Ext [ | | | ] Date: [ | ] / [ | ] / [ | | | | ]

E-Mail: [ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ]

**Instructions for Completing the Notice of Intent (NOI) for Coverage Under the Pesticide General Permit (PGP) for Discharges from the Application of Pesticides**

**Who Must File a NOI with EPA?**

Any Operator, as described in Part 1.2.2 of the permit and meeting the eligibility requirements identified in Part 1.1 of the permit and Table 1-1 below must submit a complete and accurate NOI. As required in the permit, only certain Operators who are also Decision-makers must submit NOIs.

**Table 1-1. Decision-Makers Required to Submit NOIs**

PGP Part/ Pesticide Use	Which Decision-Makers Must Submit NOIs?	For Which Pesticide Application Activities?
<b>All four use patterns identified in Part 1.1.1</b>	Any Decision-maker with an eligible discharge to a Tier 3 water (Outstanding National Resource Water) consistent with Part 1.1.2.2	Activities resulting in a discharge to a Tier 3 water
<b>All four use patterns identified in Part 1.1.1</b>	Any Decision-maker with an eligible discharge to waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A	Activities resulting in a discharge to waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A
<b>1.1.1(a) - Mosquito and Other Flying Insect Pest Control</b>	Any Agency for which pest management for land resource stewardship is an integral part of the organization's operations.	All activities resulting in a discharge for which the Federal or State agency is responsible for pest control
	Mosquito control districts, or similar pest control districts	All activities resulting in a discharge for which the Decision-maker is responsible for pest control
	Local governments or other entities who exceed the annual treatment area threshold identified here	Adulticide treatment if more than 6,400 acres during a calendar year
<b>1.1.1(b) - Weed and Algae Pest Control</b>	Any Agency for which pest management for land resource stewardship is an integral part of the organization's operations.	All activities resulting in a discharge for which the Federal or State agency is responsible for pest control
	Irrigation and weed control districts, or similar pest control districts	All activities resulting in a discharge for which the Decision-maker is responsible for pest control
	Local governments or other entities who exceed the annual treatment area threshold identified here	Treatment during a calendar year if more than either: 20 linear miles OR 80 acres of water (i.e., surface area)
<b>1.1.1(c) - Animal Pest Control</b>	Any Agency for which pest management for land resource stewardship is an integral part of the organization's operations.	All activities resulting in a discharge for which the Federal or State agency is responsible for pest control
	Local governments or other entities who exceed the annual treatment area threshold identified here	Treatment during a calendar year if more than either: 20 linear miles OR 80 acres of water (i.e., surface area)
<b>1.1.1(d) - Forest Canopy Pest Control</b>	Any Agency for which pest management for land resource stewardship is an integral part of the organization's operations.	All activities resulting in a discharge for which the Federal or State agency is responsible for pest control
	Local governments or other entities who exceed the annual treatment area threshold identified here	Treatment if more than 6,400 acres during a calendar year

One NOI can be submitted for multiple pest management areas in a state for which you are seeking permit coverage; however, no more than one state can be included on any single NOI form.

**When to File the NOI?**

Do not file your NOI until you have obtained and thoroughly read a copy of the permit. A copy of the permit is on EPA's website (<https://www.epa.gov/hpdes/pesticide-permitting>). The permit describes procedures to ensure your eligibility, prepare your Pesticide Discharge Management Plan (PDMP), and complete the NOI form questions—all of which must be done before you sign the NOI certification statement attesting to the accuracy and completeness of your NOI. You will also need a copy of the permit once you have obtained coverage so that you can comply with the implementation requirements of the permit. Note: PDMP is not required for 1) any application made in response to a Declared Pest Emergency Situation, as defined in Appendix A of the permit; and 2) any Decision-maker who is required to submit an NOI solely because their application results in a point source discharge to waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A of the permit.

**Approval to Use Paper NOI Form:** Note that you are not authorized to use this paper NOI form unless the EPA Regional Office has approved its use. Where you have obtained approval to use this form, indicate the waiver that you have been granted, the name of the EPA staff person who granted the waiver, and the date that approval was provided.

**For any discharges after October 31, 2021:** Decision-makers meeting the eligibility requirements identified in the Part 1.1 of the permit and Table 1-1 must submit a complete and accurate NOI according to Table 1-2 and Table 1-3 and consistent with the requirements of Part 1.2 of the permit. Note: NOIs submitted under the 2016 PGP are automatically terminated on October 31, 2021. Decision-makers who are required to submit an NOI must submit a new NOI to obtain coverage under the 2021 PGP.

**Table 1-2. NOI Submittal Deadlines and Discharge Authorization Dates for Discharges from the Application of Pesticides <sup>1</sup>**

Operator Type	NOI Submission Deadline	Discharge Authorization Date <sup>2</sup>
Any Decision-maker with any discharge to waters of the United States containing NMFS Listed Resources of Concern, except for those discharges in response to a Declared Pest Emergency Situation, as defined in Appendix A.	At least 30 days before any discharge to waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A. <sup>5</sup>	No earlier than 30 days after EPA posts on the Internet a receipt of a complete and accurate NOI. <sup>3, 5</sup>
Any Decision-maker with a discharge in response to a Declared Pest Emergency Situation for which that activity triggers the NOI requirement identified in Part 1.2.2, except for any discharges to waters of the United States containing NMFS Listed Resources of Concern.	No later than 30 days after beginning discharge.	Immediately upon beginning to discharge for activities conducted in response to a Declared Pest Emergency Situation.
Any Decision-maker with any discharge to waters of the United States containing NMFS Listed Resources of Concern, in response to a Declared Pest Emergency Situation, as defined in Appendix A.	No later than 15 days after beginning to discharge in response to a Declared Pest Emergency Situation.	Immediately upon beginning to discharge for activities conducted in response to a Declared Pest Emergency Situation for a period of at least 60 days. <sup>4</sup>
Any Decision-maker who exceeds any annual treatment area threshold.	At least 10 days before exceeding an annual treatment area threshold.	No earlier than 10 days after EPA posts on the Internet receipt of a complete and accurate NOI.
Any Decision-maker otherwise required to submit an NOI as identified in Table 1-1	At least 10 days before any discharge for which an NOI is required	No earlier than 10 days after EPA posts on the Internet receipt of a complete and accurate NOI.

<sup>1</sup> State, territory and tribal specific requirements in addition to the requirements in this table are provided in Part 9 of the permit.

<sup>2</sup> On the basis of a review of an NOI or other information, EPA may delay authorization to discharge beyond any timeframe identified in Table 1-2, determine that additional technology-based and/or water quality-based effluent limitations or other conditions are necessary, or deny coverage under this permit and require

submission of an application for an individual NPDES permit, as detailed in Part 1.3 of the permit.

- 3 Within 30 days after EPA posts on the Internet receipt of a complete and accurate NOI, for those areas with NMFS Listed Resources of Concern, as defined in Appendix A of the permit, NMFS will provide EPA with a determination as to whether it believes the eligibility criterion of "not likely to result in any short or long term adverse effects to listed species or designated critical habitat" has been met, could be met with conditions that NMFS identifies, or has not been met. EPA expects to rely on NMFS' determination in deciding whether to withhold authorization. If NMFS does not provide EPA with this information within 30 days of EPA posting on the Internet receipt of a complete and accurate NOI, the discharges will be authorized 30 days after EPA posts on the Internet receipt of a complete NOI.
- 4 In any Declared Pest Emergency Situation in areas with waters of the United States containing NMFS Listed Resources of Concern, NMFS will have 30 days after submission of an NOI to provide EPA with a determination as to whether the eligibility criteria of "not likely to result in any short or long term adverse effects to listed species or designated critical habitat" has been met, could be met with conditions that NMFS identifies, or has not been met. EPA expects to rely on NMFS' determination in deciding whether to allow continued permit coverage and if additional conditions are necessary. If NMFS does not provide EPA with a recommendation within 30 days of EPA posting on the Internet receipt of a complete and accurate NOI, authorization for these discharges will continue. If EPA identifies additional permit conditions, or includes additional permit conditions recommended by NMFS, as necessary to qualify discharges as eligible for coverage beyond 60 days under the PGP, those conditions remain in effect for the life of the permit.
- 5 EPA may authorize certain discharges in less than 30 days, but no fewer than 10 days, for any discharges authorized under Criterion B, C, or E of Part 1.1.2.4 (for which NMFS has already evaluated the effects of these discharges).

**Table 1-3. NOI Change of Information Submittal Deadlines and Discharge Authorization Dates**

Operator Type	NOI Submission Deadline	Discharge Authorization Date
Any Decision-maker requiring permit coverage for a pest management area not identified on a previously submitted NOI for this permit, except for discharges to any; (1) Tier 3 water, or (2) waters of the United States containing NMFS Listed Resources of Concern. Except for such waters, changes other than identification of a new pest management area or a new pesticide use pattern do not require a revised NOI submittal.	At least 10 days before beginning to discharge in that newly identified area unless discharges are in response to a Declared Pest Emergency Situation in which case not later than 30 days after beginning discharge.	No earlier than 10 days after EPA posts on the Internet the receipt of a complete and accurate NOI unless discharges are in response to a Declared Pest Emergency Situation in which case coverage is available immediately upon beginning to discharge from activities conducted in response to Declared Pest Emergency Situation.
Any Decision-maker discharging to a Tier 3 water not identified by name on a previously submitted NOI for this permit, except for Tier 3 waters containing NMFS Listed Resources of Concern	At least 10 days before beginning to discharge in that newly identified area unless discharges are in response to a Declared Pest Emergency Situation in which case not later than 30 days after beginning discharge.	No earlier than 10 days after EPA posts on the Internet the receipt of a complete and accurate NOI unless discharges are in response to a Declared Pest Emergency Situation in which case coverage is available immediately upon beginning to discharge from activities conducted in response to Declared Pest Emergency Situation.

Operator Type	NOI Submission Deadline	Discharge Authorization Date
Any Decision-maker with any discharge to waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A, not identified on a previously submitted NOI for this permit. This includes changes in any treatment area, pesticide product, method or rate of application, or approximate dates of applications.	At least 30 days before beginning to discharge in that newly identified treatment area unless discharges are in response to a Declared Pest Emergency Situation in which case not later than 15 days after beginning discharge.	No earlier than 30 days after EPA posts on the Internet receipt of a complete and accurate NOI unless discharges are in response to a Declared Pest Emergency Situation in which case coverage is available immediately upon beginning to discharge from activities conducted in response to Declared Pest Emergency Situation.

**Where to File the NOI**

The Decision-maker must prepare and submit the NOI using EPA's NPDES eReporting Tool (NeT) available on EPA's website (<https://www.epa.gov/npdes/pesticide-permitting>) unless the Decision-maker is granted a waiver from the requirement to use NeT for submission of the NOI. See Part 8 of the PGP for EPA Regional contacts. The Electronic Submission Waiver is at the top of this form.

EPA will immediately post on EPA's Website all NOIs received. Late NOIs will be accepted, but authorization to discharge will not be retroactive.

If you are granted a waiver from using NeT; you must send the NOI form to one of the addresses listed below.

Via United States Mail:

United States Environmental Protection Agency  
Office of Water, Water Permits Division  
Mail Code 4203M, ATTN: NPDES Pesticides  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Via overnight/express delivery:

United States Environmental Protection Agency  
Office of Water, Water Permits Division  
EPA East Building - Room 7420, ATTN: NPDES Pesticides  
1201 Constitution Avenue, NW  
Washington, DC 20004  
Phone: 202-564-9545

If you have questions about whether you need to file a Notice of Intent or questions about completing the form, see <https://www.epa.gov/npdes/pesticide-permitting> or contact the NPDES eReporting help desk at (877) 227-8965 or Email at [NPDESeReporting@epa.gov](mailto:NPDESeReporting@epa.gov).

If you file a paper NOI, submit the original with a signature in ink. Do not send copies. Also, faxed copies will not be accepted.

If you are required to develop a PDMP, that document does not need to be submitted for review unless specifically requested by EPA. You must keep a copy of your PDMP on-site or otherwise make it available to facility personnel responsible for implementing provisions of the permit.

**Completing the NOI Form**

To complete this form, type or print in uppercase letters in the appropriate areas only. Please make sure you complete all questions. Make sure you make a photocopy for your records before you send the completed original form to the address above. You may also use this paper form as a checklist for the information you will need when filing an NOI electronically via EPA's NPDES eReporting Tool (NeT).

**Section A. NOI Status**

1. Indicate if this is the first time you are requesting coverage under the permit or if this is a change of information.
  - a. Check this box if this is the first time you are requesting coverage under the permit for these discharges. If this is the first time you are requesting coverage, refer to Table 1-2 for NOI submittal deadlines and discharge authorization dates.
  - b. Check this box if this is a change of information for a discharge already covered under the permit. If this is a change of information, supply the NPDES permit tracking number that you received in your e-mail from EPA's NeT. You can find the tracking number assigned to your previous NOI using EPA's NeT. For additional details regarding a change of information, see Table 1-3. Also fill out Section B of

this form (Operator Name and Mailing Address) and the associated fields of information that need to be modified on the NOI.

### Section B. Operator Information

1. Provide the legal name of the person, firm, public organization or any other public entity who is the Decision-maker for the pesticides applications described in this notice. A Decision-maker is an Operator who has control over the decision to perform pesticide applications including the ability to modify those decisions that result in a discharge to waters of the United States.
2. Indicate the type of Operator: federal government, state government, local government, mosquito control district (or similar), irrigation control district (or similar), weed control district (or similar), or other. If other, provide brief description of type of Operator in the space provided.
3. Indicate whether or not you are a "large entity" as defined in Appendix A of the permit. Note that if you are a large entity, you are required to develop a Pesticide Discharge Management Plan (PDMP) and submit future Annual Reports reflecting all pesticide uses for which you are requesting permit coverage under this NOI.
4. Indicate which state your pest management areas are located. Specify only one state per NOI. If there is more than one state, additional NOIs must be submitted.
5. Provide the Decision-maker's mailing address, telephone number, fax number (optional), name, and e-mail address. Correspondence will be sent to this address.

### Section C. Pest Management Area: Information for each Pest Management Area for which coverage under EPA's Pesticide General Permit is desired.

1. Indicate whether you are submitting an NOI for multiple pest management areas. A pest management area is the area of land, including any water, for which you have responsibility and are authorized to conduct pest management activities as covered by this permit (e.g., if you are a mosquito control district, your pest management area is the total area of the district). You must complete a Section C for each pest management area. If you are submitting an NOI for only one area, enter "1" of "1." If you are submitting NOIs for multiple pest management areas, enter the number for the NOI for which you are requesting coverage followed by the total number of pest management areas for which you are requesting coverage. Enter the name of the pest management area. Attach a map of the pest management area or describe the location of the pest management area in the space provided. Maps are available at <https://www.epa.gov/npdes/pesticide-permitting-esa-procedures>.
2. Indicate whether pesticide application will occur on Indian Country, and if so, provide the name of the reservation, if applicable.
3. Indicate whether pesticide application will occur on a Federal Facility, as defined in Appendix A of the permit.
4. Enter the mailing address of the contact person for the pest management area. If this address is the same as the Decision-maker's mailing address, indicate that by checking the box. If it is a different address, enter the mailing address, telephone number, fax number (optional), contact name, and e-mail address.
5. Indicate the pesticide use patterns for the pest management area for which the NOI is required. For additional information regarding pesticide use patterns, see Part 1.1.1 of the permit. Check all the use patterns that apply to the pest management area.
6. Indicate if permit coverage is being requested for all waters of the United States within the pest management area or if permit coverage is being requested to specific waters of the United States within the pest management area. If specific waters are being requested, write the names of the waterbodies. If permit coverage is being requested for all waters of the United States within the pest management area except for specific waterbodies, name those specific waterbodies in the space provided. EPA's Water Locator Tool can help you identify the closest receiving water to your facility (<http://www.epa.gov/waterdata/waters-tools>).
7. Indicate if permit coverage is being requested to discharge to a Tier 3 (Outstanding National Resource Water) water of the United States. If yes, write the name(s) of the Tier 3 water(s) in the space provided. Describe and demonstrate why it is necessary to apply the pesticide discharge to protect the water quality, environment, and/or public health and that any such discharge will not degrade water quality or will degrade water quality only on a short-term or temporary basis.
8. Verify that waters within the pest management area are either not impaired by substances which are either active ingredients in the pesticide planned for use or degradates of such active ingredients, OR that evidence shows that the target waters in question are no longer impaired. See Part 1.1.2.1 of the permit for more information on discharges to Water Quality Impaired Waters.

### Section D. Endangered Species Protection. Complete Section D for each Pest Management Area for which coverage under EPA's PGP is desired.

Identify the Pest Management Areas, corresponding to those in Part C.

1. Coverage under the permit is available only for discharges and discharge-related activities, as defined in Appendix A of the permit, that are not likely to result in any short or long term adverse effects to any species that are federally-listed as endangered or threatened ("listed") under the Endangered Species Act (ESA) and not

likely to result in any short or long term adverse modification or destruction of habitat that is federally-designated as critical under the ESA ("critical habitat") except as provided in criterion b, c, and for at least 60 days, d, below. For a subset of listed species and critical habitat, identified as NMFS Listed Resources of Concern and defined in Appendix A of the permit, there are specific criteria for determining eligibility. To demonstrate eligibility, you must meet one or more of the six eligibility criteria (a-f) for the entire term of coverage under the permit and provide supporting documentation. A step-by-step guide for determining eligibility is provided in Appendix I of the PGP.

2. If you checked criterion d or criterion f, you are required to provide a description of the location of the pest management area or a map of the location of the pest management area, the pest(s) to be controlled, pesticide product(s) to be discharged and method of application, planned quantity and rate of discharge(s) for each application method, number of planned discharges, approximate date(s) of planned discharge(s), and the rationale supporting your determination that you meet the criterion for which the Decision-maker is submitting this NOI and documentation demonstrating the finding of "not likely to result in any short or long term adverse effects to NMFS Listed Resources of Concern." If you certify under criteria f and do not hear from EPA within 30 days, you may assume your discharge is authorized. For certifications pursuant to criterion d, indicate whether the discharge is likely to result in any short or long term adverse effects to NMFS Listed Resources of Concern and, if so, any feasible measures to avoid or eliminate such adverse effects. If you are certifying under criterion d (which allows you to discharge 15 days before you even submit your NOI), your NOI should describe both the pest emergency activities you plan to do after you submit your NOI as well as the activities you performed in that 15 day period before you had to submit the NOI. See Part 1.1.2.4 of the permit for more information regarding Endangered and Threatened Species and Critical Habitat Protection. If you certify under criterion d and do not hear from EPA, you may assume that permit authorization continues unless notified otherwise. EPA may authorize certain discharges in less than 30 days, but no fewer than 10 days, for any discharges authorized under criterion b, c, or e (for which NMFS has already evaluated the effects of these discharges). If you certify under one of these criteria and do not hear from EPA within 30 days, you may assume your discharge is authorized.

### Section E. Certification

Enter the certifier's printed name and title. Sign and date the form. For more information about the certification statement and signature, see 40 CFR 122.41(k). (CAUTION: An unsigned or undated form will not be accepted.) Federal statutes provide for severe penalties for submitting false information. Federal regulations require this application to be signed as follows:

*For a corporation:* by a responsible corporate officer, means:

- (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
- (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated activity including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

*For a partnership or sole proprietorship:* by a general partner or the proprietor; or  
*For a municipal, state, federal, or other public facility:* by either a principal executive or ranking elected official.

If the NOI was prepared by someone other than the certifier (for example, if the NOI was prepared by the PDMP contact or a consultant for the certifier's signature), include the name, organization, phone number and e-mail address of the NOI preparer.

### Paperwork Reduction Act Notice

The public reporting and recordkeeping burden for this collection of information is estimated to average 2.5 hours or 150 minutes per response.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed NOI form to that address.

## **Appendix E. Notice of Termination Form**

Part 7.8 requires you to use the NPDES eNOI System to prepare and submit your NOT unless the electronic system is unavailable. If you are given a waiver by the EPA Regional Office to use a paper NOT form, and you elect to use it, you must complete and submit the following form.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC 20460  
NOTICE OF TERMINATION (NOT) OF COVERAGE UNDER THE PESTICIDE GENERAL PERMIT  
(PGP) FOR DISCHARGES FROM THE APPLICATION OF PESTICIDES**

Form Approved  
OMB No.  
2040-0004

**Approval to Use Paper NOT Form (Electronic Submission Waiver)**

Has the EPA Regional Office granted you a waiver from electronic reporting\*?  YES  NO

If yes, check which waiver you have been granted, the name of the EPA Regional Office staff person who granted the waiver, and the date of approval:

- Waiver granted:  The Decision-maker is physically located in a geographical area (i.e., ZIP code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission.  
 The Decision-maker has limitations regarding available computer access or computer capability.

Name of EPA staff person who granted the waiver: \_\_\_\_\_

Date approval obtained: \_\_\_\_/\_\_\_\_/\_\_\_\_

**\*Note: You are required to obtain approval from the applicable EPA Regional Office prior to using this paper NOT form. If you have not obtained a waiver, you must file this form electronically using EPA's NPDES eReporting Tool (NeT) at <https://www.epa.gov/npdes/pesticide-permitting>.**

**A. Permit Information**

1. NPDES Permit Tracking Number: \_\_\_\_\_

2. Reason for termination (check one only):

- a. You have ceased all discharges from the application of pesticides for which you obtained permit coverage and you do not expect to discharge during the remainder of the permit term.
- b. You have obtained permit coverage under an NPDES individual permit or alternative NPDES general permit for all pesticide discharges requiring NPDES permit coverage.
- c. A new Operator has taken over decision-making responsibility for the pest control activities covered under an existing NOI. Provide the transfer date and the new Operator information. Date of transfer: \_\_\_\_/\_\_\_\_/\_\_\_\_

New Operator Name: \_\_\_\_\_

Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ ZIP Code: \_\_\_\_\_-\_\_\_\_\_

Telephone: \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_ Ext. \_\_\_\_\_

E-mail: \_\_\_\_\_

**B. Operator Information**

1. Operator Name: \_\_\_\_\_

2. Mailing Address:

Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ ZIP Code: \_\_\_\_\_-\_\_\_\_\_

Telephone: \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_ Ext. \_\_\_\_\_

3. Contact Name: \_\_\_\_\_

E-mail: \_\_\_\_\_

**C. Certification**

I certify under penalty of law that I have met at least one of the reasons for terminating permit coverage listed in Section A above. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge pesticides to waters of the United States. This document and all attachments were prepared under my direction and supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. On the basis of my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment. Additionally, I understand that the submittal of this Notice of Termination does not release a pesticide Operator from liability for any violations of the Clean Water Act.

Printed Name:

Title:

E-Mail:

Signature/Responsible Official: \_\_\_\_\_ Date: / /

**NOT Preparer (Complete if NOT was prepared by someone other than the certifier)**

Preparer Name:

Organization:

Phone: -- Ext.  Date: / /

E-Mail:



**INSTRUCTIONS FOR COMPLETING THE NOTICE OF TERMINATION (NOT) OF COVERAGE UNDER THE PESTICIDE GENERAL PERMIT (PGP) FOR  
DISCHARGES FROM THE APPLICATION OF PESTICIDES**

**Who Must File an NOT with EPA?**

Any Operator required to submit a Notice of Intent (NOI) is required to submit a Notice of Termination (NOT) to end coverage under this permit. However, if EPA notifies the Operator to apply for an NPDES individual permit or alternative general permit, coverage under this permit terminates automatically. Dischargers automatically covered under this permit as identified in Part 1.2.3 of the permit are likewise automatically terminated upon permanent cessation of discharge consistent with any of the criteria identified in Part 1.2.5.3 of the permit. As required in the permit, only certain Operators who are also Decision-makers must submit NOIs. Note: NOIs submitted under the 2016 PGP are **automatically** terminated on October 31, 2021. Decision-maker who are required to submit an NOI must submit a new NOI to obtain coverage under the 2021 PGP.

If you have questions about whether you need to file an NOT or questions about completing the form, see <https://www.epa.gov/npdes/pesticide-permitting> or contact the NPDES eReporting help desk at (877) 227-8965 or Email at [NPDESReporting@epa.gov](mailto:NPDESReporting@epa.gov).

**When to File the NOT?**

Approval to Use Paper NOT Form: Note that you are not authorized to use this paper NOT form unless the EPA Regional Office has approved its use. Where you have obtained approval to use this form, indicate the waiver that you have been granted, the name of the EPA staff person who granted the waiver, and the date that approval was provided.

Operators must file the NOT form within 30 days after one or more of the conditions in Part 1.2.5.2 of the permit have been met.

**Where to File the NOT?**

Consistent with Part 1.2.5.1 of the permit, the Operator must submit the NOT using EPA's NPDES eReporting Tool (NeT) available on EPA's website (<https://www.epa.gov/npdes/pesticide-permitting>) unless the Operator is granted a waiver from the requirement to use NeT for submission of the NOT. See Part 8 of the PGP for EPA Regional contacts. The Electronic Submission Waiver is at the top of this NOT form.

Filing electronically is the fastest way to terminate permit coverage and help ensure that your NOT is complete.

If you are granted a waiver from using NeT; you must send the NOT form to one of the addresses listed below.

Via United States Mail:

United States Environmental Protection Agency  
Office of Water, Water Permits Division  
Mail Code 4203M, ATTN: NPDES Pesticides  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Via overnight/express delivery:

United States Environmental Protection Agency  
Office of Water, Water Permits Division  
EPA East Building - Room 7420, ATTN: NPDES Pesticides  
1201 Constitution Avenue, NW  
Washington, DC 20004  
Phone: 202-564-9545

If you file a paper NOT, submit the original form with a signature in ink. Do not send copies. Also, faxed copies will not be accepted.

**Completing the NOT Form**

To complete this form, type or print in uppercase letters in the appropriate areas only. Make sure you complete all questions. Make sure you make a photocopy for your records before you send the completed original form to the address above. You can also use this paper form as a checklist for the information you will need when filing an NOT electronically via EPA's NPDES eReporting Tool (NeT).

**Section A. Permit Information**

1. Enter the existing NPDES Permit Tracking Number assigned by NeT or EPA's Pesticides Processing Center. You can find the tracking number assigned to your previous NOI using EPA's NeT.
2. Select the appropriate box to indicate why you are submitting an NOT to end permit coverage. Select one of the three termination options:

- a. Select this box if you have ceased all discharges from the application of pesticides for which you obtained permit coverage and you do not expect to discharge during the remainder of the permit term.
- b. Select this box if you have obtained NPDES individual permit coverage or alternative NPDES permit coverage.
- c. Select this box if a new Operator has taken over decision-making responsibility of pest control activities covered under an existing NOI and you are no longer the Operator. Provide the date of transfer and the name and contact information of the new Operator.

**Section B. Operator Information**

1. Provide the full legal name of the person, firm, public organization, or other entity that is the Operator who is the Decision-maker for the pesticide application described in this application.
2. Provide the Operator's mailing address and telephone number. Correspondence will be sent to this address.
3. Provide a contact person's full legal name and e-mail address. This person will be contacted regarding any NOT communication.

**Section C. Certification**

Carefully read the certification statement. By completing and submitting the NOT, the Operator certifies that the Operator is no longer authorized to discharge pesticides to waters of the United States. Provide the printed full legal name, title and email address of the certifier. Sign and date the form. (CAUTION: An unsigned or undated NOT form will prevent the termination of permit coverage.) Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means:

(i) president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

(ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated activity including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipal, state, federal, or other public facility: by either a principal executive or ranking elected official.

If the NOT was prepared by someone other than the certifier (for example, if the NOT was prepared by the PDMP contact or a consultant for the certifier's signature), include the name, organization, phone number and e-mail address of the NOT preparer.

**Paperwork Reduction Act Notice**

The public reporting and recordkeeping burden for this collection of information is estimated to average 0.5 hours or 30 minutes per response.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed NOT form to that address.

## **Appendix F. Pesticide Discharge Evaluation Worksheet**

Any Operator, who is a Decision-maker required to submit a Notice of Intent (NOI) and is a small entity as defined in Appendix A of the permit may complete this Pesticide Discharge Evaluation Worksheet (PDEW) to meet the requirements of Part 7.3 of the PGP.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**WASHINGTON, DC 20460**  
**PESTICIDE DISCHARGE EVALUATION WORKSHEET FOR THE**  
**PESTICIDE GENERAL PERMIT (PGP) FOR DISCHARGES FROM THE**  
**APPLICATION OF PESTICIDES**

Form Approved  
 OMB No.  
**2040-0004**

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.

**A. General Information**

1. Operator Name:

NPDES Permit Tracking Number:

2. Worksheet Preparer Name:

3. Pest Management Area: #  of ##

4. Pest Management Area Name:

5. Indicate the pesticide use pattern for the Pest Management Area:

a.  Mosquito and Other Flying Insect Pests      b.  Weed and Algae Pests      c.  Animal Pests      d.  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. Pest Evaluation**

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:

**C. Pesticide Application**

1. Name and contact information for pesticide Applicator(s):

Company Name:

Street:

City:  State:  Zip Code:  -

Contact Name:

Phone:  -  -  Ext.

E-mail:

2. Pesticide application start date: [ ]/[ ]/[ ] Pesticide application end date: [ ]/[ ]/[ ]

3. Name of each pesticide product used, EPA registration number, and quantity of pesticide applied (as packaged or as formulated): Circle lbs or gallons.

Product Name	[ ]	Product Name	[ ]	Product Name	[ ]
EPA Reg. No.	[ ]	EPA Reg. No.	[ ]	EPA Reg. No.	[ ]
Quantity (lbs or gallons)	[ ]	Quantity (lbs or gallons)	[ ]	Quantity (lbs or gallons)	[ ]
Application method:	_____	Application method:	_____	Application method:	_____

4. Was visual monitoring conducted during pesticide application and/or post-application?  Yes.  No. If no, describe why not?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Were any adverse effects identified during visual monitoring?  Yes.  No. If yes, describe.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**D. Certification**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. On the basis of my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information contained is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for recording false information, including the possibility of fine and imprisonment for knowing violations.

Printed Name: [ ]  
Title: [ ]  
E-Mail: [ ]  
Signature/Responsible Official: \_\_\_\_\_ Date: [ ]/[ ]/[ ]

**Pesticide Discharge Evaluation Worksheet Preparer (Complete if worksheet was prepared by someone other than the certifier)**

Preparer Name: [ ]  
Organization: [ ]  
Phone: [ ]-[ ]-[ ] Ext. [ ] Date: [ ]/[ ]/[ ]  
E-Mail: [ ]

## Instructions for Completing the Pesticide Discharge Evaluation Worksheet (PDEW) for the PESTICIDE GENERAL PERMIT (PGP) FOR DISCHARGES FROM THE APPLICATION OF PESTICIDES

### Who Must Complete a PDEW?

Any Operator, who is a Decision-maker required to submit a Notice of Intent (NOI) and is a small entity as defined in Appendix A of the permit may complete this Pesticide Discharge Evaluation Worksheet (PDEW) to meet the requirements of Part 7.3 of the PGP.

Pest management area, as defined in Appendix A of the permit, can be a large area (e.g., an entire town) or a very specific well-defined management area (e.g., a lake). Thus, a pest management area can have one or more treatment areas. Operators required to retain the information contained on this worksheet must do so for each treatment area. For treatment areas with the same or similar pests, the Operator can use one worksheet to document pest management activities for those multiple treatment areas.

### When to Complete a PDEW?

Before any pesticide application, any Operator using this form to meet its obligations under the PGP must complete Section B of this worksheet. Section C, except for the pesticide application end date and total quantity of pesticide applied, must be completed as soon as possible but no later than 14 days after the first pesticide application. The total quantity of pesticide applied and the pesticide application end date must be completed as soon as possible but no later than 14 days after completion of pesticide application for this project.

Any Operator using this form to meet its obligations under the PGP must retain this worksheet for at least 3 years from the date that coverage is granted under the PGP or when the permit expires or is terminated. These Operators must make this worksheet available to EPA, including an authorized representative of EPA, upon request.

### Completing the PDEW

To complete this form, type or print in uppercase letters in the appropriate areas only. Make sure you complete all questions.

#### Section A. General Information

1. Enter the Operator's full legal name and the existing NPDES Permit Tracking Number assigned by EPA's NPDES eReporting Tool (NeT) or EPA's Pesticides Processing Center. You can find the tracking number assigned to your previous NOI using EPA's NeT.
2. Enter the full legal name of the person completing the form.
3. Section A should be completed for each Pest Management Area. Indicate which Pest Management Area out of the total number of Pest Management Areas for which the section is being completed (i.e., Pest Management Area 1 of 10 total Pest Management Areas).
4. Enter the name of the Pest Management Area.
5. Identify the pesticide use pattern(s) for the Pest Management Area.
6. For each treatment area, provide a brief description and location description of the treatment area within the Pest Management Area; size of the treatment area in acres or linear feet, and name or location of any waters of the United States to which discharges occur.

#### Section B. Pest Evaluation

1. Identify the target pest(s) and provide a brief description of why pest control is needed.
2. Provide a brief description of any Pest Management Measure(s) implemented before pesticide application. For example, identify if you have performed physical control techniques such as pulling weeds, removing breeding habitat, or trapping animals.

#### Section C. Pesticide Application

1. Provide the company name and contact information of the pesticide Applicator.
2. Enter the date that the pesticide application began and ended.
3. Enter the name of each pesticide product used including the EPA Pesticide Registration Number, the quantity of pesticide applied, and the method used to apply the pesticide (e.g., fixed wing aircraft, backpack sprayer).
4. Indicate if visual monitoring was conducted during the pesticide application and/or post-application. If visual monitoring was not performed, provide a brief description of why visual monitoring was not conducted.
5. Indicate if there were any adverse effects identified during visual monitoring. Provide a brief description of any adverse effects that were identified.

#### Section D. Certification

Enter the certifier's printed name and title. Sign and date the form. For more information about the certification statement and signature, see 40 CFR 122.41(k). (CAUTION: An unsigned or undated form will not be accepted.) Federal statutes provide for severe penalties for submitting false information. Federal regulations require this application to be signed as follows:

*For a corporation:* by a responsible corporate officer, means:

- (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
- (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated activity including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

*For a partnership or sole proprietorship:* by a general partner or the proprietor; or

*For a municipal, state, federal, or other public facility:* by either a principal executive or ranking elected official.

If the PDEW was prepared by someone other than the certifier (for example, if the PDEW was prepared by a consultant for the certifier's signature), include the name, organization, phone number and e-mail address of the PDEW preparer.

#### Paperwork Reduction Act Notice

The public reporting and recordkeeping burden for this collection of information is estimated to average 1 hour or 60 minutes per response.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed Pesticide Discharge Evaluation Worksheet to this address.

## **Appendix G. Annual Report Template**

Part 7.8 requires you to use EPA's NPDES eReporting Tool (NeT) to prepare and submit your Annual Report unless the electronic system is unavailable. If you are given a waiver by the EPA Regional Office to use a paper Annual Report form, and you elect to use it, you must complete and submit the following form.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC 20460  
ANNUAL REPORTING FORM FOR THE PESTICIDE GENERAL PERMIT (PGP) FOR  
DISCHARGES FROM THE APPLICATION OF PESTICIDES**

Form Approved  
OMB No.  
2040-0004

This form is for any Operator who 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.

**Approval to Use Paper Annual Report Form (Electronic Submission Waiver)**

Has the EPA Regional Office granted you a waiver from electronic reporting\*?  YES  NO

If yes, check which waiver you have been granted, the name of the EPA Regional Office staff person who granted the waiver, and the date of approval:

Waiver granted:  The Decision-maker is physically located in a geographical area (i.e., ZIP code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission.  
 The Decision-maker has limitations regarding available computer access or computer capability.

Name of EPA staff person who granted the waiver: \_\_\_\_\_

Date approval obtained: \_\_\_\_/\_\_\_\_/\_\_\_\_

**\*Note: You are required to obtain approval from the applicable EPA Regional Office prior to using this paper annual reporting form. If you have not obtained a waiver, you must file this form electronically using EPA's NPDES eReporting Tool (NeT) at <https://www.epa.gov/npdes/pesticide-permitting>.**

**A. General Information - For pesticides activities in calendar year: \_\_\_\_**

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. Adverse Incidents and Corrective Actions**

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.  No adverse incidents were observed or no corrective action was taken. (Proceed to Section C)
- b.  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 additional Pest Management Areas).

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:

\_\_\_\_\_  
\_\_\_\_\_

**C. Pest Management Area(s) (use additional pages for each Pest Management Area)**

Pest Management Area # \_\_\_ of ## \_\_\_

1. Have any discharges from pest control activities occurred in this calendar year?

- a.  No discharge from pest control activities this calendar year. Note: Checking this box completes Section C if you had no discharge from pest control activities this year. Proceed to section D.
- b.  Yes. Proceed to question 2.

For each treatment area (use additional pages for each treatment area):

2. Indicate the pesticide use pattern for the treatment area:

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

3. Description of treatment area:

a. Provide a map or 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:

\_\_\_\_\_

\_\_\_\_\_

d. Target Pest(s): \_\_\_\_\_

e. Did any pesticide application activities result in a discharge to waters of the United States containing NMFS Listed Resources of Concern as defined in Appendix A of the permit?

Yes  No If yes, approximate date(s) of any discharges: \_\_\_\_\_

4. Name and contact information of pesticide Applicator(s) (or check here if same as provided in Section A):

Company Name: \_\_\_\_\_

1. Street: \_\_\_\_\_

2. City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ - \_\_\_\_\_

3. Contact Name: \_\_\_\_\_ Title: \_\_\_\_\_

4. Phone: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Ext \_\_\_\_\_

E-mail: \_\_\_\_\_

5. Was this pest control activity addressed in your Pesticide Discharge Monitoring Plan (PDMP) before pesticide application:

- Yes  No  Not Applicable

6. Enter the total amount of each pesticide product applied for the reporting year by the product name, EPA Pesticide Registration Number(s) and by application method. Circle if quantity indicated is in lbs or gallons, or briquettes, if applicable. Use additional pages if necessary.

Product Name \_\_\_\_\_

Product Name \_\_\_\_\_

EPA Pesticide Registration Number :

EPA Pesticide Registration Number :

\_\_\_\_\_

\_\_\_\_\_

Application method:

Quantity Applied (lbs or gallons of product):

Application method:

Quantity Applied (lbs or gallons of product):

a.  Aerially by fixed-wing \_\_\_\_\_ lbs or gallons

a.  Aerially by fixed-wing \_\_\_\_\_ lbs or gallons

b.  Aerially by rotary aircraft \_\_\_\_\_ lbs or gallons

b.  Aerially by rotary aircraft \_\_\_\_\_ lbs or gallons

c.  Land-based sprayer (includes backpack, land vehicle mounted sprayers, high pressure canopy sprayer) \_\_\_\_\_ lbs or gallons

c.  Land-based sprayer (includes backpack, land vehicle mounted sprayers, high pressure canopy sprayer) \_\_\_\_\_ lbs or gallons

d.  Aquatic vehicle mounted sprayer \_\_\_\_\_ lbs or gallons

d.  Aquatic vehicle mounted sprayer \_\_\_\_\_ lbs or gallons

e.  Direct mixture (includes metering, subsurface applications) \_\_\_\_\_ lbs or gallons

e.  Direct mixture (includes metering, subsurface applications) \_\_\_\_\_ lbs or gallons

f.  Chemigation \_\_\_\_\_ lbs or gallons

f.  Chemigation \_\_\_\_\_ lbs or gallons

g.  Other (specify): \_\_\_\_\_ lbs or gallons or briquettes

g.  Other (specify): \_\_\_\_\_ lbs or gallons or briquettes



**D. Certification**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. On the basis of my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Printed Name:   
Title:   
E-Mail:   
Signature/Responsible Official: \_\_\_\_\_ Date:  /  /

**Annual Report Preparer (Complete if the Annual Report was prepared by someone other than the certifier)**

Preparer Name:   
Organization:   
Phone:  -  -  Ext  Date:  /  /   
E-Mail:

## Instructions for Completing the Annual Reporting Form for the Pesticide General Permit (PGP) for Discharges from the Application of Pesticides

### Who Must File an Annual Report with EPA?

Any Operator who is a Decision-maker required to submit a Notice of Intent (NOI) and is a large entity as defined in Appendix A of the permit and any Decision-maker required to submit an NOI solely because of their application results in a discharge to waters of the United States containing NMFS Listed Resources of Concern, must submit an annual report to EPA each calendar year. Once required to submit an annual report for one year, an annual report must be filed each subsequent year of this permit whether or not you have discharges from the application of pesticides in accordance with Section 7.6 of the permit.

### When to File an Annual Report?

Any Operator required to file an annual report must submit the annual report no later than February 15 of the following year for all pesticide activities covered under this permit occurring during the previous calendar year. If the Operator is required to submit an NOI based on an annual treatment area threshold, the annual report must include information for the calendar year, with the first annual report required to include activities for the portion of the calendar year after the point at which the Operator exceeded the annual treatment area threshold. If the Operator first exceeds an annual treatment area threshold after December 1 in a calendar year, an annual report is not required for that first partial year but annual reports are required thereafter, with the first annual report submitted also including information from the first partial year.

When Operator terminates permit coverage, as specified in Part 1.2.5 of the permit, an annual report must be submitted for the portion of the year up through the date of termination. The annual report is due no later than February 15 of the following year.

### Where to File the Annual Report?

The Operator must prepare and submit the Annual Report using EPA's NPDES eReporting Tool (NeT) available on EPA's website (<https://www.epa.gov/npdes/pesticide-permitting>) unless the Operator is granted a waiver from the requirement to use NeT for submitting the Annual Report. See Part 8 of the PGP for EPA Regional contacts. The Electronic Submission Waiver is at the top of this form.

If you are granted a waiver from using NeT; you must send the Annual Report to one of the addresses listed below.

#### Via United States Mail:

United States Environmental Protection Agency  
Office of Water, Water Permits Division  
Mail Code 4203M, ATTN: NPDES Pesticides  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

#### Via overnight/express delivery:

United States Environmental Protection Agency  
Office of Water, Water Permits Division  
EPA East Building - Room 7420, ATTN: NPDES Pesticides  
1201 Constitution Avenue, NW  
Washington, DC 20004  
Phone: 202-564-9545

If you have questions about whether you need to file an annual report or questions about completing the form, see <https://www.epa.gov/npdes/pesticide-permitting> or contact the NPDES eReporting help desk at (877) 227-8965 or Email at [NPDESeReporting@epa.gov](mailto:NPDESeReporting@epa.gov).

If you file a paper Annual Report, please submit the original with a signature in ink. Do not send copies. Also, faxed copies will not be accepted.

### Completing the Annual Report Form

To complete this form, type or print in uppercase letters in the appropriate areas only. Make sure you complete all questions. Make sure you make a photocopy for your records before you send the completed original form to the address above. You may also use this paper form as a checklist for the information you will need when filing an Annual Report electronically via EPA's NPDES eReporting Tool (NeT).

Approval to Use Paper Annual Reporting Form: You must indicate whether you have been granted a waiver from electronic reporting from the EPA Regional Office. Note that you are not authorized to use this paper Annual Reporting

form unless the EPA Regional Office has approved its use. Where you have obtained approval to use this form, indicate the waiver that you have been granted, the name of the EPA staff person who granted the waiver, and the date that approval was provided.

### Section A. General Information

1. Enter your permit tracking number that you received in your NOI confirmation letter or e-mail from EPA's Pesticide Notice Processing Center. You can find the tracking number assigned to your NOI by using EPA's NPDES eReporting Tool (NeT)
2. Provide the legal name of the person, firm, public organization or any other public entity who is the Decision-maker for the pesticides applications described in this report. A Decision-maker is an Operator who has control over the decision to perform pesticide applications including the ability to modify those decisions that result in a discharge to waters of the United States.
3. Enter the address, telephone number, and fax number of the Operator.
4. Provide the full legal name, title and e-mail address of a contact person for the Annual Report.

### Section B. Adverse Incidents and Corrective Actions

1. Identify if an adverse incident was observed and corrective actions were taken for any Pest Management Area for which you have coverage under the permit. If no, proceed to Section C. If yes, complete Section B for each Pest Management Area for which an adverse incident was observed or corrective action was taken.
2. Enter the name of the Pest Management Area.
3. If applicable, enter the date of any adverse incidents resulting from the treatments, as described in Part 6.4 of the permit. Use additional pages if there are multiple dates to be described.
4. Enter the date and time the Operator contacted EPA to notify the Agency of the adverse incident, pursuant to Part 6.4.1.1 of the permit.
  - a. Indicate the date of the contact.
  - b. Indicate the time of the contact.
  - c. Indicate who the Operator spoke with at EPA.
  - d. Indicate any instructions received from EPA.
5. Enter the date that the Thirty (30)-Day Adverse Incident Written Report was submitted, pursuant to Part 6.4.2 of the permit.
6. Provide a description of any corrective action(s) resulting from pesticide application activities and the rationale for the action(s), performed subsequently to or in addition to any actions described in the Thirty (30)-Day Adverse Incident Written Report.

### Section C. Pest Management Area(s)

Section C should be completed for each Pest Management Area. Indicate which Pest Management Area out of the total number of Pest Management Areas for which the section is being completed (i.e., Pest Management Area 1 of 10 total Pest Management Areas).

1. Identify if you had a discharge from pest control activities this calendar year. Check yes if you had discharge from pest control activities this calendar year. Check no if you had no discharge from pest control activities this calendar year. Note: Checking the no box completes Section C
2. Select the box for the type of pesticide use pattern for the treatment area (use additional pages for each treatment area).
3. Provide a description of the treatment area.
  - a. Provide a map or description of the treatment area, including a description of the location.
  - b. Provide the size of the treatment area in acres or linear feet.
  - c. Provide the name or location of any waters of the United States to which discharges occur.
  - d. Provide a description of the target pest(s).
  - e. Indicate whether any pesticide application activities resulted in a discharge to waters of the United States containing NMFS Listed Resources of Concern, as defined in Appendix A of the permit. If yes,

provide approximate date(s) of the discharge. Additional information on NMFS Listed Resources of Concern is available on EPA's website at <https://www.epa.gov/npdes/pesticide-permitting>.

4. Provide the company name(s), mailing address, a contact person, contact person's title, telephone number and e-mail address of the pesticide Applicator(s). If the information is the same as Section A, check the appropriate box and proceed to the next question.
5. Indicate if the pest control activity was addressed in your PDMP before pesticide application.
6. Enter the total amount of each pesticide product applied for the reporting year by the product name, EPA Pesticide Registration Number(s) and by application method. Circle whether the quantity applied is in pounds or gallons or briquettes, if applicable. Copy and attach additional pages, as necessary.

#### **Section D. Certification**

Enter the certifier's printed name and title. Sign and date the form. For more information about the certification statement and signature, see 40 CFR 122.41.(k). (CAUTION: An unsigned or undated form will not be accepted.) Federal statutes provide for severe penalties for submitting false information. Federal regulations require this application to be signed as follows:

*For a corporation:* by a responsible corporate officer, means:

- (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or
- (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated activity including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

*For a partnership or sole proprietorship:* by a general partner or the proprietor; or

*For a municipal, state, Federal, or other public facility:* by either a principal executive or ranking elected official.

If the Annual Report was prepared by someone other than the certifier (for example, if the Annual Report was prepared by the PDMP contact or a consultant for the certifier's signature), include the name, organization, phone number and e-mail address of the Annual Report preparer.

#### **Paperwork Reduction Act Notice**

The public reporting and recordkeeping burden for this collection of information is estimated to average 8 hours or 480 minutes per response.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed Annual Report Form to this address.

## **Appendix H. Adverse Incident Report Template**



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC 20460  
THIRTY (30)-DAY ADVERSE INCIDENT WRITTEN REPORT FOR  
THE PESTICIDE GENERAL PERMIT (PGP)  
FOR DISCHARGES FROM THE APPLICATION OF PESTICIDES**

Form Approved  
OMB No.  
**2040-0004**

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.

**A. Reportable Adverse Incident**

**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.

- Yes. You must complete this report and submit it to the appropriate EPA Regional office and to the state lead agency for pesticide regulation.
- 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. Information from the 24-Hour Adverse Incident Notification**

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 <https://www.epa.gov/npdes/pesticide-permitting>. 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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**D. Other Information Required in the Thirty (30) Day Adverse Incident Report**

Please attach additional information if necessary.

1. Location of incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, etc.):

---

---

---

2. Describe the circumstances of the adverse incident including species affected, estimated number of affected individuals, and approximate size of dead or distressed organisms:

---

---

---

3. Describe the magnitude and scope of the affected area (e.g. aquatic square area or total stream distance affected):

---

---

---

4. Provide the pesticide application rate, intended use site (e.g., on the bank, above waters, or directly to water), method of application, and the name of pesticide product and EPA pesticide registration number (EPA Reg. No.).

Pesticide application rate:	<input type="text"/>	Pesticide application rate:	<input type="text"/>
Intended use site:	<input type="text"/>	Intended use site:	<input type="text"/>
Method of application:	<input type="text"/>	Method of application:	<input type="text"/>
Pesticide Product:	<input type="text"/>	Pesticide Product:	<input type="text"/>
EPA Reg. No.:	<input type="text"/>	EPA Reg. No.:	<input type="text"/>

5. Describe the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data for pesticides applied):

---

---

---

6. Provide an indication of which laboratory test(s), if any, were performed, and when. (Note: A summary of the test results must be provided within 5 days after they become available, if not available at the time of submission of this report.):

---

---

---

---

7. Describe the actions to be taken to prevent recurrence of adverse incidents:

---

---

---

---

**E. Certification**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. On the basis of my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Printed Name:

Title:

E-Mail:

Signature/Responsible Official: \_\_\_\_\_ Date:  /  /

**Adverse Incident Report Preparer (Complete if Adverse Incident Report was prepared by someone other than the certifier)**

Preparer Name:

Organization:

Phone:  -  -  Ext  Date:  /  /

E-Mail:



# Instructions for Completing and Submitting the Thirty (30) Day Adverse Incident Written Report for the Pesticide General Permit (PGP) for Discharges from the Application of Pesticides

## Who Must Submit a 30-day Adverse Incident Report?

All Operators who observe or are otherwise made aware of a reportable adverse incident pursuant to Part 6.4 of the permit must submit on adverse incident report.

However, even for those identified adverse incidents for which the Operator is not required to report, EPA recommends that Operators consider using this form to document the incident and the rationale for why reporting of the adverse incident is not required. This information may be useful to support a rationale should this determination be questioned.

An adverse incident, as defined in the Appendix A of the permit, is an unusual or unexpected incident that an Operator has observed upon inspection or of which the Operator otherwise became aware, in which: (1) there is evidence that a person or non-target organism has likely been exposed to a pesticide residue, and (2) the person or non-target organism suffered a toxic or adverse effect. See Appendix A of the permit, for the complete definition of adverse incident.

Where multiple Operators are authorized for a discharge that results in an adverse incident, notification and reporting by any one of the Operators constitutes compliance for all of the Operators, provided a copy of the written report required in Part 6.4.2 of the permit is also provided to all of the other authorized Operators within 30 days of the reportable adverse incident.

## When to File the Adverse Incident Report

Operators must provide a written report of any reportable adverse incidents to the appropriate EPA Regional office and to the state lead agency for pesticide regulation within 30 days of the adverse incident pursuant to Part 6.4.1.1 of the permit.

## Where to File the 30-day Adverse Incident Report

The Operator must immediately notify the appropriate EPA Incident Reporting Contact, as identified at <https://www.epa.gov/npdes/pesticide-permitting>, of the adverse incident within 24 hours. The Operator(s) must provide a written report of the adverse incident to the appropriate EPA Regional office at the address listed in Part 8 of the permit and to the state lead agency for pesticide regulation (see <http://npic.orst.edu/state1.htm>).

If an Operator becomes aware of an adverse incident affecting a federally listed threatened or endangered species or federally designated critical habitats which may have resulted from a discharge from the Operator's pesticide application, the Operator must immediately notify the National Marine Fisheries Service (NMFS) in the case of an anadromous or marine species, (see <http://www.nmfs.noaa.gov>) or the United States Fish and Wildlife Service (FWS) in the case of a terrestrial or freshwater species (see <http://www.fws.gov>).

## Completing the 30-day Adverse Incident Report

To complete this form, type or print in uppercase letters in the appropriate areas only. Please make sure you complete all questions. Make sure you make a photocopy for your records before you send the completed original form to the appropriate EPA Regional office.

### Section A. Reportable Adverse Incident

The Operator is required to submit this Adverse Incident Report if the adverse incident is reportable. Check yes if the adverse incident is reportable. If an Adverse Incident Report is not required, check no. No further action is needed on this form. Reporting of adverse incidents is not required under the PGP in the following situations:

- An Operator is aware of facts that indicate that the adverse incident was not related to toxic effects or exposure from the pesticide application;
- 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;
- An Operator receives information notifying the Operator of an adverse incident, but that information is clearly erroneous; or
- An adverse incident occurs to pests that are similar in kind to potential target pests identified on the FIFRA label.

### Section B. Information from the 24-hour Adverse Incident Notification

- Provide contact information for the person who called EPA to report the adverse incident.
  - Enter the legal name of the caller.
  - Enter the phone number of the caller.
- Provide the Operator's contact information.
  - Enter the legal name of the Operator.
  - Enter the mailing address of the Operator.
- If an NOI was filed as required in Part 1.2 of the permit, enter the NPDES Permit Tracking Number assigned by NeT or the EPA's Pesticides Processing Center. You can find the tracking number assigned to your NOI using EPA's NPDES eReporting Tool (NeT). If no NOI submitted, enter "NA" for not applicable.
- Provide information for a contact person, if different than the person who called EPA to report the adverse incident.
  - Enter the legal name of the contact person.
  - Enter the phone number of the contact person.
- Provide a description of how and when the Operator became aware of the adverse incident.
- Provide a description of the location of the adverse incident.
- Provide a description of the adverse incident and the pesticide product used in the adverse incident. Include the EPA pesticide registration number for each product applied in the area of the adverse incident. Attach additional pages if necessary.
- Provide a description of any steps the Operator has taken to correct, repair, remedy, clean up or otherwise address the adverse effects of the incident.
- Identify any other Operators authorized for coverage under the permit for discharges from the pesticide application activities that resulted in the adverse incident. If other Operators are authorized under this permit, provide details of your notification of those other Operator(s).

### Section C. Date and Time the Operator Notified EPA of the Adverse Incident

- Enter the date that EPA was contacted to report the adverse incident.
- Enter the time EPA was contacted to report the adverse incident.
- Provide the legal name and title of the person contacted at EPA.
- Provide a description of the instructions received by EPA.

### Section D. Other Information Required in the Thirty (30) Day Adverse Incident Report

- Enter the location of the adverse incident and include the names of any waters affected. Please include the appearance of those waters (sheen, color, clarity, etc.).
- Provide a description of the circumstances of the adverse incident including species affected, estimated number of affected individuals and approximate size of dead or distressed organisms.
- Provide a description of the magnitude and scope of the affected area. Include aquatic square area or total stream distance affected, if possible.
- Provide the pesticide application rate, intended use site (e.g., on the bank, above waters, or directly to water), method of application, and the name of pesticide product and EPA pesticide registration number.
- Provide a description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data for pesticides applied).
- Indicate which laboratory test(s) were performed and when, if laboratory tests were performed. The summary of the test results must be provided within 5 days after they become available, if not available at the time of submission of this report.
- Provide a description of the actions to be taken to prevent recurrence of adverse incidents.

## Section E. Certification

Enter the certifier's printed name and title. Sign and date the form. For more information about the certification statement and signature, see 40 CFR 122.41(k). (CAUTION: An unsigned or undated form will not be accepted.) Federal statutes provide for severe penalties for submitting false information. Federal regulations require this application to be signed as follows:

*For a corporation:* by a responsible corporate officer, which means:

- (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
- (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated activity including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

*For a partnership or sole proprietorship:* by a general partner or the proprietor; or

*For a municipal, state, federal, or other public facility:* by either a principal executive or ranking elected official.

If the report was prepared by someone other than the certifier (for example, if the report was prepared by a consultant for the certifier's signature), include the name, organization, phone number and e-mail address of the report preparer and the date that the report was prepared.

### Paperwork Reduction Act Notice

The public reporting and recordkeeping burden for this collection of information is estimated to average 4 hours or 240 minutes per response.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed Adverse Incident Report to this address.

## Appendix I. Endangered Species Procedures

### *Assessing the Effects of Your Discharge and Discharge-Related Activities*

You must meet at least one of the criteria in Part 1.1.2.4 of the permit to be eligible for coverage under this permit. You must follow the procedures in this appendix to certify eligibility to discharge to waters of the United States containing National Marine Fisheries Service (NMFS) Listed Resources of Concern as defined in Appendix A of the permit and determine under which of the eligibility criteria, if any, you qualify. NMFS Listed Resources of Concern for the PGP are provided at <https://www.epa.gov/npdes/pesticide-permitting-ESA-procedures>. When evaluating the potential effects of your activities, you must consider effects to NMFS Listed Resources of Concern within each pest management area identified in your Notice of Intent (NOI) that contains such Resources. Discharges not meeting at least one of these criteria are not eligible for coverage under this permit. No discharges to waters of the United States containing NMFS Listed Resources of Concern are eligible for coverage under the PGP unless those discharges are specifically identified and certified on a complete and accurate NOI form submitted to EPA. These discharges will be authorized 30 days after EPA posts the NOI on the Internet at <https://www.epa.gov/npdes/pesticide-permitting> unless EPA notifies you otherwise within the 30-day period or unless the discharges are in response to a Declared Pest Emergency Situation, in which case the discharges are authorized immediately for a period of at least 60 days from the date this discharge began.

### *Step One: Determine if NMFS Listed Resources of Concern are Present in the Pest Management Area*

First, you must determine whether any discharges from your pesticide application activities in any pest management areas included under your NOI are likely to overlap directly with any NMFS Listed Resources of Concern, as identified at <https://www.epa.gov/npdes/pesticide-permitting-ESA-procedures>. The website provides maps where the NMFS Listed Resources of Concern are present and contact information for regional NMFS offices in those areas. If you determine that any of your discharges are to waters of the United States containing NMFS Listed Resources of Concern, you should note the list of pesticides below and proceed to Step Two.

If your Pest Management Area overlaps with waters where NMFS' Listed Resources of Concern occur and you expect to discharge residues from the application of pesticides or those pesticides that a NMFS' biological opinion has determined the labeled use would jeopardize the continued existence of ESA-listed species and/or adversely modify designated critical habitat, it is in your best interest to contact your regional NMFS office or the Office of Protected Resources in Silver Spring, Maryland and request "technical assistance on potential pesticide applications from an ESA section 7 biologist." As of July 2021, these pesticides include:

- 2,4-D
- Carbaryl
- Chlorothalonil
- Chlorpyrifos
- Diazinon
- Diuron

Malathion  
Naled  
Oryzalin  
Pendimethalin

Check the Pesticide Permitting ESA Procedures webpage [<https://www.epa.gov/npdes/pesticide-permitting-ESA-procedures>] for the most up to date list of pesticides that a NMFS' biological opinion has determined the labeled use would jeopardize the continued existence of ESA-listed species and/or adversely modify designated critical habitat.

If you determine that no discharges from your pesticide application activities are to waters of the United States containing NMFS Listed Resources of Concern, you can certify that the activity meets Criterion A (check box A on the NOI corresponding to Criterion A and submit the supporting documentation with the NOI). In this case, you do not have to further consider any requirements related to eligibility Criteria B-F. Note that if you are not otherwise required to submit an NOI, you do not need to submit an NOI merely to document that you meet eligibility Criterion A. However, if you are required to submit an NOI anyway, you should document on the NOI that you meet eligibility Criterion A.

*Step Two: Determine if a Previous ESA-Related Action has Already been Completed for your Activities*

For each discharge to waters of the United States containing NMFS Listed Resources of Concern, Decision-makers should determine whether they are eligible under either Criterion B or C because of a previously completed ESA Section 7 consultation, or a previously issued ESA Section 10 permit, respectively as follows:

- The effects of your activities have been addressed in a consultation under ESA Section 7 on a separate Federal action and the consultation resulted in a concurrence by NMFS that the discharge was not likely to adverse listed species or critical habitat or NMFS concluded in a biological opinion that the discharge or discharges were not likely to jeopardize listed species or destroy or adversely modify critical habitat, either as part of your activities as planned or as modified with a reasonable and prudent alternative (check box B corresponding to Criterion B and submit the supporting documentation with the NOI). For example, most federal agencies that apply pesticides have already consulted with NMFS, as required under 50 C.F.R. § 402.01(a), and can therefore certify under this criterion.
- The effects of your activities have been addressed through approval of a Habitat Conservation Plan under Section 10 of the ESA (check box C corresponding to Criterion C and submit the supporting documentation with the NOI). Your pesticide discharges may be authorized by this PGP if some activity is authorized through the issuance of a permit under Section 10 of the ESA and that authorization addressed the effects of your pesticide discharges on federally-listed species and designated critical habitat. You must follow NMFS procedures when applying for an ESA Section 10 permit (see 50 CFR 222.22). Application instructions for Section 10 permits for NMFS can be obtained by accessing the NMFS website ([www.nmfs.noaa.gov](http://www.nmfs.noaa.gov)) or by contacting the appropriate NMFS regional office.

If you believe an existing ESA-related action may have already been completed for your planned pesticide application activities but you are uncertain of the details, you should contact your regional NMFS office (contact information available at <https://www.epa.gov/npdes/pesticide-permitting-ESA-procedures>). If an existing ESA-related action has not already been completed for your activities, proceed to Step Three.

*Step Three: Determine if the Pesticide Application is in Response to a Declared Pest Emergency Situation*

Determine if all the discharges to waters of the United States containing NMFS Listed Resources of Concern and that are to be included in the NOI are being performed in response to a Declared Pest Emergency Situation as defined in Appendix A of the permit (check box D corresponding to Criterion D). In such a case, an NOI must be filed no later than 15 days after beginning to discharge with that NOI identifying:

1. The location of the pest management area in detail or include a map of the location;
2. Pest(s) to be controlled;
3. Pesticide product(s) to be discharged and method of application;
4. Planned quantity and rate of discharge(s) for each method of application;
5. Number of planned discharges;
6. Approximate date(s) of planned discharge(s); and
7. The rationale supporting the determination whether the discharge is likely to result in any short or long term adverse effects to NMFS Listed Resources of Concern, including the description of appropriate measures to be undertaken to avoid or eliminate the likelihood of any short or long term adverse effects.

Information provided for items 1 through 6 above must also include any discharges that have already occurred in the days (up to 15) prior to NOI submission. The discharge or discharges to address these Declared Pest Emergency Situations are authorized under the general permit for at least 60 days after beginning to discharge. You may continue to discharge after 60 days unless EPA advises the Operator that additional conditions or an individual permit are necessary. NMFS will, within 30 days of submission of the NOI, advise EPA whether the past and planned future discharges meet the eligibility criterion of not likely to result in any short or long term adverse effects to NMFS Listed Resources of Concern; whether the eligibility criterion could be met with additional conditions; or whether the eligibility criterion is not met. EPA will advise the Decision-maker within 15 days after receiving notification from NMFS whether the discharge or discharges qualify for coverage beyond the 60-day authorization provided under the permit. If EPA identifies additional conditions to qualify discharges as eligible for coverage beyond 60 days under the permit, those conditions remain in effect for the life of the permit. EPA expects to rely on NMFS' determination in identifying eligibility for continuing authorization, either with or without additional conditions. If you do not hear from EPA within 45 days of submitting your NOI, you may assume that your authorization to discharge continues unless and until notified otherwise by EPA.

If your pesticide application is not in response to a Declared Pest Emergency Situation, proceed to Step Four.

*Step Four: Determine if the Pesticide Application is not likely to result in any short or long term adverse effects to NMFS Listed Resources of Concern.*

The PGP provides two options for Decision-makers to demonstrate that discharges from pesticide applications to waters of the United States containing NMFS Listed Resources of Concern are not likely to result in any short or long term adverse effects to those resources for the activities for which the Decision-maker is seeking permit coverage. These options include: (1) obtaining confirmation from a NMFS Regional Office prior to NOI submission that discharges are not likely to adversely affect NMFS Listed Resources of Concern, or (2) self-certifying in the NOI that based on your analysis, you have concluded that discharges are not likely to result in any short or long term adverse effects to NMFS Listed Resources of Concern. Descriptions of procedures that are to be followed for these two options are described below.

- Option 1 (Criterion E): For each pest management area that will include discharges to waters of the United States containing NMFS Listed Resources of Concern, you may contact your Regional NMFS Office and request input regarding your planned discharges. If NMFS determines that your planned discharges are found to meet eligibility criteria for use (*i.e.*, not likely to adversely affect NMFS Listed Resources of Concern), you have satisfied your eligibility obligations under Criterion E and you may submit your NOI for coverage under the PGP (check box E corresponding to Criterion E and submit the supporting documentation with the NOI). As part of certifying your compliance with Criterion E, you must submit information received from NMFS acknowledging the discharges that they have determined are not likely to adversely affect NMFS Listed Resources of Concern and establishing any additional requirements for your permit eligibility. To maintain eligibility under the permit for those discharges, you must abide by those additional requirements for the duration of your coverage under the PGP.
- Option 2 (Criterion F): You must self-certify in your NOI that your discharge is not likely to result in any short or long term adverse effects to NMFS Listed Resources of Concern. To do so, you will have to take appropriate measures to avoid or eliminate the likelihood of any short or long term adverse effects prior to applying for PGP coverage. These measures may be relatively simple, such as applying pesticides to waters at concentrations below those found to cause adverse effects, or during seasons when species of concern are not present. Provided you are able to implement appropriate measures, you may proceed with submitting your NOI for coverage under the PGP (check box F corresponding to Criterion F). As part of certifying your compliance with Criterion F, you must submit information to support your findings, including:
  1. The location of the pest management area in detail or include a map of the location;
  2. Pest(s) to be controlled;
  3. Pesticide product(s) to be discharged and method of application;
  4. Planned quantity and rate of discharge(s) for each method of application;
  5. Number of planned discharges;
  6. Approximate date(s) of planned discharge(s); and
  7. The rationale supporting the determination that the criterion for which the NOI is submitted is being met, including the description of appropriate measures to be undertaken to avoid or eliminate the likelihood of any short or long term adverse effects to NMFS Listed Resources of Concern.

This information will be posted online and also will be sent to NMFS for their review.

NMFS will, within 30 days of submission of the NOI, advise EPA whether it believes the planned discharges meet the eligibility criteria of not likely to result in any short or long term adverse effects to NMFS Listed Resources of Concern, whether the eligibility criterion could be met with additional conditions; or whether the eligibility criterion is not met. EPA will advise the Decision-maker as to whether the intended discharges qualify to proceed under the General Permit or whether an individual permit will be required. EPA expects to rely on NMFS' determination in identifying eligibility for authorization, either with or without additional conditions. If you do not hear from EPA within 30 days, you may assume that your discharge is authorized without further conditions.

You must comply with any terms and conditions imposed under the eligibility requirements to ensure that your pesticide discharges and discharge-related activities are protective of listed species and/or critical habitat. If the eligibility requirements cannot be met and maintained, then you are not eligible for coverage under this PGP. In these instances, you may consider applying to EPA for an individual permit or revising your pesticide application activities so as to comply with these eligibility conditions and resubmitting an NOI to EPA that documents this revised eligibility.

# **EXHIBIT B**



abutment that is equipped with a headgate and trashrack with 2-inch clear bar spacing; (4) a 26-foot-long, 22-foot-wide wood and steel powerhouse containing one 265-kilowatt vertical Flygt submersible turbine-generator unit; (5) a 400-foot-long, 20-foot-wide tailrace that discharges into the Cocheco River; (6) a generator lead, transformer, and transmission line that connect the project to the local utility distribution system; and (7) appurtenant facilities.

Watson Associates voluntarily operates the project in a run-of-river mode using an automatic pond level control system to regulate turbine operation, such that outflow from the project approximates inflow. The project creates an approximately 250-foot-long and a 400-foot-long bifurcated bypassed reaches of the Cocheco River.

Downstream fish passage is provided by a bypass pipe located on the left side of the dam. There is no upstream fish passage facility at the project.

The current license requires a minimum flow release of 83 cubic feet per second (cfs), or inflow to the impoundment, whichever is less from the dam to protect and enhance aquatic resources in the Cocheco River. The average annual generation of the project is approximately 1,100 megawatt-hours.

o. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (e.g., license application) via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document (P-6240). For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (866) 208-3676 or (202) 502-8659 (TTY).

You may also register online at <https://ferconline.ferc.gov/ferconline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)

October 2021

Request Additional Information

October 2021

Issue Scoping Document 1 for

comments January 2022

Issue Acceptance Letter February 2022  
Request Additional Information (if necessary) February 2022

Issue Scoping Document 2 March 2022

Issue Notice of Ready for Environmental Analysis March 2022

q. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: September 10, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021-20003 Filed 9-15-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP21-14-000]

#### Adelphia Gateway, LLC; Notice of Revised Schedule for Environmental Review of the Marcus Hook Electric Compression Project

This notice identifies the Federal Energy Regulatory Commission staff's revised schedule for the completion of the environmental impact statement (EIS) for Adelphia Gateway, LLC's Marcus Hook Electric Compression Project. The *Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Marcus Hook Electric Compression Project and Schedule for Environmental Review*, issued on May 27, 2021, identified September 10, 2021 as the final EIS issuance date. However, we are modifying this issuance date based on comments received on the draft EIS and based on Adelphia Gateway, LLC's supplemental information filed on August 25, 2021 to address comments.

#### Schedule for Environmental Review

Issuance of the final EIS—October 1, 2021

90-day Federal Authorization Decision Deadline—December 30, 2021

If a schedule change becomes necessary, an additional notice will be provided so that the relevant agencies are kept informed of the project's progress.

#### Additional Information

In order to receive notification of the issuance of the EIS and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by

automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208-FERC or on the FERC website ([www.ferc.gov](http://www.ferc.gov)). Using the "eLibrary" link, select "General Search" from the eLibrary menu, enter the selected date range and "Docket Number" (i.e., CP21-14), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208-3676, TTY (202) 502-8659, or at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings. This notice is issued and published in accordance with 18 CFR 2.1.

Dated: September 10, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021-20002 Filed 9-15-21; 8:45 am]

**BILLING CODE 6717-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2020-0005; FRL-7611-02-OW]

### Final National Pollutant Discharge Elimination System (NPDES) Pesticide General Permit for Point Source Discharges From the Application of Pesticides; Reissuance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final permit issuance.

**SUMMARY:** This notice announces issuance by all 10 Environmental Protection Agency (EPA) Regions of the final 2021 National Pollutant Discharge Elimination System (NPDES) pesticide general permit (PGP)—the 2021 PGP. The 2021 PGP, which has an effective date of October 31, 2021, replaces the existing permit (2016 PGP) that expires at midnight on October 31, 2021, 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. EPA is issuing this permit for five (5) years in all areas of the country where EPA is the NPDES permitting authority.

**DATES:** The permit becomes effective on October 31, 2021, and will expire at

midnight, October 31, 2026. In accordance with 40 CFR part 23, this permit shall be considered issued for the purpose of judicial review on September 30, 2021. Under section 509(b) of the Clean Water Act (CWA), judicial review of this general permit can be requested by filing a petition for review in the United States Court of Appeals within 120 days after the permit is considered issued. Under section 509(b) of the CWA, the requirements of this permit may not be challenged later in civil or criminal proceedings to enforce these requirements. In addition, this permit may not be challenged in other agency proceedings. Deadlines for submittal of a Notices of Intent (NOI) to be covered, if required, are provided in Part 1.2.3, Table 1–2 of the 2021 PGP.

**FOR FURTHER INFORMATION CONTACT:** For further information on the final permit, contact the appropriate EPA Regional office listed in Section I.D of this

document, email [PGP@epa.gov](mailto:PGP@epa.gov), or contact Chelsea Durant, EPA Headquarters, Office of Water, Office of Wastewater Management (4203M), 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202–564–2290; email address: [durant.chelsea@epa.gov](mailto:durant.chelsea@epa.gov). Electronic versions of the 2021 PGP and Fact Sheet are also available on EPA’s NPDES website at <https://www.epa.gov/npdes/pesticide-permitting>.

**SUPPLEMENTARY INFORMATION:** This section is organized as follows:

**Table of Contents**

- I. General Information
  - A. Does this action apply to me?
  - B. How can I get copies of this document and other related information?
  - C. Geographic Coverage
  - D. Who are the EPA regional contacts for this final permit?
- II. Background
- III. Summary of the 2021 PGP
  - A. Summary of Updates to the 2016 PGP and From the Proposed 2021 PGP

- B. Summary of 2021 PGP Terms and Requirements
- C. 2021 PGP Cost Analysis and Future Cost-Benefit Considerations
- IV. Executive Orders 12866 and 13563
- V. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
- VI. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

**I. General Information**

*A. Does this action apply to me?*

You may be affected by this action if you apply pesticides, under the use patterns in Part 1.1.1. of the 2021 PGP, that result in a discharge to waters of the United States in one of the geographic areas identified in Appendix C of the 2021 PGP. Potentially affected entities, as categorized in the North American Industry Classification System (NAICS), may include, but are not limited to:

TABLE 1—ENTITIES POTENTIALLY REGULATED BY THE 2021 PGP

Category	NAICS	Examples of potentially affected entities
Agricultural entities—General agricultural interests, farmers/producers, forestry, and irrigation.	111 Crop Production .....	Producers of crops mainly for food and fiber, including farms, orchards, groves, greenhouses, and nurseries that have irrigation ditches requiring pest control.
	113110 Timber Tract Operations	The operation of timber tracts for the purpose of selling standing timber.
	113210 Forest Nurseries Gathering of Forest Products.	Growing trees for reforestation and/or gathering forest products, such as gums, barks, balsam needles, rhizomes, fibers, Spanish moss, ginseng, and truffles.
	221310 Water Supply for Irrigation.	Operating irrigation systems.
Pesticide parties (includes pesticide manufacturers, other pesticide users/interests, and consultants).	325320 Pesticide and Other Agricultural Chemical Manufacturing.	Formulation and preparation of agricultural pest control chemicals.
Public health parties (includes mosquito or other vector control districts and commercial applicators that service these).	923120 Administration of Public Health Programs.	Government establishments primarily engaged in the planning, administration, and coordination of public health programs and services, including environmental health activities.
Resource management parties (includes State departments of fish and wildlife, State departments of pesticide regulation, State environmental agencies, and universities).	924110 Administration of Air and Water Resource and Solid Waste Management Programs.	Government establishments primarily engaged in the administration, regulation, and enforcement of air and water resource programs; the administration and regulation of water and air pollution control and prevention programs; the administration and regulation of flood control programs; the administration and regulation of drainage development and water resource consumption programs; and coordination of these activities at intergovernmental levels.
	924120 Administration of Conservation Programs.	Government establishments primarily engaged in the administration, regulation, supervision and control of land use, including recreational areas; conservation and preservation of natural resources; erosion control; geological survey program administration; weather forecasting program administration; and the administration and protection of publicly and privately owned forest lands. Government establishments responsible for planning, management, regulation and conservation of game, fish, and wildlife populations, including wildlife management areas and field stations; and other administrative matters relating to the protection of fish, game, and wildlife are included in this industry.
Utility parties (includes utilities) .....	221 Utilities .....	Provide electric power, natural gas, steam supply, water supply, and sewage removal through a permanent infrastructure of lines, mains, and pipes.

*B. How can I get copies of this document and other related information?*

*Docket.* EPA has established a docket for this action under Docket ID No. EPA-HQ-OW-2020-0005; FRL-7611-02-OW. Although all documents in the docket are listed in an index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available electronically through [www.regulations.gov](http://www.regulations.gov). Out of an abundance of caution for members of the public and EPA staff, the EPA Docket Center and Reading Room are currently closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. When the EPA Docket Center and Reading Room reopen, publicly available docket materials will be available in hard copy at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426.

*C. Geographic Coverage*

EPA provides permit coverage for classes of point source discharges of pollutants that occur in areas where EPA is the NPDES permitting authority. The geographic coverage of the 2021 PGP is listed in Appendix C of the permit.

*D. Who are the EPA regional contacts for this final permit?*

For EPA Region 1, contact George Papadopoulos at tel.: (617) 918-1579; or email at [papadopoulos.george@epa.gov](mailto:papadopoulos.george@epa.gov).

For EPA Region 2, contact Stephen Venezia at tel.: (212) 637-3856; or email at [venezia.stephen@epa.gov](mailto:venezia.stephen@epa.gov). For Puerto Rico, contact Sergio Bosques at tel.: (787) 977-5838 or [bosques.sergio@epa.gov](mailto:bosques.sergio@epa.gov).

For EPA Region 3, contact Carissa Moncavage at tel.: (215) 814-5798; or email at [moncavage.carissa@epa.gov](mailto:moncavage.carissa@epa.gov).

For EPA Region 4, contact Sam Sampath at tel.: (404) 562-9229; or email at [sampath.sam@epa.gov](mailto:sampath.sam@epa.gov).

For EPA Region 5, contact John Colletti at tel.: (312) 886-6106; or email at [colletti.john@epa.gov](mailto:colletti.john@epa.gov).

For EPA Region 6, contact William F. Cooper at tel.: (214) 665-6443 or email at [cooper.williamf@epa.gov](mailto:cooper.williamf@epa.gov).

For EPA Region 7, contact Alex Owutaka at tel.: (913) 551-7584 or email at [owutaka.alex@epa.gov](mailto:owutaka.alex@epa.gov).

For EPA Region 8, contact Margaret Kennedy at tel.: (303) 312-6644 or email at [kennedy.margaret@epa.gov](mailto:kennedy.margaret@epa.gov).

For EPA Region 9, contact Eugene Bromley at tel.: (415)-972-3510 or email at [bromley.eugene@epa.gov](mailto:bromley.eugene@epa.gov).

For EPA Region 10, contact Bilin Basu at tel.: (206) 553-0029 or email at [basu.bilin@epa.gov](mailto:basu.bilin@epa.gov).

**II. Background**

Section 301(a) of the CWA provides that “the discharge of any pollutant by any person shall be unlawful” unless the discharge is in compliance with certain other Sections of the Act. 33 U.S.C. 1311(a). The CWA defines “discharge of a pollutant” as “(A) any addition of any pollutant to navigable waters from any point source and (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.” 33 U.S.C. 1362(12). A “point source” is any “discernible, confined and discrete conveyance” but does not include “agricultural stormwater discharges and return flows from irrigated agriculture.” 33 U.S.C. 1362(14).

The term “pollutant” includes among other things “garbage . . . chemical wastes, biological materials . . . and industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. 1362(6).

A person may discharge a pollutant without violating the Section 301 prohibition by obtaining authorization to discharge (referred to herein as “coverage”) under a Section 402 NPDES permit (33 U.S.C. 1342). Under Section 402(a), EPA may “issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding Section 1311(a)” upon certain conditions required by the Act.

EPA issued the first Pesticide General Permit (“2011 PGP”) on October 31, 2011, in response to the United States Sixth Circuit Court of Appeals ruling vacating EPA’s 2006 Final Rule on Aquatic Pesticides. *National Cotton Council of America v. EPA*, 553 F.3d 927 (6th Cir. 2009). EPA developed the PGP to control point source discharges of biological pesticides and chemical pesticides that leave a residue into waters of the United States. In 2016, EPA issued the second PGP (2016 PGP). EPA is issuing the 2021 PGP to replace the 2016 PGP which expires at midnight on October 31, 2021. Similar to the 2011 PGP and 2016 PGP, the 2021 PGP provides coverage for certain point source discharges of pollutants to waters

of the United States in areas where EPA is the NPDES permitting authority.

EPA published the draft 2021 PGP and accompanying Fact Sheet in the **Federal Register** on January 15, 2021 (86 FR 4070), soliciting comments on the draft permit. EPA also conducted formal consultation with Indian Tribal Governments. EPA received 8 written comment letters on the draft permit. EPA considered all comments received during the comment period in preparing the final permit. EPA responded to all significant comments in the Response to Comment Document which is available as part of the docket for this permit.

**III. Summary of the 2021 PGP**

*A. Summary of Updates to the 2016 PGP and From the Proposed 2021 PGP*

While the requirements of the 2021 PGP remain the same as those in the 2016 PGP, some minor updates have been added and are discussed in more detail in the 2021 PGP Fact Sheet. The draft 2021 PGP was proposed on January 15, 2021 and EPA proposed keeping the same conditions and requirements as the 2016 PGP as well as the following changes:

- Removed the out of date NOI provision that provided automatic coverage for all Operators until January 12, 2017.
- Replaced the requirement to use the EPA’s eNOI system with EPA’s NPDES eReporting Tool (NeT) when preparing and submitting NOIs, NOTs, and annual reports.
- Updated Appendix A, Definitions, Abbreviations, and Acronyms, to include the terms “Pesticide discharges to waters of the United States from pesticide application” and “pesticide residue,” as defined in 40 CFR 122.2.
- Modified Appendix B, Standard Permit Conditions, to ensure consistency with 40 CFR 122.41.
- Updated Appendix C, Areas Covered, to reflect coverage changes by removing the State of Idaho, and added Indian Country within Virginia and Indiana.

In response to the public comments received and the Endangered Species Act Section 7 consultation, below is a summary of changes to the draft 2021 PGP and discussed in more detail in the 2021 PGP Fact Sheet:

- Clarified Part 1.1.2.4 of the PGP by changing the phrase “not likely to adversely affect” and clarified the supporting documentation to be submitted with the Notice of Intent for the eligibility criterion selected. Appendix D, Notice of Intent form, and Appendix I, Endangered Species Procedures, are also updated to reflect

changes made in Part 1.1.2.4 of the permit.

- Corrected Part 1.2.3 of the PGP by adding back the statement that Decision-makers may submit multiple NOIs with different activities.

- Clarified Part 1.6 of the PGP by adding the term “as a result of a separate federal action.”

- Updated Part 2.2.3.b of the PGP to add cultural methods to the list of management options Decision-maker must evaluate when developing Pest Management Measures for animal pest control.

- Updated Part 9.0 of the PGP to reflect state and tribal Clean Water Act Section 401 certifications.

- Updated Definitions, Abbreviations, and Acronyms, Appendix A of the PGP to:

- Correct the effective date in the definition for the Decision-maker who is or will be required to submit an NOI.

- update the definition for the National Marine Fisheries Service (NMFS) Listed Resources of Concern to include the 2021 biological opinion.

- add the definition for “Take”.

- add missing acronyms.

- Updated Appendix C of the PGP, Areas Covered, to remove tribes who denied coverage under the permit, and to remove Texas’ oil and gas activities.

- Corrected Appendix F of the PGP, Pesticide Discharge Evaluation Worksheet, by adding an introduction to the coversheet and updating the instructions to point Operators to Part 7.3 of the PGP.

- Updated Appendix I of the PGP, Endangered Species Procedures, to include list of pesticides that a NMFS’ biological opinion has determined the labeled use would jeopardize the continued existence of ESA-listed species and/or adversely modify designated critical habitat.

#### *B. Summary of 2021 PGP Terms and Requirements*

The 2021 PGP is similar to the 2016 PGP, and is structured in the same nine parts: (1) Coverage under This Permit, (2) Technology-Based Effluent Limitations, (3) Water Quality-Based Effluent Limitations, (4) Monitoring, (5) Pesticide Discharge Management Plan, (6) Corrective Action, (7) Recordkeeping and Annual Reporting, (8) EPA Contact Information and Mailing Addresses, and (9) Permit Conditions Applicable to Specific States (including Territories) and Indian Country. Additionally, as with the 2016 PGP, the 2021 PGP includes nine appendices with additional conditions and guidance for permittees: (A) Definitions, Abbreviations, and Acronyms, (B)

Standard Permit Conditions, (C) Areas Covered, (D) Notice of Intent (NOI) form, (E) Notice of Termination (NOT) form, (F) Pesticide Discharge Evaluation Worksheet (PDEW), (G) Annual Reporting Template, (H) Adverse Incident Report Template, and (I) Endangered Species Procedures. A summary of the 2021 PGP’s requirements are provided in the 2021 PGP Fact Sheet.

#### *C. 2021 PGP Cost Analysis and Future Cost-Benefit Considerations*

The cost analysis accompanying this final permit monetizes and quantifies certain incremental cost impacts of the final permit changes as compared to the 2016 PGP. EPA analyzed each change in the 2021 PGP considering the previous permit’s requirements. The objective of the cost analysis is to show where or to what extent the 2021 PGP requirements impose an incremental increase in administrative and compliance costs (such as sampling and monitoring costs) on Operators in relation to costs that are already accounted for in the 2016 PGP. EPA expects no incremental cost impact on entities that will be covered under the 2021 PGP, including small businesses, since the requirements in the permit are substantively the same as those found in both the 2016 PGP as well as the 2011 PGP. For further discussion, see Appendix D of the fact sheet.

More broadly, EPA notes that additional unquantified costs and benefits result from this action. In developing the next PGP (or another NPDES general permit, as appropriate), EPA plans to estimate the broader impacts arising from these actions, including costs and benefits. Estimates under consideration may include: (1) Assessing how costs and benefits are attributed between the PGP and applicable water quality standards (including TMDLs) that may be in effect; (2) developing a new modeling framework to assess how regulated entities understand and implement control measures relating to existing and new permit obligations; (3) examining whether any underlying cost and benefit assumptions need to be updated; (4) examining more broadly how EPA can analyze benefits when developing permits; (5) developing more robust approaches to assessing uncertainties associated with the analytic approaches, including how to quantitatively assess uncertainties of key assumptions; and (6) developing a framework to analyze the effort of cooperative federalism.

#### **IV. Executive Orders 12866 and 13563**

The 2021 PGP is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

#### **V. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations**

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA believes that the 2021 PGP will not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples because the requirements in the permit apply equally to all pesticide applicators in areas where EPA is the permitting authority. The provisions in the general permit increase the level of environmental protection for all affected populations.

#### **VI. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments**

This action does not have tribal implications as specified in E.O. 13175. It will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. EPA directly implements the NPDES Program, including the 2021 PGP when it is finalized, in Indian country; therefore, in compliance with EPA Policy on Consultation and Coordination with Indian Tribes, EPA consulted with tribal officials early in the process to allow tribes to have meaningful and timely input into the renewal of the PGP. In the course of this consultation, EPA undertook the following activities:

- May 8, 2020—EPA emailed notification letters to tribal leaders initiating consultation and coordination on the renewal of the PGP.

- June 9, 2020—EPA held an informational webinar open to all tribal representatives and reserved the last part of the teleconference for official consultation comments. No official comments were received during the webinar.

EPA did not receive any comments during the formal tribal consultation period. EPA notes that as part of the finalization of this permit, the agency completed Section 401 certification procedures with all applicable tribes where this permit will apply (see Part 9 and Appendix C of the PGP).

*Authority:* Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: September 8, 2021.

**Deborah A. Szaro,**

*Acting Regional Administrator, EPA Region 1.*

Dated: September 8, 2021.

**Javier Laureano,**

*Director, Water Division, EPA Region 2.*

Dated: September 8, 2021.

**Carmen R. Guerrero-Pérez,**

*Director, Caribbean Environmental Protection Division, EPA Region 2 Caribbean Office.*

Dated: September 8, 2021.

**Catherine A. Libertz,**

*Director, Water Division, EPA Region 3.*

Dated: September 8, 2021.

**Jeananne M. Gettle,**

*Director, Water Division, EPA Region 4.*

Dated: September 8, 2021.

**Tera L. Fong,**

*Director, Water Division, EPA Region 5.*

Dated: September 8, 2021.

**Troy Hill,**

*Deputy Director, Water Division, EPA Region 6.*

Dated: September 8, 2021.

**Jeffery Robichaud,**

*Director, Water Division, EPA Region 7.*

Dated: September 8, 2021.

**Humberto Garcia,**

*Acting Director, Water Division, EPA Region 8.*

Dated: September 8, 2021.

**Tomás Torres,**

*Director, Water Division, EPA Region 9.*

Dated: September 8, 2021.

**Daniel D. Opalski,**

*Director, Water Division, EPA Region 10.*

[FR Doc. 2021-19965 Filed 9-15-21; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL MEDIATION AND CONCILIATION SERVICE

[Docket No.: FMCS-2021-3]

### Notice to Mediation Agency

**AGENCY:** Federal Mediation and Conciliation Service (FMCS).

**ACTION:** 30-Day notice and request for comments.

**SUMMARY:** The Federal Mediation and Conciliation Service (FMCS), invites the

general public and other Federal Agencies to take this opportunity to comment on the following information collection request, Notice to Mediation Agency, (Agency Form F-7). This information collection request was previously approved by the Office of Management Budget (OMB) but has expired. FMCS is requesting a reinstatement without change. The Notice to Mediation Agency, (Agency Form F-7), allows parties to comply with their statutory obligation under the Labor Management Relations Act of 1947. The Agency Form F-7 also allows FMCS to receive these notices from parties to a collective bargaining agreement to comply with its statutory mandate to facilitate mediation.

**DATES:** Comments must be submitted on or before October 18, 2021.

**ADDRESSES:** You may submit comments [identified by Docket No.: FMCS-2021-3] through one of the following methods:

- *Email:* Arthur Pearlstein, [apearlstein@fmcs.gov](mailto:apearlstein@fmcs.gov);
- *Mail:* Arthur Pearlstein, HQ Office of Arbitration, One Independence Square, 250 E St. SW, Washington, DC 20427. Please note that at this time, the FMCS office is not open for visitors and mail is not checked daily. Therefore, we encourage emailed comments.

**FOR FURTHER INFORMATION CONTACT:**

Arthur Pearlstein, 202-606-8103, [apearlstein@fmcs.gov](mailto:apearlstein@fmcs.gov).

**SUPPLEMENTARY INFORMATION:** Copies of the agency form are available here. Paper copies are available from the Office of Arbitration Services by emailing Arthur Pearlstein at the email address above. Please ask for Agency Form F-7.

### I. Information Collection Request

*Agency:* Federal Mediation and Conciliation Service.

*Form Number:* OMB No. 3076-0004.

*Type of Request:* Reinstatement without change of a previously approved collection.

*Affected Entities:* Employers and their representatives; and labor unions, their representatives and employees, regarding contract negotiations.

*Frequency:* This form is completed once for resolution facilitation.

*Abstract:* Under the Labor Management Relations Act of 1947, 29 U.S.C. 158(d), Congress listed specific notice provisions so that no party to a collective bargaining agreement can terminate or modify a collective bargaining contract, unless the party wishing to terminate or modify the contract sends a written notice to the other party sixty days prior to the

expiration date (29 U.S.C. 158(d)(1)) and offers to meet and confer with the other party for the purpose of negotiating a new or modified contract (29 U.S.C. 158(d)(2)). The Act requires that parties notify FMCS within thirty days after such notice of the existence of a bargaining dispute (29 U.S.C. 158(d)(3)). The 1974 amendments to the National Labor Relations Act extended coverage to nonprofit health care institutions, including similar notices to FMCS. 29 U.S.C. 158(d) and (g). To facilitate handling around 27,190 notices a year, FMCS created information collection form F-7. The purpose of this information collection activity is for FMCS to comply with its statutory duty to receive these notices, to facilitate assignment of mediators to assist in labor disputes, and to assist the parties in knowing whether proper notice was given. The information from these notices is sent electronically to the appropriate field manager who assigns the cases to a mediator so that the mediator may contact labor and management quickly, efficiently, and offer dispute resolution services. Either party to a contract may make a request in writing for a copy of the notice filed with FMCS. Form F-7 was created to allow FMCS to gather desired information in a uniform manner. The collection of such information, including the name of the employer or employer association, address and phone number, email address, official contact, bargaining unit and establishment size, location of affected establishment and negotiations, industry, union address, phone number, email address and official contact, contract expiration date or renewal date, whether the notice is filed on behalf of the employer or the union, and whether this is a health care industry notice is critical for reporting and mediation purposes.

*Burden:* The current total annual burden estimate is that FMCS will receive requests from approximately 27,190 respondents per year. The form takes about 10 minutes to complete.

### II. Request for Comments

FMCS solicits comments to:

i. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

ii. Enhance the accuracy of the agency's estimates of the burden of the proposed collection of information.

iii. Enhance the quality, utility, and clarity of the information to be collected.

## **CERTIFICATE OF SERVICE**

I hereby certify that on this 4th day of October, 2021, I electronically filed the foregoing Petition for Review, the exhibits thereto, and the Rule 26.1 Disclosure Statement with the Clerk of the Court using the CM/ECF System. I further certify that I caused the foregoing Petition for Review, the exhibits thereto, and the accompanying Rule 26.1 Disclosure Statement to be served by certified mail, return receipt requested, on respondents at the following addresses:

Michael S. Regan, Administrator  
Office of the Administrator, Mail Code 1101A  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Correspondence Control Unit  
Office of General Counsel, Mail Code 2311  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Martha Williams, Principal Deputy Director  
U.S. Fish and Wildlife Service  
1849 C Street NW, Room 3358  
Washington, DC 20240

I also certify that I caused the listed documents to be served by certified mail, return receipt requested, on counsel for respondents at the address below:

Merrick Garland, U.S. Attorney General  
Office of the U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington, DC 20530

Dated: October 4, 2021

s/ Hannah Connor  
Hannah Connor