

Clean Water Act (CWA) Permitting of Pesticide Applications:

Reissuance of EPA's
Pesticide General Permit (PGP)

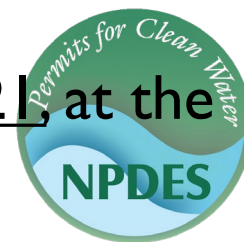
Spring 2021 RTOC

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Background

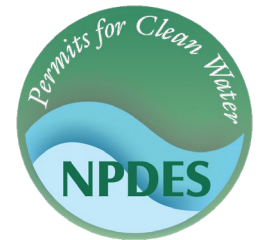
- ▶ A National Pollutant Discharge Elimination System (NPDES) permit is required for point source discharges to waters of the U.S. from pesticide applications.
- ▶ In 2011, EPA issued the first Pesticide General Permit (PGP) in areas where EPA is the NPDES permitting authority (includes Indian Country lands).
- ▶ The standard duration of all NPDES permits is five years. EPA re-issued the PGP in 2016.
- ▶ The current 2016 PGP is expiring on October 31, 2021, at the end of its five-year term.



Background

What **does** the PGP cover?

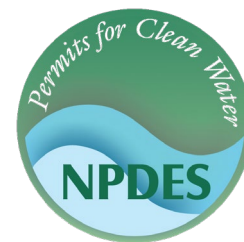
- ▶ The PGP covers the following pesticide use patterns with discharges to waters of the U.S.:
 - ▶ Mosquitoes and Other Flying Insect Pests
 - ▶ Weed and Algae
 - ▶ Animal Pests
 - ▶ Forest Canopy Pest



Background

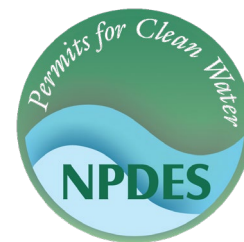
What **doesn't** the **PGP** cover?

- ▶ Off target spray drift.
- ▶ Discharges to waters impaired for the pesticide being discharged, which would need individual NPDES permits.
- ▶ Agricultural stormwater runoff and irrigation return flows continue to be exempt from permitting under the CWA.
- ▶ Pesticide applications that do not result in a point source discharge to waters of the U.S.



Overview of the 2016 PGP

- ▶ The current 2016 PGP includes additional requirements EPA received from 18 tribes under the CWA 401 certification process.
- ▶ Most Operators are covered automatically, larger Operators are required to submit a Notice of Intent (NOI).



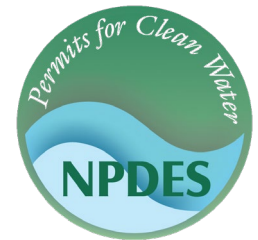
Overview of the 2016 PGP

- ▶ The PGP requires additional protective measures beyond Federal Insecticide, Fungicide and Rodenticide (FIFRA) pesticide label requirements. Specifically, the permit requires:
 - ▶ All permittees to minimize pesticide discharges through the use of pest management measures and visually monitor for and report any adverse incidents; and
 - ▶ Some permittees to implement integrated pest management (IPM)-like practices for more significant applications. Record-keeping and reporting requirements in the permit will provide valuable information to EPA and the states regarding where, when, and how much pesticides are being discharged to waters of the U.S.



Draft 2021 PGP

- ▶ EPA proposed the draft 2021 PGP for public comment on **January 15, 2021**, (for a 60-day comment period, ending March 16, 2021) with largely the same conditions as the current 2016 PGP.



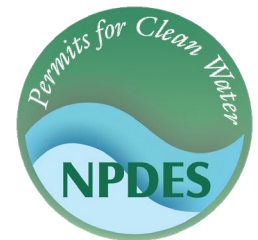
New 401 Certification Requirements

- ▶ Section 401(a)(1) of the CWA requires applicants for Federal permits and licenses that may result in discharges into waters of the United States, to obtain certification that any such discharges will comply with applicable provisions of the CWA.
- ▶ 2020 rule revised the requirements in 40 CFR Part 121 for 401 certifications
- ▶ EPA-issued NPDES permits subject to 40 CFR 124.53 and 124.55 requirements
- ▶ EPA issued a memo on January 11, in which Regions were directed to follow Part 121 procedures for 401 certifications of NPDES permits



401 Certification Process for Authorized Tribes

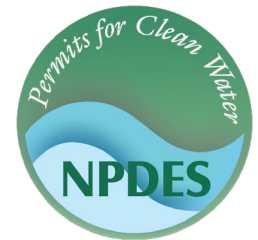
- ▶ Pre-filing meeting request sent 30 days in advance of filing 401 cert request
 - ▶ Prefiling meetings occurred in March 2021
- ▶ On March 26, 2021, Region 9 sent 401 certification requests to authorized tribes
- ▶ Certifying jurisdiction has 60 days to grant or deny certification, or waive certification





For All Other Tribes

- ▶ EPA is the certifying authority
- ▶ ~ May 2021, we will be sending out a letter seeking information from non-authorized tribes to help inform our 401 certification on their behalf.





Questions or Comments on the PGP

For more information:

<http://www.epa.gov/npdes/pesticide-permitting-draft-2021-pgp>

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