

**Comments and EPD responses to the public comments on the Draft NPDES Pesticide General Permit  
GAG82000**

<b>COMMENT</b>	<b>EPD RESPONSE</b>
<p><u>Coverage Under the Pesticide General Permit (PGP).</u></p> <p>The definition “legally responsible operator” is unclear and confusing.</p> <p>It is not clear when for-hire commercial operators are responsible for pest management actions.</p>	<p>The draft permit has been revised to include clarification on who is responsible for obtaining coverage under this general permit.</p> <p>For the purposes of this general permit, an operator includes, but is not limited to, public entities with pest control responsibilities, research and development (R&amp;D) pesticide applicators, applicators that apply pesticides in response to an emergency situation or any for-hire pesticide contractor (provided the applications are made to waters of the state).</p> <p>In the event that an operator utilizes the services of a for-hire pesticide contractor, it is only necessary for one of the two parties to obtain coverage under this general permit. The decision of who must obtain coverage under this general permit is the responsibility of the two parties involved (the contractor and the person hiring the service).</p>
<p><u>“Waters Edge”</u></p> <p>The term “waters edge” should be clearly defined.</p> <p>The term “residue” should be defined.</p>	<p>The term “waters edge” is described in the definition of “treatment area.” This is the area in which pesticide applications occur along water bodies where a portion of the pesticide is unavoidably deposited directly into water.</p> <p>Pesticide residue is defined in Part VI of the PGP as (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest(s); (2) any substance or mixture of substances intended for use as a plant regulator defoliant or dessicant and (3) any nitrogen stabilizer.</p>

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<p><u>Thresholds</u></p> <p>The annual treatment area thresholds should be increased for the mosquito and pest control use category.</p> <p>The threshold limit for aquatic weed and algae control is too low and may be burdensome. The annual treatment area threshold should be increased for the aquatic weed and algae control use category.</p>	<p>The annual threshold for mosquito and other nuisance insect pests has been increased to 8960 acres of annual treatment area. This does not include the application of larvicides.</p> <p>The annual threshold for aquatic weed and algae control has been increased to 200 acres.</p>
<p><u>Pesticide Management Practices</u></p> <p>Specific Pest Management Practices (PMP) should be included in the permit to prevent lawsuits from entities with different interpretations of PMPs.</p>	<p>Many categories of pesticide applicators have existing best management practices in place, which may also meet certain requirements in this permit. Parts II.B. and III of the PGP requires some permittees to establish Pest Management Practices, develop a Pest Management Strategy and to develop a Pesticide Discharge Management Plan.</p>

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<p><u>Use Patterns</u></p> <p>The permit should contain a use pattern that covers pesticide applications for right-of-way maintenance where use results in a point source discharge to waters of the State.</p> <p>A “similar use” category should be included in the permit to cover pesticide applications that do not easily fit into one of the use patterns in the permit.</p> <p>Land-based applications should not be covered under this general permit.</p>	<p>The permit has been revised to clarify the use of pesticides that result in a point source discharge into waters of the State, such as spraying along roadsides and utility right-of-ways, are eligible for coverage under this general permit.</p> <p>The use pattern “Forest Canopy” or “Other Area-Wide Pest Control” has been included in the permit to allow coverage for pesticide applications (e.g., rodenticides and insecticides) associated with pest control that leave a residue in waters of the State that were not specifically mentioned in one of the other use categories. Additionally, the use category in the draft permit “Aquatic Weed” control was revised to “Weed” control to allow coverage for a variety of activities associated with, but not limited to, the applications of herbicides, fungicides, and plant growth regulators.</p> <p>The January 9, 2009 ruling of the Six Circuit Court requires coverage under a National Pollutant Discharge Elimination System (NPDES) permit for any application of pesticides which results in a pesticide residue being deposited into waters of the State.</p> <p>Further, this general permit does not cover “spray drift” associated with the applications of pesticides, with the exception of those use patterns that include spray drift as an acceptable method of application. This general permit does not cover applications of pesticides to the area outside the boundaries of waters of the State or non-point source runoff off that may contain pesticide or pesticide residue that enter surface waters of the State. Finally, the permit does not cover aquatic application of a pesticide labeled exclusively for terrestrial use.</p>

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<p><u>Notice of Intent</u></p> <p>As an NOI is considered public information, the submittal of NOIs should be on a case-by-case basis to prevent competing industry from having public access to private company information.</p> <p>The time frame for submitting the NOI is too short. Some larger operators may exceed the threshold in the first spray event.</p> <p>The permit does not clearly state what entity is responsible for submitting an NOI/NOT for declared emergency situations.</p> <p><u>Information Collection Reporting Requirements</u></p> <p>Electronic submission of information should be available to permittees in order to quickly and conveniently comply with information and reporting permit requirements.</p> <p>When implementing the conditions of the permit, a record keeping provision should be included to prevent citizen lawsuits.</p>	<p>As stated in Part I.E.4. of the PGP, data determined to be confidential by the Director of EPD under the Official Code of Georgia Annotated shall not be available for public inspection. In general, the information provided in the NOI is not expected to fall into this category.</p> <p>The permit has been revised to expand the time frame for submitting the NOI to thirty-days after exceeding an annual treatment area threshold.</p> <p>After further review, the permit has been revised to clarify that the submission of an NOI in situations that call for emergency pesticide applications, to or near waters of the State, is not a requirement of this general permit.</p> <p>Currently EPD does not have the resources to develop and implement an online reporting system.</p> <p>Recordkeeping is required of everyone covered under this general permit (reference Part IV.A) with additional requirements for larger applicators. These are the minimum requirements that are designed to provide beneficial information without being overly burdensome. The permittee is free to keep additional documentation she/he feels will further protect their best interest.</p>

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<p><u>Other Changes</u></p> <p>The biennial report submittal requirement was revised.</p> <p>The timeframe for submitting the Adverse Incident Written Report was revised.</p> <p>Include the definition of silvicultural point source in the definitions section of the permit.</p>	<p>The draft permit contained a requirement for those permittees that exceed an annual treatment area threshold to submit biennial reports to EPD District Offices. Due to the number of anticipated permittees that will exceed the thresholds, the permit has been revised to allow the permittees to keep the biennial reports onsite and provide them to EPD staff upon request.</p> <p>The draft permit contained a requirement for the written adverse incident report to be submitted within five days of the incident. This time frame has been increased to thirty days. However, the adverse incident notification must still be reported to EPD within twenty-four hours of the operator becoming aware of the incident, or as soon as possible if the operator is unable to notify within twenty-four hours.</p> <p>The definition for silvicultural point source has been included in the permit.</p>